

AN ACT

RELATING TO METROPOLITAN REDEVELOPMENT; AMENDING THE TAX INCREMENT FINANCING PROCEDURES IN THE TAX INCREMENT LAW; AUTHORIZING THE ISSUANCE OF TAX INCREMENT BONDS TO FINANCE METROPOLITAN REDEVELOPMENT PROJECTS; AMENDING DEFINITIONS IN THE METROPOLITAN REDEVELOPMENT CODE AND THE LOCAL ECONOMIC DEVELOPMENT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-60A-4 NMSA 1978 (being Laws 1979, Chapter 391, Section 4, as amended) is amended to read:

"3-60A-4. DEFINITIONS.--As used in the Metropolitan Redevelopment Code:

A. "public body" means a municipality, board, commission, authority, district or any other political subdivision or public body of the state;

B. "local governing body" means the city council or city commission of a city, the board of trustees of a town or village, the council of an incorporated county or the board of county commissioners of an H class county;

C. "mayor" means the mayor or the chairman of the city commission or other officer or body having the duties customarily imposed on the head of a municipality;

D. "municipality" means any incorporated city, town or village, whether incorporated under general act,

special act or special charter, an incorporated county or an H class county;

E. "clerk" means the clerk or other official of the municipality who is the chief custodian of the official records of the municipality;

F. "federal government" includes the United States of America or any agency or instrumentality, corporate or otherwise, of the United States;

G. "state" means the state of New Mexico;

H. "slum area" means an area within the area of operation in which numerous buildings, improvements and structures, whether residential or nonresidential, which, by reason of its dilapidation, deterioration, age, obsolescence or inadequate provision for ventilation, light, air, sanitation or open spaces, high density of population, overcrowding or the existence of conditions that endanger life or property by fire or other causes, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime and is detrimental to the public health, safety, morals or welfare;

I. "blighted area" means an area within the area of operation other than a slum area that, because of the presence of a substantial number of deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to

size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or lack of adequate housing facilities in the area or obsolete or impractical planning and platting or an area where a significant number of commercial or mercantile businesses have closed or significantly reduced their operations due to the economic losses or loss of profit due to operating in the area, low levels of commercial or industrial activity or redevelopment or any combination of such factors, substantially impairs or arrests the sound growth and economic health and well-being of a municipality or locale within a municipality or an area that retards the provisions of housing accommodations or constitutes an economic or social burden and is a menace to the public health, safety, morals or welfare in its present condition and use;

J. "metropolitan redevelopment project" or "project" means an activity, undertaking or series of activities or undertakings designed to eliminate slums or blighted areas in areas designated as metropolitan redevelopment areas and that conforms to an approved plan for the area for slum clearance and redevelopment,

rehabilitation and conservation;

K. "slum clearance and redevelopment" means the use of those powers authorized by the Metropolitan Redevelopment Code for the purpose of eliminating slum areas and undertaking activities authorized by the Metropolitan Redevelopment Code to rejuvenate or revitalize those areas so that the conditions that caused those areas to be designated slum areas are eliminated;

L. "rehabilitation" or "conservation" means the restoration and renewal of a slum or blighted area or portion thereof in accordance with any approved plan by use of powers granted by the Metropolitan Redevelopment Code;

M. "metropolitan redevelopment area" means a slum area or a blighted area or a combination thereof that the local governing body so finds and declares and designates as appropriate for a metropolitan redevelopment project;

N. "metropolitan redevelopment plan" means a plan, as it exists from time to time, for one or more metropolitan redevelopment areas or for a metropolitan redevelopment project, which plan shall:

(1) seek to eliminate the problems created by a slum area or blighted area;

(2) conform to the general plan for the municipality as a whole; and

(3) be sufficient to indicate the proposed activities to be carried out in the area, including but not limited to any proposals for land acquisition; proposals for demolition and removal of structures; redevelopment; proposals for improvements, rehabilitation and conservation; zoning and planning changes; land uses, maximum densities, building restrictions and requirements; and the plan's relationship to definite local objectives respecting land uses, improved traffic patterns and controls, public transportation, public utilities, recreational and community facilities, housing facilities, commercial activities or enterprises, industrial or manufacturing use and other public improvements;

