CHAPTER 206

DEVELOPMENT DISTRICTS

SUBCHAPTER 1

DEVELOPMENT DISTRICTS FOR MUNICIPALITIES AND PLANTATIONS

§5221. Findings and declaration of necessity

1. Legislative finding. The Legislature finds that there is a need for new development in areas of municipalities and plantations to:

A. Provide new employment opportunities; [PL 2001, c. 669, §1 (NEW).]

B. Improve and broaden the tax base; and [PL 2001, c. 669, §1 (NEW).]

C. Improve the general economy of the State. [PL 2001, c. 669, §1 (NEW).]
[PL 2011, c. 101, §1 (AMD).]

2. Authorization. For the reasons set out in subsection 1, municipalities and plantations may develop a program for improving a district of the municipality or plantation:

A. To provide impetus for industrial, commercial, transit-oriented or arts district development, or any combination; [PL 2009, c. 314, §1 (AMD).]

B. To increase employment; and [PL 2001, c. 669, §1 (NEW).]

C. To provide the facilities outlined in the development program adopted by the legislative body of the municipality or plantation. [PL 2011, c. 101, §2 (AMD).]
[PL 2011, c. 101, §2 (AMD).]

3. Declaration of public purpose. It is declared that the actions required to assist the implementation of development programs are a public purpose and that the execution and financing of these programs are a public purpose.
[PL 2001, c. 669, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2007, c. 413, §1 (AMD). PL 2009, c. 314, §1 (AMD). PL 2011, c. 101, §§1, 2 (AMD).

§5222. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2001, c. 669, §1 (NEW).]

1. Amenities. "Amenities" means items of street furniture, signs and landscaping, including, but not limited to, plantings, benches, trash receptacles, street signs, sidewalks and pedestrian malls.
[PL 2001, c. 669, §1 (NEW).]

1-A. Arts district. "Arts district" means a specified area within the corporate limits of a municipality or plantation that has been designated by the municipality or plantation for the purpose of providing employment and cultural opportunities through the development of arts opportunities, including, but not limited to, museums, galleries, arts education, art studios, performing arts venues and associated businesses.
[PL 2011, c. 101, §3 (AMD).]

1-B. Adult care facilities. "Adult care facilities" means facilities that are licensed by the Department of Health and Human Services and that offer programs for adults who need assistance or supervision and that are operated out of nonresidential commercial buildings. The programs offered at adult care facilities include the provision of:

A. Services that allow family members or caregivers to be active in the workforce; [PL 2019, c. 604, §1 (NEW).]

B. Professional and compassionate services for adults in a community and program-based setting; and [PL 2019, c. 604, §1 (NEW).]

C. Social and health services to adults who need supervised care in a safe place outside the home. [PL 2019, c. 604, §1 (NEW).]

[PL 2019, c. 604, §1 (NEW).]

1-C. Affordable housing. "Affordable housing" has the same meaning as in section 5246, subsection 1.

[PL 2021, c. 261, §1 (NEW).]

2. Captured assessed value. "Captured assessed value" means the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance the project costs contained within the development program.

[PL 2001, c. 669, §1 (NEW).]

2-A. Child care facilities. "Child care facilities" means facilities that are licensed by the Department of Health and Human Services that provide care for at least 6 children who are less than 18 years of age by persons who are not family members, legal guardians or other custodians of the children and that are operated out of nonresidential commercial buildings. To meet this definition, a child care facility must have a director and a sufficient number of staff members whose sole function is to provide necessary child care services. The services offered at child care facilities include the provision of services that allow the children's family members, legal guardians or other custodians the ability to be active in the workforce.

[PL 2019, c. 604, §2 (NEW).]

3. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development.

[PL 2001, c. 669, §1 (NEW).]

4. Current assessed value. "Current assessed value" means the assessed value of the district certified by the municipal or plantation assessor as of April 1st of each year that the development district remains in effect.

[PL 2011, c. 101, §4 (AMD).]

5. Department. "Department" means the Department of Economic and Community Development.

[PL 2001, c. 669, §1 (NEW).]

6. Development district. "Development district" means a specified area within the corporate limits of a municipality or plantation that has been designated as provided under sections 5223 and 5226 and that is to be developed under a development program.

[PL 2011, c. 101, §5 (AMD).]

