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Tax Increment Financing in Florida: A Tool for Local Government Revitalization, Renewal, and Redevelopment

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Page 66

Florida municipalities have undergone tremendous redevelopment in recent years. F.S. Ch.163 codifies redevelopment measures in the Community Redevelopment Act which provides for the establishment of a community redevelopment agency (CRA) and tax increment financing (TIF).¹ These tools represent a traditional "invest and grow" approach that local governments can use to generate growth within blighted areas. The act allows a CRA to annually capture and spend a portion of the incremental increase in ad valorem tax revenues resulting from redevelopment. The tax increment — the increase in real property taxes from the difference between the taxes generated before and after the investment in real property — is used by TIF to fund a portion of the costs for improvements.²

This article discusses TIF in Florida redevelopment within a specially designated district of a CRA. Even though TIF can be thought of as a financing tool, it is also a land development and improvement tool. There are other financing tools available, but by and large TIF has been the most common method used in Florida and elsewhere to increase investment and growth in local government development. Laws were enacted in 2006 restricting the power to take private property by eminent domain. What effect will this have on TIF? The arguments for and against TIF will be discussed. One Florida county has established a redevelopment capital program (RCP) as an alternative funding source in opposition to TIF,³ and this article discusses issues raised by RCP.

History and Purpose

TIF began in California in 1952 as a way of providing matching funds for federal urban renewal plans, and it was slowly adopted by other states. As the federal government lessened its role in funding for urban development, TIF significantly increased. During the 1970s, federal dollars for urban renewal declined, and TIF became an alternate way to fund redevelopment projects. This increased interest in TIF spread in the 1980s and 1990s as the federal role in redevelopment was eliminated. More states began to pass laws on TIF, and now there are TIF laws in nearly every state and the District of Columbia.⁴

There are two fundamental ways TIF can be used. One is where TIF revenues are used on a "pay as you go" basis (where the annual stream of revenue is used to fund small projects), and another is "pay as you use" financing (where TIF revenues are used to pay debt service costs over the life of a project lasting 10 or more years). In either event, TIF has been effective at generating large amounts of funding for capital investments for roadway improvements, flood control programs, water and sewer and drainage infrastructure improvements, parking lots and garages, neighborhood parks, sidewalks, street and sidewalk tree plantings, signs, and building construction.⁵

During the life of the plan, tax increment revenues can be used when they are related to development in the designated redevelopment areas. These include expenditures for administrative and overhead expenses, planning and analysis, acquisition of real property in the redevelopment area, clearance and preparation of sites and relocation costs for site occupants, repayment of debt and expenses incidental to indebtedness, expenses incurred for the issuance, sale, redemption, retirement, or purchase of agency

bonds, and development of affordable housing.⁶ TIF can also be used with other county, state, and federal funding sources (advances, loans, tax increment revenue bonds, incentives, and grants) to carry out a redevelopment plan.⁷ If a CRA has approved a plan before July 1, 2002, Florida law permits TIF for 30 years after the plan has been adopted up to a maximum of 60 years. For CRAs established on or after July 1, 2002, the TIF limitation period is 40 years.⁸ On or before March 31 of every year, a CRA must file with the governing body a report of its activities for the preceding fiscal year, including a financial statement setting forth its assets, liabilities, income, and operating expenses as of the end of its fiscal year.⁹

Objectives of the Community Redevelopment Act

In 1969, the Florida Legislature enacted Part III, Ch. 163 of the Florida Statutes, which granted local governments the power to set up redevelopment agencies in their community.¹⁰ The legislature's goal is to encourage neighborhood revitalization in downtowns and to provide maximum opportunities for private enterprise to participate in the revitalization of the designated areas. This partnership between the public and private sector is crucial to the success of any redevelopment plan.¹¹