O. "real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise;

P. "bonds" means any bonds, including refunding bonds, notes, interim certificates, certification of indebtedness, debentures, metropolitan redevelopment bonds or other securities evidencing an obligation and issued under the provisions of the Metropolitan Redevelopment Code or other obligations;

Q. "obligee" includes any bondholder, agent or trustee for any bondholder or lessor demising to the municipality property used in connection with a metropolitan redevelopment project or any assignee or assignees of such lessor's interest or any part thereof;

R. "person" means any individual, firm, partnership, corporation, company, association, joint stock association or body politic or the state or any political subdivision thereof and shall further include any trustee, receiver, assignee or other person acting in a similar representative capacity;

S. "area of operation" means the area within the corporate limits of the municipality and the area outside of the corporate limits but within five miles of such limits or otherwise on municipally owned property wherever located, except that it shall not include any area that lies within the territorial boundaries of another municipality unless an ordinance has been adopted by the governing body of the other municipality declaring a need therefor;

T. "board" or "commission" means a board, commission, department, division, office, body or other unit of the municipality designated by the local governing body to perform functions authorized by the Metropolitan Redevelopment Code as directed by the local governing body;
and

U. "public officer" means any person who is in charge of any department or branch of government of the municipality."

Section 2. Section 3-60A-21 NMSA 1978 (being Laws 1979, Chapter 391, Section 21, as amended) is amended to read:

"3-60A-21. TAX INCREMENT PROCEDURES.--The procedures to be used in the tax increment method are:

A. the local governing body of the municipality shall, at the time after approval of a metropolitan redevelopment project, notify the county assessor and the taxation and revenue department of the taxable parcels of property within the project;

B. upon receipt of notification pursuant to Subsection A of this section, the county assessor and the taxation and revenue department shall identify the parcels of property within the metropolitan redevelopment project within their respective jurisdictions and certify to the county treasurer the net taxable value of the property at the time of notification as the base value for the distribution of property tax revenues authorized by the Property Tax Code. If because of acquisition by the municipality the property becomes tax exempt, the county assessor and the taxation and revenue department shall note that fact on their respective records and so notify the

county treasurer, but the county assessor, the taxation and revenue department and the county treasurer shall preserve a record of the net taxable value at the time of inclusion of the property within the metropolitan redevelopment project as the base value for the purpose of distribution of property tax revenues when the parcel again becomes taxable. The county assessor is not required by this section to preserve the new taxable value at the time of inclusion of the property within the metropolitan redevelopment project as the base value for the purposes of valuation of the property;

C. if because of acquisition by the municipality the property becomes tax exempt, when the parcel again becomes taxable, the local governing body of the municipality shall notify the county assessor and the taxation and revenue department of the parcels of property that because of their rehabilitation or other improvement are to be revalued for property tax purposes. A new taxable value of this property shall then be determined by the county assessor or by the taxation and revenue department if the property is within the valuation jurisdiction of that department. If no acquisition by the municipality occurs, improvement or rehabilitation of property subject to valuation by the assessor shall be reported to the assessor as required by the Property Tax Code, and the new taxable

value shall be determined as of January 1 of the tax year following the year in which the improvement or rehabilitation is completed;

D. current tax rates shall then be applied to the new taxable value. The amount by which the revenue received exceeds that which would have been received by application of the same rates to the base value before inclusion in the metropolitan redevelopment project shall be credited to the municipality and deposited in the metropolitan redevelopment fund. This transfer shall take place only after the county treasurer has been notified to apply the tax increment method to a specific property included in a metropolitan redevelopment area. Unless the entire metropolitan redevelopment area is specifically included by the municipality for purposes of tax increment financing, the payment by the county treasurer to the municipality shall be limited to those properties specifically included. The remaining revenue shall be distributed to participating units of government as authorized by the Property Tax Code; and

E. the procedures and methods specified in this section shall be followed annually for a maximum period of twenty years following the date of notification of inclusion of property as coming under the transfer provisions of this section."