7. Development program. "Development program" means a statement of means and objectives designed to provide new employment opportunities, retain existing employment, improve or broaden the tax base, construct or improve the physical facilities and structures or improve the quality of pedestrian and vehicular transportation, as described in section 5224, subsection 2.

[PL 2001, c. 669, §1 (NEW).]

8. Downtown. "Downtown" means the traditional central business district of a community that has served as the center of socioeconomic interaction in the community, characterized by a cohesive core of commercial and mixed-use buildings, often interspersed with civic, religious and residential buildings and public spaces, that are typically arranged along a main street and intersecting side streets and served by public infrastructure.
[PL 2001, c. 669, §1 (NEW).]

9. Downtown tax increment financing district. "Downtown tax increment financing district" means a tax increment financing district described in a downtown redevelopment plan that is consistent with the downtown criteria established pursuant to rules of the department.
[PL 2001, c. 669, §1 (NEW).]

10. Financial plan. "Financial plan" means a statement of the project costs and sources of revenue required to accomplish the development program.
[PL 2001, c. 669, §1 (NEW).]

10-A. Fisheries and wildlife or marine resources project. "Fisheries and wildlife or marine resources project" means a project approved by the Department of Inland Fisheries and Wildlife or the Department of Marine Resources undertaken for the purpose of improving public access to freshwater or saltwater fisheries and wildlife resources of the State for fishing, hunting, research or observation or for conservation or improvement of the freshwater or saltwater fisheries and wildlife resources of the State.
[PL 2011, c. 675, §1 (NEW).]

11. Increased assessed value. "Increased assessed value" means the valuation amount by which the current assessed value of a tax increment financing district exceeds the original assessed value of the district. If the current assessed value is equal to or less than the original, there is no increased assessed value.
[PL 2001, c. 669, §1 (NEW).]

12. Maintenance and operation. "Maintenance and operation" means all activities necessary to maintain facilities after they have been developed and all activities necessary to operate the facilities, including, but not limited to, informational, promotional and educational programs and safety and surveillance activities.
[PL 2001, c. 669, §1 (NEW).]

13. Original assessed value. "Original assessed value" means the assessed value of a development district as of March 31st of the tax year preceding the year in which it was designated and, for development districts designated on or after April 1, 2014, "original assessed value" means the taxable assessed value of a development district as of March 31st of the tax year preceding the year in which it was designated by the legislative body of a municipality or a plantation.
[PL 2013, c. 184, §1 (AMD).]

14. Project costs. "Project costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5225, subsection 1 and included in a development program.
[PL 2001, c. 669, §1 (NEW).]

14-A. Public safety facility. "Public safety facility" means a facility used primarily for the functions of municipal or plantation government that ensure the protection of residents, organizations and institutions in the municipality or plantation, including the provision of law enforcement, fire and emergency services.
[PL 2019, c. 148, §1 (NEW).]

15. Tax increment. "Tax increment" means real and personal property taxes assessed by a municipality or plantation, in excess of any state, county or special district tax, upon the increased assessed value of property in the development district.
[PL 2011, c. 101, §6 (AMD).]

16. Tax increment financing district. "Tax increment financing district" means a type of development district, or portion of a district, that uses tax increment financing under section 5227.
[PL 2001, c. 669, §1 (NEW).]

17. Tax shifts. "Tax shifts" means the effect on a municipality's or plantation's state revenue sharing, education subsidies and county tax obligations that results from the designation of a tax increment financing district and the capture of increased assessed value.
[PL 2011, c. 101, §7 (AMD).]

18. Tax year. "Tax year" means the period of time beginning on April 1st and ending on the succeeding March 31st.
[PL 2001, c. 669, §1 (NEW).]

19. Transit. "Transit" means transportation systems in which people are conveyed by means other than their own vehicles, including, but not limited to, bus systems, street cars, light rail and other rail systems.
[PL 2009, c. 314, §2 (NEW).]

20. Transit facility. "Transit facility" means a place providing access to transit services, including, but not limited to, bus stops, bus stations, interchanges on a highway used by one or more transit providers, ferry landings, train stations, shuttle terminals and bus rapid transit stops.
[PL 2009, c. 314, §3 (NEW).]