The primary objective of Florida's redevelopment legislation, F.S. Ch. 163, is based on the state's interest in protecting the health, safety, welfare, and morals of the community.¹² Florida law defines a "blighted area" as one in which there are deteriorated and deteriorating structures where economic distress or endangerment to life or property exists.¹³ Its goals focus on eliminating the physical, social, and economic problems related to slum and blight by improvement of the physical environment (buildings, streets, utilities, parks) by rehabilitation, conservation, clearance, and redevelopment. Additional goals include acquiring blighted property, enhancing tax bases with private reinvestment, eliminating poor housing conditions, and providing affordable housing to residents of low and moderate income.¹⁴

Kelo and its After Effects

Before statutory amendments were enacted and became effective May 11, 2006, Florida permitted the use of eminent domain to support a TIF project, as long as the project funding could be used for economic development.¹⁵ The controversy surrounding blight, eminent domain, and economic development was resolved in the U.S. Supreme Court's decision in *Kelo v. Town of New London*, 545 U.S. 469 (2005), in which the high court held that when a local government, as part of a comprehensive economic plan of development, condemns private property to transfer it to another private party to enhance the local government's tax base and hopefully to provide jobs, such governmental action is a public purpose allowable under the U.S. Constitution.

Although *Kelo* approved the use of eminent domain to promote economic development as a public purpose, the high court stressed that the states were free to place stricter standards on its eminent domain powers than the federal baseline.¹⁶ Many who followed this issue considered the definition of "blighted area" too vague, because the Florida Statutes permitted local governments to easily meet the criteria for eminent domain.¹⁷ In *Fulmore v. Charlotte County*, 928 So. 2d 1281 (Fla. 2d DCA 2006), *dismissed* 936 So. 2d 565 (Fla. 2006),¹⁸ a Florida appellate court considered a challenge to the constitutionality of the Community Redevelopment Act, F.S. §163.340(8), that defines "blighted area." The appellate court acknowledged that some of the statutory factors were subjective and nonquantifiable, while others were objective and quantifiable. *Fulmore* upheld this part of Ch. 163 and held that the definition of "blighted area" was not unconstitutionally vague on its face and as applied to landowners.

As a result of *Kelo* and the fear that "blighted area" was insufficiently defined in the statutes, the Florida Legislature passed statutory amendments contained in Ch. 2006-11, Laws of Florida, severely restricting a condemning authorities' power to take private property for economic development. This law amended F.S. Ch. 73 and created a prohibition against the transfer of property to a private entity or natural person that can be taken through eminent domain. Local governments are now restricted to taking private property for uses that have historically had a public purpose, *i.e.*, roads, utilities, public infrastructure, transportation related services, parks, civic buildings, and so forth.¹⁹ Local governments cannot take private property in a CRA or elsewhere and soon thereafter sell it to a private developer for private development purposes as it once could for the elimination of slum or blight.²⁰ If property is acquired by eminent domain, it is subject to a 10-year waiting period before it can be transferred to a natural person or private entity without

restriction.²¹

Amendment 10, §8 of the Florida Constitution was passed in November 2006, and incorporated many of the requirements of the statutory amendments making it virtually impossible for a local government to take private property by eminent domain, unless it is taken for a public purpose, or if it is authorized by general law and passed by a 3/5 vote of each house of the legislature.²² Many officials believe that the action of the legislature and the voters in passing the constitutional amendment can thwart and impede local redevelopment plans and could hinder the revitalization of inner cities. Local governments throughout Florida have used eminent domain to help create many popular area attractions and to revitalize depressed areas.²³ It is too early to tell what effect these actions will have on local government redevelopment.