Section 3. Section 3-60A-23 NMSA 1978 (being Laws 1979, Chapter 391, Section 23, as amended) is amended to read:

"3-60A-23. TAX INCREMENT METHOD APPROVAL.--The tax increment method shall be applicable only to the units of government participating in property tax revenue derived from property within a metropolitan redevelopment project and approving the use of the tax increment method for that property and only to the extent of the approval. An approval may be restricted to certain types or sources of tax revenue. The local governing body of each municipality shall request such approval for up to a twenty-year period for property included in the tax increment funding. The governor or his authorized representative shall approve, partially approve or disapprove the use of the method for state government; the governing body of each other participating unit shall approve, partially approve or disapprove by ordinance or resolution the use of the method for their respective units. At the request of a participating unit of government, made within ten days of receipt of the request by the municipality, the municipality shall make a presentation to the governor or his authorized representative and to the governing bodies of all participating units of government, which presentation shall include a description of the metropolitan redevelopment

project and the parcels in the project to which the tax increment method will apply, and an estimate of the general effect of the project and the application of the tax increment method on property values and tax revenues. All participating units shall notify the local governing body of the municipality seeking approval within thirty days of receipt of the municipality's request. At the expiration of that time, the alternative method of financing set forth in this section shall be effective for a period of up to twenty tax years."

Section 4. A new section of the Metropolitan Redevelopment Code is enacted to read:

"TAX INCREMENT BONDS.--

A. For the purpose of financing metropolitan redevelopment projects, in whole or in part, a municipality may issue tax increment bonds or tax increment bond anticipation notes that are payable from and secured by real property taxes, in whole or in part, allocated to the metropolitan redevelopment fund pursuant to the provisions of Sections 3-60A-21 and 3-60A-23 NMSA 1978. The principal of, premium, if any, and interest on the bonds or notes shall be payable from and secured by a pledge of such revenues, and the municipality shall irrevocably pledge all or part of such revenues to the payment of the bonds or notes. The revenues deposited in the metropolitan

redevelopment fund or the designated part thereof may thereafter be used only for the payment of the principal of, premium, if any, and interest on the bonds or notes, and a holder of the bonds or notes shall have a first lien against the revenues deposited in the metropolitan redevelopment fund or the designated part thereof for the payment of principal of, premium, if any, and interest on such bonds or notes. To increase the security and marketability of the tax increment bonds or notes, the municipality may:

(1) create a lien for the benefit of the bondholders on any public improvements or public works used solely by the metropolitan redevelopment project or portion of a project financed by the bonds or notes, or on the revenues of such improvements or works;

(2) provide that the proceeds from the sale of real and personal property acquired with the proceeds from the sale of bonds or notes issued pursuant to the Tax Increment Law shall be deposited in the metropolitan redevelopment fund and used for the purposes of repayment of principal of, premium, if any, and interest on such bonds or notes; and

(3) make covenants and do any and all acts not inconsistent with law as may be necessary, convenient or desirable in order to additionally secure the bonds or notes or make the bonds or notes more marketable in the exercise

of the discretion of the local governing body.

B. Bonds and notes issued pursuant to this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, shall not be general obligations of the municipality, shall be collectible only from the proper pledged revenues and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance or sale of tax increment bonds or tax increment bond anticipation notes. Bonds and notes issued pursuant to the Tax Increment Law are declared to be issued for an essential public and governmental purpose and, together with interest thereon, shall be exempted from all taxes by the state.

C. The bonds or notes shall be authorized by an ordinance of the municipality; shall be in such denominations, bear such date and mature, in the case of bonds, at such time not exceeding twenty years from their date, and in the case of notes, not exceeding five years from the date of the original note; bear interest at a rate or have appreciated principal value not exceeding the maximum net effective interest rate permitted by the Public Securities Act; and be in such form, carry such registration privileges, be executed in such manner, be payable in such place within or without the state, be payable at intervals

or at maturity and be subject to such terms of redemption as the authorizing ordinance or supplemental resolution or resolutions of the municipality may provide.

D. The bonds or notes may be sold in one or more series at, below or above par, at public or private sale, in such manner and for such price as the municipality, in its discretion, shall determine; provided that the price at which the bonds or notes are sold shall not result in a net effective interest rate that exceeds the maximum permitted by the Public Securities Act. As an incidental expense of a metropolitan redevelopment project or portion thereof financed with the bonds or notes, the municipality in its discretion may employ financial and legal consultants with regard to the financing of the project.

E. In case any of the public officials of the municipality whose signatures appear on any bonds or notes issued pursuant to the Tax Increment Law shall cease to be public officials before the delivery of the bonds or notes, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the officials had remained in office until delivery. Any provision of law to the contrary notwithstanding, any bonds or notes issued pursuant to the Tax Increment Law shall be fully negotiable.