21. Transit-oriented development. "Transit-oriented development" means a type of development that links land use with transit facilities to support and be supported by a transit system. It combines housing with complementary public uses such as jobs, retail or services establishments that are located in transit-served nodes or corridors. Transit-oriented development is intended through location and design to rely on transit as one of the means of meeting the transportation needs of residents, customers and occupants as demonstrated through such factors as transit facility proximity, mixed uses, off-street parking space ratio less than industry standards, architectural accommodation for transit and marketing that highlights transit.
[PL 2009, c. 314, §4 (NEW).]

22. Transit-oriented development area. "Transit-oriented development area" means an area of any shape such that no part of the perimeter is more than 1/4 mile from an existing or planned transit facility.
[PL 2009, c. 314, §5 (NEW).]

23. Transit-oriented development corridor. "Transit-oriented development corridor" means a strip of land of any length and up to 500 feet on either side of a roadway serving as a principal transit route.
[PL 2009, c. 314, §6 (NEW).]

24. Transit-oriented development district. "Transit-oriented development district" means a tax increment financing district consisting of a transit-oriented development area or a transit-oriented development corridor.
[PL 2009, c. 314, §7 (NEW).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2007, c. 413, §2 (AMD). PL 2009, c. 314, §§2-7 (AMD). PL 2011, c. 101, §§3-7 (AMD). PL 2011, c. 675, §1 (AMD). PL 2013, c. 184, §1 (AMD). PL 2019, c. 148, §1 (AMD). PL 2019, c. 604, §§1, 2 (AMD). PL 2021, c. 261, §1 (AMD).

§5223. Development districts

1. Creation. A municipal or plantation legislative body may designate a development district within the boundaries of the municipality or plantation in accordance with the requirements of this chapter. If the municipality has a charter, the designation of a development district may not be in conflict with the provisions of the municipal charter.
[PL 2011, c. 101, §8 (AMD).]

2. Considerations for approval. Before designating a development district within the boundaries of a municipality or plantation, or before establishing a development program for a designated development district, the legislative body of a municipality or plantation must consider whether the proposed district or program will contribute to the economic growth or well-being of the municipality or plantation or to the betterment of the health, welfare or safety of the inhabitants of the municipality or plantation. Interested parties must be given a reasonable opportunity to present testimony concerning the proposed district or program at the hearing provided for in section 5226, subsection 1. If an interested party claims at the public hearing that the proposed district or program will result in a substantial detriment to that party's existing business in the municipality or plantation and produces substantial evidence to that effect, the legislative body must consider that evidence. When considering that evidence, the legislative body also shall consider whether any adverse economic effect of the proposed district or program on that interested party's existing business in the municipality or plantation is outweighed by the contribution made by the district or program to the economic growth or well-being of the municipality or plantation or to the betterment of the health, welfare or safety of the inhabitants of the municipality or plantation.
[PL 2011, c. 101, §8 (AMD).]

3. Conditions for approval. Designation of a development district is subject to the following conditions.

A. At least 25%, by area, of the real property within a development district must meet at least one of the following criteria:

(1) Must be a blighted area;

(2) Must be in need of rehabilitation, redevelopment or conservation work including a fisheries and wildlife or marine resources project; or

(3) Must be suitable for commercial or arts district uses. For the purposes of this subparagraph, "suitable for commercial or arts district uses" includes, but is not limited to, the total acreage of a lot or parcel or portion of a lot or parcel included in a development district that is zoned for commercial or arts district uses or on which commercial or arts district uses are allowed as a conditional or grandfathered use or pursuant to contract zoning. [PL 2023, c. 377, §1 (AMD).]

B. The total area of a single development district may not exceed 2% of the total acreage of the municipality or plantation. The total area of all development districts may not exceed 5% of the total acreage of the municipality or plantation. [PL 2011, c. 101, §8 (AMD).]

C. The original assessed value of a proposed tax increment financing district plus the original assessed value of all existing tax increment financing districts within the municipality or plantation may not exceed 5% of the total value of taxable property within the municipality or plantation as of April 1st preceding the date of the commissioner's approval of the designation of the proposed tax increment financing district.

Excluded from the calculation in this paragraph is any district excluded from the calculation under former section 5253, subsection 1, paragraph C and any district designated on or after the effective date of this chapter that meets the following criteria:

(1) The development program contains project costs, authorized by section 5225, subsection 1, paragraph A, that exceed $10,000,000;

(2) The geographic area consists entirely of contiguous property owned by a single taxpayer;

(3) The assessed value exceeds 10% of the total value of taxable property within the municipality or plantation; and

(4) The development program does not contain project costs authorized by section 5225, subsection 1, paragraph C.