"Finding of Necessity"

Although "economic development" is not specifically defined in the Florida Statutes, Ch. 163 suggests that it includes the promotion of economic opportunity, retention and expansion of existing businesses, job creation and retention, and the recruitment of new businesses to encourage growth in areas experiencing insufficient economic growth.²⁴ A major reason for communities to encourage economic development of their downtown neighborhoods is to obtain a high quality of life. Local governments undertake a variety of activities to promote and cultivate economic development, which can include tourism, mixed-use development, home building, creating infrastructure, acquiring real property, beautification efforts, commercial area revitalization, and transportation.²⁵

To guide economic revitalization in a proactive manner, a local government has the authority to create a CRA upon a "finding of necessity," which is defined as an area that needs to be rehabilitated and can include an area containing a shortage of affordable housing to residents of low or moderate income.²⁶ Once the governing body has recognized the necessity of a redevelopment area, it can create a CRA by resolution. A CRA is a separate entity of a local government and can be comprised of members of the governing body or that of a separate body of persons.²⁷ CRA powers are created pursuant to the Florida Statutes, and the local governing body approves plans to carry out its purposes for redevelopment in the CRA project areas.²⁸

A CRA has broad discretion to use TIF to "finance or refinance any community redevelopment it undertakes pursuant to the approved community redevelopment plan" within its jurisdiction.²⁹ Once an area for redevelopment has been established by a CRA, the funding can only be used for community development within the CRA.³⁰ A redevelopment plan must be in harmony with the local government comprehensive plan before it can be adopted and followed by the local municipality.³¹ Specifically, the Florida Statutes provide that a CRA has the power to enter into contracts with private developers, issue revenue bonds, create a community redevelopment plan, deed publicly owned lands to a designated project, approve the acquisition, removal, and disposal of property, and utilize tax increment revenue to finance land acquisition, infrastructure, and improvements. CRAs no longer have the power of eminent domain for economic development.³²

TIF and the Redevelopment Trust Fund

A CRA must establish a redevelopment trust fund for the time span of the community redevelopment plan, and it cannot receive or spend any increment revenues, until the CRA establishes the trust fund.³³ The TIF statute was upheld as constitutional in *State v. Miami Beach Redevelopment Agency*, 392 So. 2d 875 (Fla. 1981), in which the Florida Supreme Court held that the 1977 account of F.S. Ch. 163 authorizing redevelopment projects, TIF, and the use of ad valorem tax revenues advanced a public purpose. A redevelopment trust fund is the depository for tax increment revenues. TIF realizes the incremental increase in real property tax revenues resulting from redevelopment and uses it to pay for public improvements needed to support and encourage new development. Funds allocated to this trust fund can only be used by the CRA to finance community redevelopment activity undertaken pursuant to an approved redevelopment plan.³⁴

The value of real property in the CRA is determined as of a fixed date with a frozen base year assessed

value. The taxing authorities continue to pay tax revenue dollars on these property tax revenues based on the frozen base year assessed value, which is available for general government purposes. For purposes of calculating the tax increment revenues thereafter, 95 percent of ad valorem taxes are collected from an increase in value of the real property within the redevelopment area over the frozen base year assessed value. As the time period of the CRA increases, its property values increase, and the tax increment revenue increase. The tax increment is available to repay public infrastructure and redevelopment costs of the CRA.³⁵

The diagram on the previous page illustrates how TIF can capture all or a part of the increase of the property tax revenues if redevelopment encourages private investment in the CRA. Simply stated, for the base year value, the taxable value is multiplied by the mill value to determine the taxes collected, whereas for the tax increment value, the incremental taxable value is multiplied by the mill value to reach the incremental taxes collected.³⁶

The Pros and Cons of TIF

TIF is a growing source of infrastructure funding in Florida. Questions arise about TIF's impact on economic development of downtown neighborhoods. Does TIF help local governments redevelop their urban downtown neighborhoods? How valuable of a redevelopment tool is TIF? Should TIF be the preferential choice for local government development, or are there better alternatives? The arguments in favor of and in opposition to TIF follow.

