



Ninety-Ninth Legislature - Second Session - 2006
Introducer's Statement of Intent
LB 1173

Chairperson: Mike Friend
Committee: Urban Affairs
Date of Hearing: January 31, 2006

The following constitute the reasons for this bill and the purposes which are sought to be accomplished thereby:

This legislation is concerned with the determination of the effective date for the division of real estate taxes pursuant to a redevelopment plan under the Nebraska Community Development Law (CDL). Section 18-2147 of the CDL provides that notice of the approval of TIF for a redevelopment project be delivered to the county assessor prior to August 1 of the year in which the provision in the redevelopment plan implementing the division of real estate taxes is effective.

The problem arises when a redevelopment authority or city tenders the notice to the assessor outside of the statutory timeframe. This circumstance occurs when a redevelopment plan is approved after August 1 of a particular year or when a redevelopment agreement or bond is not approved until a year subsequent to a redevelopment plan approval (a quite common circumstance). At least one county assessor has initially interpreted Section 18-2147 to mean that the effective date of the redevelopment plan is the year that the notice is given rather than the year of the passage of the redevelopment plan.

This interpretation reflects a misreading of the statute. Article VIII Section 12 of the Constitution and the CDL both provide that the effective date is the year of the approval of a redevelopment plan containing the provision for the division of excess ad valorem taxes (i.e. TIF) and that the "base" year is the year prior to the effective date. This is good public policy since it prevents the mischief of artificially lowering tax valuations after a plan is approved for purpose of getting a lower base.

The notice is clearly for the sole purpose of providing the county assessor with actual notice of the implementation of the TIF plan (the creation of the "debt") so that the division of taxes can be made. This is accomplished so long as the notice gets to the Assessor prior to when the excess taxes will actually be paid. The acceptance of delivery of the Notice is just a ministerial act on the part of the county assessor; and, as such, the county assessor has no lawful discretion to change the effective date of a plan approved by the elected body.

Principal Introducer:

Senator Mike Friend