For the purpose of this paragraph, "contiguous property" includes a parcel or parcels of land divided by a road, power line or right-of-way. [PL 2011, c. 101, §8 (AMD).]

D. [PL 2013, c. 184, §2 (RP).]

The conditions in paragraphs A to C do not apply to approved downtown tax increment financing districts, tax increment financing districts that consist solely of one or more community wind power generation facilities owned by a community wind power generator that has been certified by the Public Utilities Commission pursuant to Title 35-A, section 3403, subsection 3 or transit-oriented development districts.
[PL 2023, c. 377, §1 (AMD).]

4. Powers of municipality or plantation. Within development districts and consistent with the development program, the municipality or plantation may acquire, construct, reconstruct, improve, preserve, alter, extend, operate or maintain property or promote development intended to meet the objectives of the development program. Pursuant to the development program, the municipality or plantation may acquire property, land or easements through negotiation or by using eminent domain powers in the manner authorized for community development programs under section 5204. The municipality's or plantation's legislative body may adopt ordinances regulating traffic in and access to any facilities constructed within the development district. The municipality or plantation may install public improvements.
[PL 2011, c. 101, §8 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2003, c. 451, §NNN1 (AMD). PL 2005, c. 646, §1 (AMD). PL 2007, c. 413, §3 (AMD). PL 2007, c. 693, §3 (AMD). PL 2007, c. 693, §37 (AFF). PL 2009, c. 314, §8 (AMD). PL 2009, c. 627, §1 (AMD). PL 2011, c. 101, §8 (AMD). PL 2011, c. 287, §1 (AMD). PL 2011, c. 675, §2 (AMD). PL 2011, c. 691, Pt. A, §31 (AMD). PL 2013, c. 184, §2 (AMD). PL 2023, c. 377, §1 (AMD).

§5224. Development programs

1. Adoption. The legislative body of a municipality or plantation shall adopt a development program for each development district. The development program must be adopted at the same time as is the district, as part of the district adoption proceedings or, if at a different time, in the same manner as adoption of the district, with the same notice and hearing requirements of section 5226. Before adopting a development program, the municipal or plantation legislative body shall consider the factors and evidence specified in section 5223, subsection 2.
[PL 2011, c. 101, §9 (AMD).]

2. Requirements. The development program must include:

A. A financial plan in accordance with subsections 3 and 4; [PL 2001, c. 669, §1 (NEW).]

B. A description of public facilities, improvements or programs to be financed in whole or in part by the development program; [PL 2001, c. 669, §1 (NEW).]

C. A description of commercial facilities, arts districts, transit expansion, improvements or projects to be financed in whole or in part by the development program; [PL 2009, c. 314, §9 (AMD).]

D. Plans for the relocation of persons displaced by the development activities; [PL 2001, c. 669, §1 (NEW).]

E. The proposed regulations and facilities to improve transportation; [PL 2001, c. 669, §1 (NEW).]

F. The environmental controls to be applied; [PL 2001, c. 669, §1 (NEW).]

G. The proposed operation of the development district after the planned capital improvements are completed; [PL 2001, c. 669, §1 (NEW).]

H. The duration of the development district, subject to the following conditions:

(1) A development district that is a tax increment financing district may not exceed a total of 30 tax years beginning with the tax year in which the designation of the development district is effective pursuant to section 5226, subsection 3 or, if specified in the development program, the subsequent tax year, except that, during the 10 calendar years after the general effective date of laws enacted during the First Special Session of the 131st Legislature, a district may be extended an additional 20 years if the district uses at least 75% of tax increment financing revenue for affordable housing projects or transit-oriented development. A district that is extended under this subparagraph may continue to use the original assessed value of the district.

For purposes of this subparagraph, "affordable housing" means a decent, safe and sanitary dwelling, apartment or other living accommodation for a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8; "transit-oriented development" means a type of development that links land use with transit facilities by combining housing with complementary public uses, including jobs, retail or services establishments that are located in transit-served nodes or corridors; and "original assessed value" means the taxable assessed value of a district as of March 31st of the tax year preceding the year in which it was designated by a municipality and approved by the commissioner under section 5226, subsection 2; and

(2) A development district that is funded by assessments under section 5228 and that is not a tax increment financing district is not limited in duration unless a limitation on duration is established by the legislative body of the municipality or plantation adopting the development program. Any limitation in the duration of a development district that is not a tax increment financing district and that is established by the legislative body of the municipality or plantation may later be extended by the legislative body; and [PL 2023, c. 472, §1 (AMD).]