☐ *Arguments in Support of TIF*

1) Even though TIF initially benefits a special district, the *entire* community can be energized and helped in the long run. Economic development can happen steadily and naturally in the entire community. The result can include a more solid economy, an increase in employment, and greater appeal to residents, businesses, and developers.³⁷

2) By promoting economic opportunity, TIF can stimulate private investment in a community by encouraging the private and public sectors to form a solid partnership as they collaborate and work together.³⁸

3) TIF has few financial risks over a long period of time. TIF supports redevelopment projects without increasing taxes, and TIF can be used without impacting a city's debt limit or financial stability.³⁹

4) TIF uses loans to finance capital assets and infrastructure in a district. These loans are repaid over the duration of the CRA with the use of incremental revenue from ad valorem taxes collected from a district. Without TIF, improvements and additions in blighted areas would not be funded and growth would stagnate.⁴⁰

5) TIF is one method to finance economic development and is not mutually exclusive to other methods. There are other funding sources available, which include bank CDCs, CDBG, BIDs, HUD, SHIP, HOME, and US EPA.⁴¹

6) Once established, TIF can provide a consistent funding source for redevelopment activities in the district. This helps local governments implement long range and large scale projects with a steady stream of revenue.⁴²

☐ *Arguments in Opposition to TIF*

1) TIF's incremental approach uses ad valorem taxes — the primary method to fund public education in Florida — and applies it for redevelopment purposes. TIF could be used to help obtain Amendment 9 compliance and public education improvement.⁴³

2) Local government officials decide which geographic areas need TIF for development. If funds are misused or poorly applied, no public official is accountable. TIF does not require voter approval. The public does not have a voice in development.⁴⁴

3) Projected dollar returns of TIF over long periods — 10, 20, 30 years, or more — are speculative and can be too optimistic in terms of TIF revenues. There are too many market forces that cannot be predicted with reasonable certainty and that can drive values up or down during the duration of a CRA.⁴⁵

4) *Kelo* held that in matters of economic development, the judiciary should pay great deference to local government officials' decisions. *Kelo* permits local grassroots organizations and lobbyists to assert great influence over local government officials, who decide which areas to designate as CRAs for use of TIF.

There is little fear that local officials' decisions will be overturned by the courts.⁴⁶

5) When the tax increment of a CRA increases, the growth is not shared among all government units. Schools, libraries, and the municipality may have to raise taxes to meet rising costs of their components. TIF can boost economic growth, but at a cost of higher taxes to meet their rising costs.⁴⁷

6) TIF benefits private sector development with the use of public revenue. Private development should not be supported from investments of public funds.⁴⁸

Redevelopment Capital Program

The redevelopment capital program (RCP) uses non ad valorem funds deposited into a separate account for redevelopment projects, and has been suggested as an alternative to TIF. The Broward County Board of County Commissioners (BOCC) established the first RCP in Florida in February 2004.⁴⁹ RCP provides two funding sources to its participants: grants (used for redevelopment activities) and loans (used for land acquisition).⁵⁰ Major provisions of RCP include 1) no annual ad valorem taxes can be collected and used by municipalities for redevelopment; 2) BOCC will determine the total investment for each project in each municipality; 3) BOCC has the authority to delegate different levels of authority to each CRA for redevelopment projects and TIF; 4) all county municipalities retain the right to develop specific plans, but will be subject to review and approval by the county.⁵¹

RCP was established by the county for one major purpose — to replace TIF.⁵² The question, however, is: Should TIF be replaced with RCP to economically revitalize neighborhoods? Supporters of RCP believe that it can do a better job, and accordingly, it should be established, but they fail to provide supporting evidence that it can do better than TIF. The reasons include 1) there is too little actual development with TIF and more can be accomplished with RCP; 2) intergovernmental relations can be improved if the power to decide which projects and the amount to be spent is given to one governmental entity — the county — instead of permitting each municipality to decide which projects should be undertaken and the amount; 3) dollars can be more equitably shared between larger and smaller cities if the county decides how much TIF dollars should be spent and which projects the dollars should be used for; 4) TIF favors larger cities that have the ability to receive larger amounts of money for their own use, but if ad valorem taxes are paid into a special county fund, the "inequitable" funding of TIF can be eliminated.⁵³ In sum, the RCP "partnership" is a necessary "checks and balances," so that the county can maintain a "regional perspective," while municipalities develop specific community redevelopment plans, projects, and activities of their own.⁵⁴

