

## 1 HOUSE BILL NO. 616

2 INTRODUCED BY M. HOPKINS, B. TSCHIDA

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING TAX INCREMENT FINANCING LAWS TO REQUIRE  
5 A GOVERNING BODY TO APPROVE A TAX INCREMENT PROVISION; AMENDING SECTIONS 7-15-4206,  
6 7-15-4233, AND 7-15-4282, MCA; AND PROVIDING AN APPLICABILITY DATE."

7

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

9

10 **Section 1.** Section 7-15-4206, MCA, is amended to read:

11 **"7-15-4206. Definitions.** The following terms, wherever used or referred to in part 43 or this part,  
12 have the following meanings unless a different meaning is clearly indicated by the context:

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

14 (2) "Blighted area" means an area that is conducive to ill health, transmission of disease, infant  
15 mortality, juvenile delinquency, and crime, that substantially impairs or arrests the sound growth of the city or its  
16 environs, that retards the provision of housing accommodations, or that constitutes an economic or social  
17 liability or is detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present  
18 condition and use, by reason of:

19 (a) the substantial physical dilapidation, deterioration, age obsolescence, or defective construction,  
20 material, and arrangement of buildings or improvements, whether residential or nonresidential;

21 (b) inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined  
22 by competent appraisers on the basis of an examination of the building standards of the municipality;

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

24 (d) high density of population and overcrowding;

25 (e) defective or inadequate street layout;

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

27 (g) excessive land coverage;

28 (h) unsanitary or unsafe conditions;

- 1 (i) deterioration of site;  
 2 (j) diversity of ownership;  
 3 (k) tax or special assessment delinquency exceeding the fair value of the land;  
 4 (l) defective or unusual conditions of title;  
 5 (m) improper subdivision or obsolete platting;  
 6 (n) the existence of conditions that endanger life or property by fire or other causes; or  
 7 (o) any combination of the factors listed in this subsection (2).

8 (3) "Bonds" means any bonds, notes, or debentures, including refunding obligations, authorized to be  
 9 issued pursuant to part 43 or this part.

10 (4) "Clerk" means the clerk or other official of the municipality who is the custodian of the official  
 11 records of the municipality.

12 (5) "ELECTED" MEANS CHOSEN BY VOTE OR ACCLAMATION OR APPOINTED TO A VACANCY IN AN OTHERWISE  
 13 ELECTED POSITION.

14 ~~(5)(6)~~ "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)(7)~~ "Local governing body" means the ELECTED MEMBERS OF A COUNCIL or other ELECTED MEMBERS OF  
 17 A legislative body charged with governing the a municipality or consolidated city-county.

18 ~~(7)(8)~~ "Mayor" means the chief executive of a city or town.

19 ~~(8)(9)~~ "Municipality" means any incorporated city or town in the state.

20 ~~(9)(10)~~ "Neighborhood development program" means the yearly activities or undertakings of a  
 21 municipality in an urban renewal area or areas if the municipality elects to undertake activities on an annual  
 22 increment basis.

23 ~~(10)(11)~~ "Obligee" means any bondholder or agent or trustee for any bondholder or lessor conveying  
 24 to the municipality property used in connection with an urban renewal project or any assignee or assignees of  
 25 the lessor's interest or any part of the interest and the federal government when it is a party to any contract with  
 26 the municipality.

27 ~~(11)(12)~~ "Person" means any individual, firm, partnership, corporation, company, association, joint-  
 28 stock association, or school district and includes any trustee, receiver, assignee, or other person acting in a

1 similar representative capacity.

2 ~~(12)~~(13) "Public body" means the state or any municipality, township, board, commission, district, or  
3 other subdivision or public body of the state.

4 ~~(13)~~(14) "Public officer" means any officer who is in charge of any department or branch of the  
5 government of the municipality relating to health, fire, building regulations, or other activities concerning  
6 dwellings in the municipality.

7 ~~(14)~~(15) "Public use" means:

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

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

10 ~~(15)~~(16) "Real property" means all lands, including improvements and fixtures on the land, all property  
11 of any nature appurtenant to the land or used in connection with the land, and every estate, interest, right, and  
12 use, legal or equitable, in the land, including terms for years and liens by way of judgment, mortgage, or  
13 otherwise.

14 ~~(16)~~(17) "Redevelopment" may include:

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

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

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

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

24 ~~(17)~~(18) (a) "Rehabilitation" may include the restoration and renewal of a blighted area or portion of  
25 the area in accordance with an urban renewal plan by:

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

28 (ii) acquisition of real property and demolition or removal of buildings and improvements on the

1 property when necessary to eliminate unhealthful, unsanitary, or unsafe conditions, to lessen density, to reduce  
 2 traffic hazards, to eliminate obsolete or other uses detrimental to the public welfare, to otherwise remove or  
 3 prevent the spread of blight or deterioration, or to provide land for needed public facilities;

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

6 (iv) subject to 7-15-4259(4), the disposition of any property acquired in the urban renewal area,  
 7 including sale, initial leasing, or retention by the municipality itself, at its fair value for uses in accordance with  
 8 the urban renewal plan.

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

11 ~~(18)~~(19) "Urban renewal area" means a blighted area that the local governing body designates as  
 12 appropriate for an urban renewal project or projects.