F. In any suit, action or proceeding involving the validity or enforceability of any bond or note issued

pursuant to the Tax Increment Law or the security therefor, any bond or note reciting in substance that it has been issued by the municipality in connection with a metropolitan redevelopment project shall be conclusively deemed to have been issued for such purpose and the project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of the Metropolitan Redevelopment Code.

G. The proceedings under which tax increment bonds or tax increment bond anticipation notes are authorized to be issued and any mortgage, deed of trust, trust indenture or other lien or security device on real and personal property given to secure the same may contain provisions customarily contained in instruments securing bonds and notes and constituting a covenant with the bondholders.

H. A municipality may issue bonds or notes pursuant to this section with the proceeds from the bonds or notes to be used as other money is authorized to be used in the Metropolitan Redevelopment Code.

I. The municipality shall have the power to issue renewal notes, to issue bonds to pay notes and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly

to refund bonds then outstanding and partly for other purposes in connection with financing metropolitan redevelopment projects, in whole or in part. Refunding bonds issued pursuant to the Tax Increment Law to refund outstanding tax increment bonds shall be payable from real property tax revenues, out of which the bonds to be refunded thereby are payable or from other lawfully available revenues.

J. The proceeds from the sale of any bonds or notes shall be applied only for the purpose for which the bonds or notes were issued and if, for any reason, any portion of the proceeds are not needed for the purpose for which the bonds or notes were issued, the unneeded portion of the proceeds shall be applied to the payment of the principal of or the interest on the bonds or notes.

K. The cost of financing a metropolitan redevelopment project shall be deemed to include the actual cost of acquiring a site and the cost of the construction of any part of a project, including architects' and engineers' fees, the purchase price of any part of a project that may be acquired by purchase and all expenses in connection with the authorization, sale and issuance of the bonds or notes to finance the acquisition, and any related costs incurred by the municipality.

L. No action shall be brought questioning the

legality of any contract, mortgage, deed of trust, trust indenture or other lien or security device, proceeding or bonds or notes executed in connection with any project authorized by the Metropolitan Redevelopment Code on and after thirty days from the effective date of the ordinance authorizing the issuance of such bonds or notes."

Section 5. Section 5-10-3 NMSA 1978 (being Laws 1993, Chapter 297, Section 3, as amended) is amended to read:

"5-10-3. DEFINITIONS.--As used in the Local Economic Development Act:

A. "department" means the economic development department;

B. "economic development project" or "project" means the provision of direct or indirect assistance to a qualifying business by a local or regional government and includes the purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure; public works improvements essential to the location or expansion of a qualifying business; payments for professional services contracts necessary for local or regional governments to implement a plan or project; the provision of direct loans or grants for land, buildings or infrastructure; loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the

revenue that may be derived from the municipal infrastructure gross receipts tax or the county infrastructure gross receipts tax; grants for public works infrastructure improvements essential to the location or expansion of a qualifying business; purchase of land for a publicly held industrial park; and the construction of a building for use by a qualifying business;

C. "governing body" means the city council or city commission of a city, the board of trustees of a town or village or the board of county commissioners of a county;

D. "local government" means a municipality or county;

E. "municipality" means an incorporated city, town or village;

F. "person" means an individual, corporation, association, partnership or other legal entity;

G. "qualifying entity" means a corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two or more of the following:

(1) an industry for the manufacturing, processing or assembling of agricultural or manufactured products;

(2) a commercial enterprise for storing, warehousing, distributing or selling products of

agriculture, mining or industry, but, other than as provided in Paragraph (5) or (6) of this subsection, not including any enterprise for sale of goods or commodities at retail or for distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

(3) a business in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in Paragraph (5) of this subsection, not including businesses primarily engaged in the sale of goods or commodities at retail;

(4) an Indian nation, tribe or pueblo or a federally chartered tribal corporation;

(5) a telecommunications sales enterprise that makes the majority of its sales to persons outside New Mexico;

(6) a facility for the direct sales by growers of agricultural products, commonly known as farmers' markets; or

(7) a business that is the developer of a metropolitan redevelopment project; and

H. "regional government" means any combination of municipalities and counties that enter into a joint

powers agreement to provide for economic development
projects pursuant to a plan adopted by all parties to the
joint powers agreement." _____