The adoption of RCP gives the county considerable power over specific projects in CRAs already reviewed and approved by municipalities. There is legitimate concern by the public and private sector that redevelopment projects will get bogged down in county bureaucracy that will lengthen approval times and increase development costs if RCP is used.⁵⁵ Until it is shown that TIF is overly burdensome to counties' budgets and cannot enhance economic development, TIF should continue to be the primary tool for local economic development.⁵⁶ The reader should follow this debate through the administrative and political process, because the result can have important ramifications as to intergovernmental relations and local government development in Florida.

Conclusion

TIF is a growing source of infrastructure funding for economic redevelopment of urban downtown neighborhoods and is a financing tool and land development and improvement tool used to provide local

economic development. TIF has provided local governments in Florida with a funding means to redevelop areas that have become blighted. The cost of development projects can be enormous, and projects can take vast amounts of time before completion.

Whether RCP or some other tool is shown to be better than TIF will remain to be seen. It is undisputed that RCP gives the county ultimate power to decide which projects and the amount to be invested in municipalities' redevelopment projects. RCP may work best for smaller level projects, but it may prove inadequate for longer range or larger scale redevelopment projects.

Implementing longer term and larger scale redevelopment projects makes sense with TIF, even though this ties up county resources and capital for long periods of time. TIF is a safe haven for local economic development in urban neighborhoods. TIF targets blighted areas in order to transform them into viable areas. TIF is as reliable of a strategy as the public sector has created in recent years. An unknown factor is the effect the new laws restricting eminent domain on blighted private property will have on economic development in CRAs. At this time, if TIF is properly implemented, the CRA and its adjacent districts can experience considerable increases in their property tax revenue and make the community more appealing and attractive in its goal to obtain a better quality of life for its residents.

¹ See **Fla. Stat.** §§163.385, 163.387(2006).

² See generally **Fla. Stat.** Ch. 163, Parts II and III (2006). See *State v. City of Daytona Beach*, 484 So. 2d 1214 (Fla. 1986); *State v. Miami Beach Redevelopment Agency*, 392 So. 2d 875, 893 (Fla. 1981); *Kelson v. City of Pensacola*, 483 So. 2d 77 (Fla. 1st D.C.A. 1986). There has been a difference of opinion about which property tax roll to use in calculating the incremental revenue that must be deposited by each CRA into the redevelopment trust fund. Is it the preliminary roll or the final roll that should be used? There have been no appellate court decisions on this matter to date, but the attorney general has suggested that the final roll should be used. See AGO 96-39 (May 23, 1996).

³ **Fla. Stat.** §163.410 (2006); E. Lukic, Office of the County Auditor, Broward County, Florida, *Status of Implementation of Community Redevelopment Activities in Broward County*, Report No. 06-12,17-21 (March 21, 2006), available at www.broward.org/auditor/cra_032806.pdf; T. Sheridan, *Community Redevelopment Agencies Being Pressured to Go for Short-term Economic Gains*, **Palm Beach Daily Business Review** (May 27, 2004), available at floridacdc.org/articles/040606-1.htm; T. Sheridan, *Broward's Redevelopment Capital Program Will Blaze a Trail in Florida, But Which City Will Join in Taking Initial Steps?* **Palm Beach Daily Business Review** (February 17, 2004), available at www.floridacdc.org/articles/040226-1.htm.

⁴ Nearly every state and the District of Columbia have adopted TIF legislation. See Council of Development Finance Agencies (CDFA), *Tax Increment State Statutes* (2006), www.cdfa.net/cdfa/cdfaweb.nsf/pages/tifstatestatutes.html; C. Johnson, *Tax Increment Financing (TIF) Study*, **State Enabling Statutes** (2002), assist.neded.org/TIFreport.pdf.

⁵ **Fla. Stat.** §§63.2520, 163.2523, 163.385, 163.387 (2006).