13 ~~(19)~~(20) "Urban renewal plan" means a plan for one or more urban renewal areas or for an urban  
 14 renewal project. The plan:

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

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

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

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

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

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

24 ~~(20)~~(21) (a) "Urban renewal project" may include undertakings or activities of a municipality in an  
 25 urban renewal area for the elimination and for the prevention of the development or spread of blight and may  
 26 involve redevelopment in an urban renewal area, rehabilitation or conservation in an urban renewal area, or any  
 27 combination or part of redevelopment, rehabilitation, or conservation in accordance with an urban renewal plan.

28 (b) An urban renewal project may not include using property that was condemned pursuant to Title

1 70, chapter 30, for anything other than a public use."

2

3 **Section 2.** Section 7-15-4233, MCA, is amended to read:

4 **"7-15-4233. Powers which may be exercised by urban renewal agency or authorized**

5 **department.** (1) In the event the local governing body makes ~~such the~~ determination provided for in 7-15-4232,

6 ~~such the local governing~~ body may authorize the urban renewal agency or department or other officers of the

7 municipality to exercise any of the following urban renewal project powers:

8 (a) to formulate and coordinate a workable program as specified in 7-15-4209;

9 (b) to prepare urban renewal plans, except that the local governing body shall approve the inclusion

10 of a tax increment provision;

11 (c) to prepare recommended modifications to an urban renewal project plan;

12 (d) to undertake and carry out urban renewal projects as required by the local governing body;

13 (e) to make and execute contracts as specified in 7-15-4251, 7-15-4254, 7-15-4255, and 7-15-4281,

14 with the exception of contracts for the purchase or sale of real or personal property;

15 (f) to disseminate blight clearance and urban renewal information;

16 (g) to exercise the powers prescribed by 7-15-4255, except the power to agree to conditions for

17 federal financial assistance and imposed pursuant to federal law relating to salaries and wages shall be

18 reserved to the local governing body;

19 (h) to enter any building or property in any urban renewal area in order to make surveys and

20 appraisals in the manner specified in 7-15-4257;

21 (i) to improve, clear, or prepare for redevelopment any real or personal property in an urban renewal

22 area;

23 (j) to insure real or personal property as provided in 7-15-4258;

24 (k) to effectuate the plans provided for in 7-15-4254;

25 (l) to prepare plans for the relocation of families displaced from an urban renewal area and to

26 coordinate public and private agencies in such relocation;

27 (m) to prepare plans for carrying out a program of voluntary or compulsory repair and rehabilitation of

28 buildings and improvements;

- 1 (n) to conduct appraisals, title searches, surveys, studies, and other preliminary plans and work  
 2 necessary to prepare for the undertaking of urban renewal projects;
- 3 (o) to negotiate for the acquisition of land;
- 4 (p) to study the closing, vacating, planning, or replanning of streets, roads, sidewalks, ways, or other  
 5 places and to make recommendations with respect thereto;
- 6 (q) to organize, coordinate, and direct the administration of the provisions of this part and part 43;
- 7 (r) to perform ~~such~~ duties as directed by the local governing body ~~may direct so as to~~ make the  
 8 necessary arrangements for the exercise of the powers and performance of the duties and responsibilities  
 9 entrusted to the local governing body.
- 10 (2) Any powers granted in this part or part 43 that are not included in subsection (1) as powers of the  
 11 urban renewal agency or a department or other officers of a municipality in lieu ~~thereof of the local governing~~  
 12 body may only be exercised by the local governing body or other officers, boards, and commissions as  
 13 provided under existing law."

14

15 **Section 3.** Section 7-15-4282, MCA, is amended to read:

16 **"7-15-4282. Authorization for tax increment financing.** (1) An urban renewal plan as defined in 7-  
 17 15-4206 or a targeted economic development district comprehensive development plan created as provided in  
 18 7-15-4279 may contain a provision or be amended to contain a tax increment provision ~~for the segregation and~~  
 19 ~~application of tax increments as provided in 7-15-4282 through 7-15-4294.~~ The local governing body shall  
 20 approve the adoption of a tax increment provision included in an urban renewal plan. The legislative body of a  
 21 local government shall approve the adoption of a tax increment provision included in a targeted economic  
 22 development district comprehensive development plan.

23 (2) (a) Before adopting a tax increment financing provision as part of an urban renewal plan or a  
 24 comprehensive development plan, a municipality shall provide notice to the county and the school district in  
 25 which the urban renewal district or targeted economic development district is located and provide the county  
 26 and school district with the opportunity to meet and consult in a public meeting with the opportunity for public  
 27 comment regarding the proposed tax increment financing provision and its effect on the county or school  
 28 district.

1           (b) Before adopting a tax increment financing provision as part of a comprehensive development plan,  
2 a county shall provide notice to the school district in which the targeted economic development district is  
3 located and provide the school district with the opportunity to meet and consult in a public meeting with the  
4 opportunity for public comment regarding the proposed tax increment financing provision and its effect on the  
5 school district.

6           (3) The tax increment financing provision must take into account the effect on the county and school  
7 districts that include local government territory."

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9           NEW SECTION. Section 4. Applicability. [This act] applies to tax increment provisions adopted on  
10 or after [the effective date of this act].

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