

1 HOUSE BILL NO. 484

2 INTRODUCED BY E. ARNTZEN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE DURATION OF A TAX INCREMENT FINANCE
5 PROVISION; PROVIDING THAT PROPERTY THAT WAS WITHIN AN URBAN RENEWAL AREA WITHIN THE
6 PRIOR 10 YEARS MAY NOT BE INCLUDED IN A PROPOSED URBAN RENEWAL AREA; ESTABLISHING
7 THAT AFTER JULY 1, 2009, TAX INCREMENT FINANCING MAY NOT EXTEND BEYOND 21 YEARS EVEN
8 IF TAX INCREMENT REVENUE HAS BEEN PLEDGED TO SERVICE BONDS; AMENDING SECTIONS
9 7-15-4206, 7-15-4290, 7-15-4292, 7-15-4301, 7-15-4302, AND 7-15-4324, MCA; AND PROVIDING AN
10 EFFECTIVE DATE."

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13

14 **Section 1.** Section 7-15-4206, MCA, is amended to read:15 **"7-15-4206. Definitions.** The following terms, wherever used or referred to in part 43 or this part, have
16 the following meanings unless a different meaning is clearly indicated by the context:

17 (1) "Agency" or "urban renewal agency" means a public agency created by 7-15-4232.

18 (2) "Blighted area" means an area that is conducive to ill health, transmission of disease, infant mortality,
19 juvenile delinquency, and crime, that substantially impairs or arrests the sound growth of the city or its environs,
20 that retards the provision of housing accommodations, or that constitutes an economic or social liability or is
21 detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and
22 use, by reason of:23 (a) the substantial physical dilapidation, deterioration, age obsolescence, or defective construction,
24 material, and arrangement of buildings or improvements, whether residential or nonresidential;25 (b) inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined
26 by competent appraisers on the basis of an examination of the building standards of the municipality;

27 (c) inappropriate or mixed uses of land or buildings;

28 (d) high density of population and overcrowding;

29 (e) defective or inadequate street layout;

30 (f) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

- 1 (g) excessive land coverage;
- 2 (h) unsanitary or unsafe conditions;
- 3 (i) deterioration of site;
- 4 (j) diversity of ownership;
- 5 (k) tax or special assessment delinquency exceeding the fair value of the land;
- 6 (l) defective or unusual conditions of title;
- 7 (m) improper subdivision or obsolete platting;
- 8 (n) the existence of conditions that endanger life or property by fire or other causes; or
- 9 (o) any combination of the factors listed in this subsection (2).
- 10 (3) "Bonds" means any bonds, notes, or debentures, including refunding obligations, authorized to be
- 11 issued pursuant to part 43 or this part.
- 12 (4) "Clerk" means the clerk or other official of the municipality who is the custodian of the official records
- 13 of the municipality.
- 14 (5) "Federal government" means the United States of America or any agency or instrumentality,
- 15 corporate or otherwise, of the United States of America.
- 16 (6) "Local governing body" means the council or other legislative body charged with governing the
- 17 municipality.
- 18 (7) "Mayor" means the chief executive of a city or town.
- 19 (8) "Municipality" means any incorporated city or town in the state.
- 20 (9) "Neighborhood development program" means the yearly activities or undertakings of a municipality
- 21 in an urban renewal area or areas if the municipality elects to undertake activities on an annual increment basis.
- 22 (10) "Obligee" means any bondholder or agent or trustee for any bondholder or lessor conveying to the
- 23 municipality property used in connection with an urban renewal project or any assignee or assignees of the
- 24 lessor's interest or any part of the interest and the federal government when it is a party to any contract with the
- 25 municipality.
- 26 (11) "Person" means any individual, firm, partnership, corporation, company, association, joint-stock
- 27 association, or school district and includes any trustee, receiver, assignee, or other person acting in a similar
- 28 representative capacity.
- 29 (12) "Public body" means the state or any municipality, township, board, commission, district, or other
- 30 subdivision or public body of the state.