⁶ **Fla. Stat.** §§163.387(6) (a)-(h) (2006).

⁷ **Fla. Stat.** §163.385 (2005); *State v. City of Pensacola*, 397 So. 2d 922 (Fla. 1981). Other funding resources include bank community development corporations (bank CDCs), U.S. EPA Brownfields Economic Redevelopment Initiative (where there is an actual or perceived contamination and an active potential for redevelopment or reuse), Community Development Block Grant (CDBG) (it awards funding from the Department of Housing and Urban Development), Business Improvement Districts (BIDS) (a form of privatization used on special assessments to enhance the district). For a thorough discussion of these resources and others, see J. Carras, Florida Atlantic University Institute of Government Redevelopment Series, *A Compendium of Select Alternative Development Finance Sources*, www.cuesfau.org/cra/docs/05_June_Beyond_Tif/A%20Compendium%20of%20Alternative%20Development%20Finance%20Sources.pdf.

⁸ See **Fla. Stat.** §§163.385, 163.387 (2006).

⁹ **Fla. Stat.** §§163.356 (3)(c), 163.387 (2006).

¹⁰ See **Fla. Stat.** §§163.330-163.450 (2006), which is known as Part III Community Redevelopment. In 1999, the Growth Policy Act, **Fla. Stat.** §§163.2511-163.2526, was enacted, which allows for the creation of an urban infill and redevelopment area. An advantage of this tool over CRAs is that the governance

makeup can be more adaptable with local stakeholders, such as community based organizations, neighborhood associations, banks, housing authorities, existing and future businesses, schools, and neighborhood residents. On the other hand, only local government officials can organize, implement, and complete an urban infill and redevelopment plan with a CRA.

¹¹ **Fla. Stat.** §§163.2511, 163.2517, 163.345, 163.355 (2006). See also **Fla. Stat.** §290.001 et seq. (2006), which is known as the Florida Enterprise Zone Act.

¹² See **Fla. Stat.** §163.335 (2006); *State v. Miami Beach Redevelopment Agency*, 392 So. 2d 875 (Fla. 1980).

¹³ **Fla. Stat.** §163.340(7)(8)(9) (2006); *Panama City Beach Community Redevelopment Agency v. State*, 831 So. 2d 662 (Fla. 2002); *Batmasian v. Boca Raton Community Redevelopment Agency*, 580 So. 2d 199 (Fla. 4th D.C.A. 1991).

¹⁴ *Id.* See also **Fla. Stat.** §§163.3177, 163.335(6), 163.340 (9), 163.360(2)(C) (2006). The law formerly allowed CRAs to use eminent domain to acquire real property for private purposes. Today CRAs are prohibited from exercising eminent domain to take private property for private purposes such as economic development. See **Fla. Stat.** §163.335(7) (2006).

¹⁵ *Id.* **Fla. Stat.** §§163.2511, 163.2514 (2006). See also **C. Johnson, Tax Increment Financing and Economic Development: Uses, Structures, and Impacts (2001).**

¹⁶ *Kelo*, 545 U.S. at 488-9.

¹⁷ M. Bentley, *Hurricane Kelo Hits Florida* (Summer 2006), www.grayharris.com/news.php?ACTION=view&CAT=4&ID=834.

¹⁸ **Fla. Stat.** §163.340(7)(8) (2006).

¹⁹ **Fla. Stat.** §§73.013, 163.335(7) (2006).

²⁰ *Id.*

²¹ *Id.*

²² *Id.*; **Fla. Const.** Amendment 10, §6 (2006).

²³ C. Peralta, *The Planning & Development Network. Florida Approves Constitutional Amendment Limiting Eminent Domain* (Nov. 15, 2006), www.planetizen.com/node/21881; C. Weimar, *Know It Now Crimping Eminent Domain* (Nov. 13, 2006), www.sptimes.com/2006/11/13/news_pf/State/Crimping_important_domains.html; M. Bentley, *Hurricane Kelo Hits Florida* (Summer 2006), www.grayharris.com/news.php?ACTION=view&CAT=4&ID=834.