I. All documentation submitted to or prepared by the municipality or plantation under section 5223, subsection 2. [PL 2011, c. 101, §10 (AMD).]

[PL 2023, c. 472, §1 (AMD).]

3. Financial plan for development program. The financial plan for a development program must include:

A. Cost estimates for the development program; [PL 2001, c. 669, §1 (NEW).]

B. The amount of public indebtedness to be incurred; [PL 2001, c. 669, §1 (NEW).]

C. Sources of anticipated revenues; and [PL 2001, c. 669, §1 (NEW).]

D. A description of the terms and conditions of any agreements, contracts or other obligations related to the development program. [PL 2001, c. 669, §1 (NEW).]

[PL 2001, c. 669, §1 (NEW).]

4. Financial plan for tax increment financing districts. In addition to the items required by subsection 3, the financial plan for a development program for a tax increment financing district must include the following for each year of the program:

A. Estimates of increased assessed values of the district; [PL 2001, c. 669, §1 (NEW).]

B. The portion of the increased assessed values to be applied to the development program as captured assessed values and resulting tax increments in each year of the program; and [PL 2001, c. 669, §1 (NEW).]

C. A calculation of the tax shifts resulting from designation of the tax increment financing district. [PL 2001, c. 669, §1 (NEW).]

[PL 2001, c. 669, §1 (NEW).]

5. Limitation. For tax increment financing districts, the municipality or plantation may expend the tax increments received for any development program only in accordance with the financial plan. [PL 2011, c. 101, §11 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2007, c. 413, §4 (AMD). PL 2009, c. 314, §9 (AMD). PL 2011, c. 101, §§9-11 (AMD). PL 2013, c. 184, §3 (AMD). PL 2019, c. 140, §1 (AMD). PL 2023, c. 472, §1 (AMD).

§5225. Project costs

1. Authorized project costs. The commissioner shall review proposed project costs to ensure compliance with this subsection. Authorized project costs are:

A. Costs of improvements made within the tax increment financing district, including, but not limited to:

(1) Capital costs, including, but not limited to:

(a) The acquisition or construction of land, improvements, public ways, buildings, structures, fixtures and equipment for public, arts district, new or existing recreational trail, commercial or transit-oriented development district use.

(i) Eligible transit-oriented development district capital costs include but are not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; benches, signs and other transit-related infrastructure; bicycle lane construction and other bicycle-related improvements; pedestrian improvements such as crosswalks, crosswalk signals and warning systems and crosswalk curb treatments; and the nonresidential commercial portions of transit-oriented development projects.

(ii) Eligible recreational trail-related development district capital costs include but are not limited to new or existing trails, including bridges that are part of the trail corridor, used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses, signs, crosswalks, signals and warning systems and other related improvements.

(iii) Eligible development district capital costs for public ways include but are not limited to scenic turnouts, signs, railing and other related improvements;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) Site preparation and finishing work; and

(d) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses;

(2) Financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(3) Real property assembly costs;

(4) Professional service costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses;

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal or plantation employees in connection with the implementation of a development program;

(6) Relocation costs, including, but not limited to, relocation payments made following condemnation;

(7) Organizational costs relating to the establishment of the district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of development districts and the implementation of project plans;

(8) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements; and

(9) Costs associated with the development and operation of housing, including, but not limited to, authorized project costs for improvements as described in section 5249 even if such improvements are not made within an affordable housing development district as defined in section 5246, subsection 2; [PL 2021, c. 261, §§2-4 (AMD).]

B. Costs of improvements that are made outside the tax increment financing district but are directly related to or are made necessary by the establishment or operation of the district, including, but not limited to:

(1) Costs related to the construction, alteration or expansion of any facilities not located within the district that are required due to improvements or activities within the district, including, but not limited to, sewage treatment plants, water treatment plants or other environmental protection devices; storm or sanitary sewer lines; water lines; electrical lines; improvements to public safety facilities; and amenities on streets;

(2) Costs of public safety improvements related to the establishment of the district;

(3) Costs of funding to mitigate any adverse impact of the district upon the municipality or plantation and its constituents. This funding may be used for public facilities and improvements if:

(a) The public facilities or improvements are located in a downtown tax increment financing district; and

(b) The entire tax increment from the downtown tax increment financing district is committed to the development program of the tax increment financing district; and

(4) Authorized project costs for improvements as described in section 5249 in support of municipal economic development activities regardless of whether such costs are within an affordable housing development district as defined in section 5246, subsection 2; [PL 2021, c. 261, §5 (AMD).]