1 (13) "Public officer" means any officer who is in charge of any department or branch of the government
2 of the municipality relating to health, fire, building regulations, or other activities concerning dwellings in the
3 municipality.

4 (14) "Public use" means:

5 (a) a public use enumerated in 70-30-102; or

6 (b) a project financed by the method provided for in 7-15-4288.

7 (15) "Real property" means all lands, including improvements and fixtures on the land, all property of any
8 nature appurtenant to the land or used in connection with the land, and every estate, interest, right, and use, legal
9 or equitable, in the land, including terms for years and liens by way of judgment, mortgage, or otherwise.

10 (16) "Redevelopment" may include:

11 (a) acquisition of a blighted area or portion of the area;

12 (b) demolition and removal of buildings and improvements;

13 (c) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other
14 improvements necessary for carrying out in the area the urban renewal provisions of this part in accordance with
15 the urban renewal plan; and

16 (d) making the land available for development or redevelopment by private enterprise or public agencies,
17 including sale, initial leasing, or retention by the municipality itself, at its fair value for uses in accordance with the
18 urban renewal plan. If the property is condemned pursuant to Title 70, chapter 30, the private enterprise or public
19 agencies may not develop the condemned area in a way that is not for a public use.

20 (17) (a) "Rehabilitation" may include the restoration and renewal of a blighted area or portion of the area
21 in accordance with an urban renewal plan by:

22 (i) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or
23 other improvements;

24 (ii) acquisition of real property and demolition or removal of buildings and improvements on the property
25 when necessary to eliminate unhealthful, unsanitary, or unsafe conditions, to lessen density, to reduce traffic
26 hazards, to eliminate obsolete or other uses detrimental to the public welfare, to otherwise remove or prevent the
27 spread of blight or deterioration, or to provide land for needed public facilities;

28 (iii) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other
29 improvements necessary for carrying out in the area the urban renewal provisions of this part; and

30 (iv) subject to 7-15-4259(4), the disposition of any property acquired in the urban renewal area, including

1 sale, initial leasing, or retention by the municipality itself, at its fair value for uses in accordance with the urban
2 renewal plan.

3 (b) Rehabilitation may not include the development of the condemned area in a way that is not for a
4 public use if the property is condemned pursuant to Title 70, chapter 30.

5 (18) "Urban renewal area" means a blighted area that the local governing body designates as appropriate
6 for an urban renewal project or projects. An urban renewal area may not include property that was included in
7 an urban renewal area within the previous 10 years.

8 (19) "Urban renewal plan" means a plan for one or more urban renewal areas or for an urban renewal
9 project. The plan:

10 (a) must conform to the growth policy if one has been adopted pursuant to Title 76, chapter 1; and

11 (b) must be sufficiently complete to indicate, on a yearly basis or otherwise:

12 (i) any land acquisition, demolition, and removal of structures; redevelopment; improvements; and
13 rehabilitation that is proposed to be carried out in the urban renewal area;

14 (ii) zoning and planning changes, if any, including changes to the growth policy if one has been adopted
15 pursuant to Title 76, chapter 1;

16 (iii) land uses, maximum densities, building requirements; and

17 (iv) the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic,
18 public transportation, public utilities, recreational and community facilities, and other public improvements.

19 (20) (a) "Urban renewal project" may include undertakings or activities of a municipality in an urban
20 renewal area for the elimination and for the prevention of the development or spread of blight and may involve
21 redevelopment in an urban renewal area, rehabilitation or conservation in an urban renewal area, or any
22 combination or part of redevelopment, rehabilitation, or conservation in accordance with an urban renewal plan.

23 (b) An urban renewal project may not include using property that was condemned pursuant to Title 70,
24 chapter 30, for anything other than a public use."

25

26 **Section 2.** Section 7-15-4290, MCA, is amended to read:

27 **"7-15-4290. Use of property taxes and other revenue for payment of bonds.** (1) Subject to the
28 durational limits established in 15-7-4292(1)(b), tax increment revenue may be pledged for the payment of bonds
29 as provided in this section.