²⁴ **Fla. Stat.** §§163.2511, 163.2514 (2006).

²⁵ *Id.*

²⁶ **Fla. Stat.** §§163.355, 163.356, 163.357 (2006).

²⁷ **Fla. Stat.** §§163.356, 163.357, 163.358, 163.340, 163.356 (2), 163.357(1) (2006). See also *Striton Properties v. Jacksonville Beach*, 533 So. 2d 1174 (Fla. 1st D.C.A. 1988); *Key West Harbour Development Corp. v. City of Key West*, 738 F. Supp. 1390 (S.D. Fla. 1990).

²⁸ **Fla. Stat.** §163.360 (2) (2006).

²⁹ **Fla. Stat.** §163.387 (1) (2006).

³⁰ **Fla. Stat.** §§163.340 (9) (10) (11), 163.362 (2006).

³¹ **Fla. Stat.** §§163.3167, 163.3177, 163.3178, 163.3184, 163.3187, 163.3189, 163.3191, 163.3194 (2006). See also *Citizens Growth Management Coalition of West Palm Beach, Inc.*, 450 So. 2d 204 (Fla. 1984); *Lee County v. Sunbelt Equities, II, Ltd., Partnership*, 619 So. 2d 996 (Fla. 2d D.C.A. 1993); *Franklin County v. S.G.I. Ltd.*, 728 So. 2d 1210 (Fla. 1st D.C.A. 1999).

³² **Fla. Stat.** §§163.335, 163.358, 163.360, 163.370, 163.380 (2006).

³³ **Fla. Stat.** §163.387 (1) (2006).

³⁴ See **Fla. Stat.** §§163.330 – 163.450 (2006); *State v. City of Daytona Beach*, 484 So. 2d 1214 (Fla. 1986); *State v. Miami Beach Redevelopment Agency*, 392 So. 2d 875 (Fla. 1980); *Kelson v. City of Pensacola*, 483 So. 2d 77 (Fla. 1st D.C.A. 1986).

³⁵ **Fla. Stat.** §163.387(1) (2006).