C. Costs related to economic development, environmental improvements, fisheries and wildlife or marine resources projects, recreational trails, broadband service development, expansion or improvement, including connecting to broadband service outside the tax increment financing district, employment training or the promotion of workforce development and retention within the municipality or plantation, including, but not limited to:

(1) Costs of funding economic development programs or events developed by the municipality or plantation or funding the marketing of the municipality or plantation as a business or arts location;

(2) Costs of funding environmental improvement projects developed by the municipality or plantation for commercial or arts district use or related to such activities;

(3) Funding to establish permanent economic development revolving loan funds, investment funds and grants;

(4) Costs of services and equipment to provide skills development and training, including scholarships to in-state educational institutions or to online learning entities when in-state options are not available, for jobs created or retained in the municipality or plantation. These costs must be designated as training funds in the development program;

(5) Costs associated with quality child care facilities and adult care facilities, including finance costs and construction, staffing, training, certification and accreditation costs related to child care and adult care;

(6) Costs associated with new or existing recreational trails determined by the department to have significant potential to promote economic development, including, but not limited to, costs for multiple projects and project phases that may include planning, design, construction, maintenance, grooming and improvements with respect to new or existing recreational trails, which may include bridges that are part of the trail corridor, used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses;

(7) Costs associated with a new or expanded transit service, limited to:

(a) Transit service capital costs, including but not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; and benches, signs and other transit-related infrastructure; and

(b) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements;

(8) Costs associated with the development of fisheries and wildlife or marine resources projects;

(9) Costs related to the construction or operation of municipal or plantation public safety facilities, the need for which is related to general economic development within the municipality or plantation, not to exceed 15% of the captured assessed value of the development district;

(10) Costs associated with broadband and fiber optics expansion projects, including preparation, planning, engineering and other related costs in addition to the construction costs of those projects. If an area within a municipality or plantation is unserved with respect to broadband service, as defined by the ConnectMaine Authority as provided in Title 35-A,

section 9204-A, subsection 1, broadband and fiber optics expansion projects may serve residential or other nonbusiness or noncommercial areas in addition to business or commercial areas within the municipality or plantation;

(11) Costs associated with the operation and financial support of:

(a) Affordable housing in the municipality or plantation to serve ongoing economic development efforts, including the further development of the downtown tax increment financing districts; and

(b) Housing programs and services to assist those who are experiencing homelessness in the municipality or plantation as defined in the municipality's or plantation's development program; and

(12) Up to 50% of the capital costs related to the construction or renovation of a municipality's or plantation's central administrative office, the need for which is related to general economic development within the municipality or plantation, not to exceed 15% of the captured assessed value of the development district; [PL 2023, c. 142, §§1-3 (AMD).]

D. Costs of constructing or improving facilities or buildings leased by State Government or a municipal or plantation government that are located in approved downtown tax increment financing districts; and [PL 2021, c. 261, §7 (AMD).]

E. Costs associated with the development and operation of affordable housing or housing services for persons who are experiencing homelessness as defined in the municipality's or plantation's development program. [PL 2021, c. 261, §8 (NEW).]

[PL 2023, c. 142, §§1-3 (AMD).]

2. Unauthorized project costs. Except as provided in subsection 1, paragraph C, subparagraphs (9) and (12) and subsection 1, paragraph D, the commissioner may not approve as a project cost the cost of facilities, buildings or portions of buildings used predominantly for the general conduct of government or for public recreational purposes, including, but not limited to, city halls and other headquarters of government where the governing body meets regularly, courthouses, jails and other state and local government office buildings, recreation centers, athletic fields and swimming pools.
[PL 2023, c. 142, §4 (AMD).]