30 ~~(+)~~(2) (a) The tax increment derived from an urban renewal area may be pledged for the payment of

1 revenue bonds issued for urban renewal projects or of general obligation bonds, revenue bonds, or special
2 assessment bonds issued to pay urban renewal costs described in 7-15-4288 and 7-15-4289.

3 (b) The tax increment derived from an industrial district may be pledged for the payment of revenue
4 bonds issued for industrial infrastructure development projects or of general obligation bonds, revenue bonds,
5 or special assessment bonds issued to pay industrial district costs described in 7-15-4288 and 7-15-4289.

6 (c) The tax increment derived from a technology district may be pledged for the payment of revenue
7 bonds issued for technology infrastructure development projects or of general obligation bonds, revenue bonds,
8 or special assessment bonds issued to pay technology district costs described in 7-15-4288 and 7-15-4289.

9 ~~(2)~~(3) A municipality issuing bonds pursuant to subsection (1) may, by resolution of its governing body,
10 enter into a covenant for the security of the bondholders, detailing the calculation and adjustment of the tax
11 increment and the taxable value on which it is based and, after a public hearing, pledging or appropriating other
12 revenue of the municipality, except property taxes prohibited by subsection ~~(3)~~ (4), to the payment of the bonds
13 if collections of the tax increment are insufficient.

14 ~~(3)~~(4) Property taxes, except the tax increment derived from property within the area or district and tax
15 collections used to pay for services provided to the municipality by a project, may not be applied to the payment
16 of bonds issued pursuant to 7-15-4301 for which a tax increment has been pledged."
17

18 **Section 3.** Section 7-15-4292, MCA, is amended to read:

19 **"7-15-4292. Termination of tax increment financing -- exception.** (1) The tax increment provision
20 terminates upon:

21 (a) the later of:

22 ~~(a)~~(i) the 15th year following its adoption; or

23 ~~(b)~~(ii) the payment or provision for payment in full or discharge of all bonds for which the tax increment
24 has been pledged and the interest on the bonds; or

25 (b) for a tax increment provision adopted after July 1, 2009, the 21st year following its adoption even if
26 bonds are outstanding.

27 (2) (a) Except as provided in subsection (2)(b), any amounts remaining in the special fund or any reserve
28 fund after termination of the tax increment provision must be distributed among the various taxing bodies in
29 proportion to their property tax revenue from the district.

30 (b) Upon termination of the tax increment provision, a municipality may retain and use in accordance with

1 the provisions of the urban renewal plan:

2 (i) funds remaining in the special fund or a reserve fund related to a binding loan commitment,
3 construction contract, or development agreement for an approved urban renewal project that a municipality
4 entered into before the termination of a tax increment provision;

5 (ii) loan repayments received after the date of termination of the tax increment provision from loans made
6 pursuant to a binding loan commitment; or

7 (iii) funds from loans previously made pursuant to a loan program established under an urban renewal
8 plan.

9 (3) After termination of the tax increment provision, all taxes must be levied upon the actual taxable value
10 of the taxable property in the urban renewal area, the industrial district, or the technology district and must be paid
11 into the funds of the respective taxing bodies.

12 (4) Bonds secured in whole or in part by a tax increment provision may not be issued after the 15th
13 anniversary of tax increment provisions. However, if bonds secured by a tax increment provision are outstanding
14 on the applicable anniversary, additional bonds secured by the tax increment provision may be issued if the final
15 maturity date of the bonds is not later than the final maturity date of any bonds then outstanding and secured by
16 the tax increment provision."

17

18 **Section 4.** Section 7-15-4301, MCA, is amended to read:

19 **"7-15-4301. Authorization to issue urban renewal bonds, industrial infrastructure development**
20 **bonds, aerospace transportation and technology infrastructure development bonds, technology**
21 **infrastructure development bonds, and refunding bonds.** (1) A municipality may:

22 (a) issue bonds from time to time, in its discretion, to finance the undertaking of any urban renewal
23 project, industrial infrastructure development project, aerospace transportation and technology infrastructure
24 development project, or technology infrastructure development project under part 42 and this part, including,
25 without limiting the generality of projects, the payment of principal and interest upon any advances for surveys
26 and plans for the projects; and

27 (b) issue refunding bonds for the payment or retirement of bonds previously issued by it.