- ³⁶ See T. Chapin, *Catalysts of Redevelopment: An Evaluation of Three Florida CRAs*, report prepared for The Florida Redevelopment Association (October 2003), www.redevelopment.net/files/Case%20Studies%20Final%20Report.pdf; Tax Increment Financing, A "Bottoms Up" Approach to Financing Community Development 1 (Tax Increment Financing), business.mt.gov/docs/TaxIncrementFinancing.ppt#256, business.mt.gov/docs/TIF_graph.ppt#256,1,Slide1.
- ³⁷ *Id.*; T. Sheridan, **Palm Beach Daily Business Review** (May 27, 2004); *State v. City of Daytona Beach*, 484 So. 2d 1214 (Fla. 1986); *State v. Miami Beach Redevelopment Agency*, 392 So. 2d 875, 893 (Fla. 1981).
- ³⁸ See **Fla. Stat.** §163.345 (2006). Ch. 163 specifically promotes private enterprise participation in economic development.
- ³⁹ L. Marks, *The Evolving Use of TIF*, 18 **Review, A DSI Publication**, (No. 1, Summer 2005), available at www.development-strategies.com/images_NEW06/evolving_tif.pdf. See also **Fla. Stat.** §§163.2520, 163.2523, 163.385 (2006).
- ⁴⁰ See **Fla. Stat.** §§163.356, 163.357, 163.358, 163.340, 163.356 (2), 163.357 (1) (2006). See also *Striton Properties v. Jacksonville Beach*, 533 So. 2d 1174 (Fla. 1st D.C.A. 1988); *Key West Harbour Development Corp. v. City of Key West*, 738 F. Supp. 1390 (S.D. Fla. 1990); **Fla. Stat.** §163.360 (2) (2006); **Fla. Stat.** §163.360 (2) (2006); **Fla. Stat.** §§63.340 (9) (10) (11), 163.362 (2006).
- ⁴¹ See **Fla. Stat.** §163.385 (2005); *State v. City of Pensacola*, 397 So. 2d 922 (Fla. 1981). Other funding resources include bank community development corporations (bank CDCs), U.S. EPA Brownfields Economic Redevelopment Initiative (where there is an actual or perceived contamination and an active potential for redevelopment or reuse), Community Development Block Grant (CDBG) (it awards funding from the Department of Housing and Urban Development), Business Improvement Districts (BIDS) (a form of privatization used on special assessments to enhance the district). For a thorough discussion of these resources and others, see J. Carras, Florida Atlantic University Institute of Government Redevelopment Series, *A Compendium of Select Alternative Development Finance Sources*, www.cuesfau.org/cra/docs/05_June_Beyond_Tif/A%20Compendium%20of%20Alternative%20Development%20Finance%20Sources.pdf.
- ⁴² See **Fla. Stat.** §§163.385, 163.387 (2006).
- ⁴³ See **Fla. Const.** art. IX (2006); **Fla. Stat.** §§163.385, 163.387 (2006).
- ⁴⁴ See **Fla. Stat.** §§163.387 (1), 163.340 (9) (10) (11), 163.362 (2006); *State v. City of Daytona Beach*, 484 So. 2d 1214 (Fla. 1986); *State v. City of Pensacola*, 397 So. 2d 922 (Fla. 1981); *Kelson v. City of Pensacola*, 483 So. 2d 77 (Fla. 1st D.C.A. 1986).
- ⁴⁵ D. McGraw, *TIF Epidemic Infects Local Governments*, **Budget & Tax News** (March 1, 2006), available at www.heartland.org/Article.cfm?artId=18558.
- ⁴⁶ See *Kelo v. Town of New London*, 545 U.S. 469 (2005). See also *Harrell's Candy Kitchen, Inc. v. Sarasota-Manatee Airport Authority*, 111 So. 2d 439 (Fla. 1959), in which the Florida Supreme Court stated, "Courts will not substitute their judgment as to reasonableness of a particular rule or regulation where such has been duly adopted pursuant to lawful authority when such reasonableness is fairly debatable."
- ⁴⁷ National Education Association, *Protecting Public Education from Tax Giveaways to Corporations. Property Tax Abatements, Tax Increment Financing, and Funding for Schools* (January, 2003), www.goodjobsfirst.org/pdf/edu.pdf.
- ⁴⁸ See **Fla. Stat.** §163.387 (6) (a) – (h) (2006) and **Fla. Stat.** §163.385 (2005); *State v. City of Pensacola*, 397 So. 2d 922 (Fla. 1981). See also **Fla. Stat.** §§163.3177, 163.335(6), 163.340 (2006).
- ⁴⁹ **Fla. Stat.** §163.410 (2006).
- ⁵⁰ *Id.*
- ⁵¹ Florida law authorizes the Broward BOCC — a home rule charter county — to give full, most, partial, or limited statutory authority to each CRA by a delegating resolution pursuant to **Fla. Stat.** §163.410 (2006). At the present time, the BOCC has established CRAs with these four distinctive levels of authority. For a discussion of the levels of authority in municipalities, see E. Lukic, Office of the County Auditor, Broward County, Florida, *Status of Implementation of Community Redevelopment Activities in Broward County*, Report No. 06-12, 17-21 (March 21, 2006), www.broward.org/auditor/cra_032806.pdf
- ⁵² *Id.*

⁵³ *Id.* See also Fla. Stat. §163.410 (2006).

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ T. Chapin, *Catalysts of Redevelopment: An Evaluation of Three Florida CRAs*, report prepared for The Florida Redevelopment Association (October 2003), www.redevelopment.net/files/Case%20Studies%20Final%20Report.pdf.

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[Journal HOME](#)