3. Limitation. Tax increments received from any development program may not be used to circumvent other tax laws.
[PL 2001, c. 669, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2007, c. 413, §§5, 6 (AMD). RR 2009, c. 1, §22 (COR). PL 2009, c. 85, §1 (AMD). PL 2009, c. 126, §1 (AMD). PL 2009, c. 314, §§10, 11 (AMD). PL 2011, c. 101, §§12-15 (AMD). PL 2011, c. 102, §1 (AMD). PL 2011, c. 675, §3 (AMD). PL 2013, c. 184, §4 (AMD). PL 2019, c. 148, §§2-4 (AMD). PL 2019, c. 260, §1 (AMD). PL 2019, c. 604, §3 (AMD). PL 2019, c. 625, §3 (AMD). PL 2021, c. 261, §§2-8 (AMD). PL 2021, c. 293, Pt. B, §6 (AMD). PL 2021, c. 676, Pt. A, §46 (AMD). PL 2023, c. 142, §§1-4 (AMD).

§5226. Procedure

1. Notice and hearing. Before designating a development district or adopting a development program, the municipal or plantation legislative body or the municipal or plantation legislative body's designee must hold at least one public hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality or plantation.
[PL 2011, c. 101, §16 (AMD).]

2. Review by commissioner. Before final designation of a tax increment financing district, the commissioner shall review the proposal to ensure that the proposal complies with statutory requirements.
[PL 2023, c. 377, §2 (AMD).]

3. Effective date. A designation of a tax increment financing district or a development program for a tax increment financing district is effective upon approval by the commissioner. A designation of a development district other than a tax increment financing district is effective upon approval by the municipal or plantation legislative body. A development program other than a development program for a tax increment financing district is effective upon adoption by the municipal or plantation legislative body.
[PL 2013, c. 184, §5 (AMD).]

4. Administration of district. The legislative body of a municipality or plantation may create a department, designate an existing department, office, agency, municipal housing or redevelopment authority or enter into a contractual arrangement with a private entity to administer activities authorized under this chapter.
[PL 2011, c. 101, §18 (AMD).]

5. Amendments. A municipality or plantation may amend a designated development district or an adopted development program only after meeting the requirements of this section for designation of a development district or adoption of a development program. A municipality or plantation may not amend the designation of a development district if the amendment would result in the district's being out of compliance with any of the conditions in section 5223, subsection 3.
[PL 2011, c. 101, §19 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §§16-19 (AMD). PL 2011, c. 655, Pt. JJ, §26 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2011, c. 657, Pt. W, §5 (REV). PL 2013, c. 184, §5 (AMD). PL 2023, c. 377, §2 (AMD).

§5227. Tax increment financing

1. Designation of captured assessed value. A municipality or plantation may retain all or part of the tax increment revenues generated from the increased assessed value of a tax increment financing district for the purpose of financing the development program. The amount of tax increment revenues to be retained is determined by designating the captured assessed value. When a development program for a tax increment financing district is adopted, the municipal or plantation legislative body shall adopt a statement of the percentage of increased assessed value to be retained as captured assessed value in accordance with the development program. The statement of percentage may establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The municipal assessor or plantation assessor shall certify the amount of the captured assessed value to the municipality or plantation each year.
[PL 2011, c. 101, §20 (AMD).]

2. Certification of assessed value. On or after formation of a tax increment financing district, the assessor of the municipality or plantation in which it is located shall certify the original assessed value of the taxable property within the boundaries of the tax increment financing district. Each year after the designation of a tax increment financing district, the municipal assessor or plantation assessor shall certify the amount by which the assessed value has increased or decreased from the original value.

Nothing in this subsection allows or sanctions unequal apportionment or assessment of the taxes to be paid on real property in the State. An owner of real property within the tax increment financing district shall pay real property taxes apportioned equally with property taxes paid elsewhere in the municipality or plantation.

[PL 2011, c. 101, §20 (AMD).]

3. Development program fund; tax increment revenues. If a municipality or plantation has designated captured assessed value under subsection 1, the municipality or plantation shall:

A. Establish a development program fund that consists of the following:

(1) A project cost account that is pledged to and charged with the payment of project costs that are outlined in the financial plan and are paid in a manner other than as described in subparagraph (2); and

(2) In instances of municipal or plantation indebtedness, a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the cost of the development program fund; [PL 2011, c. 101, §20 (AMD).]

B. Annually set aside all tax increment revenues on captured assessed values and deposit all such revenues to the appropriate development program fund account established under paragraph A in the following order of priority:

(1) To the development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5231 and the financial plan; and

(2) To the project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual project costs to be paid from the account; [PL 2001, c. 669, §1 (NEW).]