28 (2) The bonds may not pledge the general credit of the municipality and must be made payable, as to
29 both principal and interest, solely from the income, proceeds, revenue, and funds of the municipality derived from
30 or held in connection with its undertaking and carrying out of urban renewal projects, industrial infrastructure

1 development projects, aerospace transportation and technology infrastructure development projects, or
 2 technology infrastructure development projects under part 42 and this part, including the tax increment received
 3 and pledged by the municipality pursuant to 7-15-4282 through 7-15-4292, and, if the income, proceeds, revenue,
 4 and funds of the municipality are insufficient for the payment, from other revenue of the municipality pledged to
 5 the payment. Payment of the bonds, both as to principal and interest, may be further secured by a pledge of any
 6 loan, grant, or contribution from the federal government or other source in aid of any urban renewal projects,
 7 industrial infrastructure development projects, aerospace transportation and technology infrastructure
 8 development projects, or technology infrastructure development projects of the municipality under part 42 and
 9 this part or by a mortgage on all or part of any projects.

10 (3) Bonds issued under this section must be authorized by resolution or ordinance of the local governing
 11 body.

12 (4) Bonds issued under this section are subject to the durational limits established in 15-7-4292(1)(b)."
 13

14 **Section 5.** Section 7-15-4302, MCA, is amended to read:

15 **"7-15-4302. Authorization to issue general obligation bonds.** (1) For the purpose of 7-15-4267 or
 16 for the purpose of aiding in the planning, undertaking, or carrying out of an urban renewal project or an industrial
 17 infrastructure development project of a municipality, the municipality, in addition to any authority to issue bonds
 18 pursuant to 7-15-4301, may issue and sell its general obligation bonds.

19 (2) ~~Any~~ Subject to the durational limits established in 15-7-4292(1)(b), bonds issued pursuant to this
 20 section ~~shall~~ must be issued in the manner and within the limitations prescribed by the laws of this state for the
 21 issuance and authorization of bonds by ~~such~~ the municipality for public purposes generally.

22 (3) Aiding in the planning, undertaking, or carrying out of an approved urban renewal project or an
 23 industrial infrastructure development project is considered a single purpose for the issuance of general obligation
 24 bonds, and the proceeds of the bonds authorized for any ~~such~~ project may be used to finance the exercise of any
 25 and all powers conferred upon the municipality by ~~this part and part 42 which~~ and this part that are necessary
 26 or proper to complete the project in accordance with the approved plan or industrial district ordinance and any
 27 modification ~~thereof~~ duly of the plan or ordinance adopted by the local governing body."
 28

29 **Section 6.** Section 7-15-4324, MCA, is amended to read:

30 **"7-15-4324. Special bond provisions when tax increment financing is involved.** (1) Bonds Subject

1 to the durational limits established in 15-7-4292(1)(b), bonds issued under this part for which a tax increment is
2 pledged pursuant to 7-15-4282 through 7-15-4292 must be designed to mature not later than ~~25~~ 20 years from
3 their date of issue, ~~and~~ The bonds must mature in years and amounts so that the principal and interest due on
4 the bonds in each year may not exceed the estimated tax increment, payments in lieu of taxes or other amounts
5 agreed to be paid by the property owners in a district, and other estimated revenue, including proceeds of the
6 bonds available for payment of interest on the bonds, pledged to their payment to be received in that year.

7 (2) The governing body, in the resolution or ordinance authorizing the bonds, shall determine the
8 estimated tax increment, payments in lieu of taxes or other amounts agreed to be paid by the property owners
9 in a district, and other revenue, if any, for each year the bonds are to be outstanding. In calculating the costs
10 under 7-15-4288 for which the bonds are issued, the municipality may include an amount sufficient to pay interest
11 on the bonds prior to receipt of tax increments pledged and sufficient for the payment of the bonds and to fund
12 any reserve fund in respect of the bonds."

13

14 NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2009.

15

- END -