C. Make transfers between development program fund accounts established under paragraph A as required, provided that the transfers do not result in a balance in the development sinking fund account that is insufficient to cover the annual obligations of that account; and [PL 2001, c. 669, §1 (NEW).]

D. Annually return to the municipal or plantation general fund any tax increment revenues remaining in the development sinking fund account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development sinking fund account after taking into account any transfers made under paragraph C. The municipality or plantation, at any time, by vote of the municipal or plantation officers, may return to the municipal or plantation general fund any tax increment revenues remaining in the project cost account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development project cost account after taking into account any transfer made under paragraph C. In either case, the corresponding amount of local valuation may not be included as part of the captured assessed value as specified by the municipality or plantation. [PL 2019, c. 607, Pt. A, §1 (AMD).]

[PL 2019, c. 607, Pt. A, §1 (AMD).]

4. Remaining funds. This subsection governs remaining tax increment funds.

A. Any tax increment revenues remaining in the development sinking fund account established under subsection 3, paragraph A on the date the development district ends may be retained in the development sinking fund account and used only to pay debt service on bonds and notes issued under section 5231 and the financial plan. [PL 2023, c. 203, §1 (NEW).]

B. Any tax increment revenues remaining in the project cost account established under subsection 3, paragraph A on the date the development district ends may be retained in the project cost account for a period of 3 years from the date the development district ends and used only to pay approved project costs that are described in the development program. [PL 2023, c. 203, §1 (NEW).]

C. Any tax increment revenues remaining in the development sinking fund account or the project cost account established under subsection 3, paragraph A after the expiration of the time periods described in paragraphs A and B must be returned to the municipal or plantation general fund and a corresponding tax shift adjustment must be implemented with the Department of Administrative and Financial Services, Bureau of Revenue Services. [PL 2023, c. 203, §1 (NEW).]

[PL 2023, c. 203, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §20 (AMD). PL 2019, c. 607, Pt. A, §1 (AMD). PL 2023, c. 203, §1 (AMD).

§5228. Assessments

1. Assessments. A municipality or plantation may estimate and make the following assessments:

A. A development assessment upon lots or property within the development district. The assessment must be made upon lots or property that have been benefited by improvements constructed or created under the development program and may not exceed a just and equitable proportionate share of the cost of the improvement. All revenues from assessments under this paragraph are paid into the appropriate development fund program account established under section 5227, subsection 3; [PL 2001, c. 669, §1 (NEW).]

B. A maintenance assessment upon all lots or property within the development district. The assessment must be assessed equally and uniformly on all lots or property receiving benefits from the development program and the continued operation of the public facilities. The total maintenance assessments may not exceed the cost of maintenance and operation of the public facilities within the district. The cost of maintenance and operation must be in addition to the cost of maintenance and operation already being performed by the municipality or plantation within the district when the development district was adopted; and [PL 2011, c. 101, §21 (AMD).]

C. An implementation assessment upon all lots or property within the development district. The assessment must be assessed equally and uniformly on all lots or property receiving benefits from the development program. The implementation assessments may be used to fund activities that, in the opinion of the municipal or plantation legislative body, are reasonably necessary to achieve the purposes of the development program. The activities funded by implementation assessments must be in addition to those already conducted within the district by the municipality or plantation when the development district was adopted. [PL 2011, c. 101, §21 (AMD).]

[PL 2011, c. 101, §21 (AMD).]

2. Notice and hearing. Before estimating and making an assessment under subsection 1, the municipality or plantation must give notice and hold a hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality or plantation. The notice must include:

A. The date, time and place of hearing; [PL 2001, c. 669, §1 (NEW).]

B. The boundaries of the development district by legal description; [PL 2001, c. 669, §1 (NEW).]

C. A statement that all interested persons owning real estate or taxable property located within the district will be given an opportunity to be heard at the hearing and an opportunity to file objections to the amount of the assessment; [PL 2001, c. 669, §1 (NEW).]

D. The maximum rate of assessments to be extended in any one year; and [PL 2001, c. 669, §1 (NEW).]

E. A statement indicating that a proposed list of properties to be assessed and the estimated assessments against those properties is available at the city or town office or at the office of the assessor. [PL 2001, c. 669, §1 (NEW).]

The notice may include a maximum number of years the assessments will be levied.
[PL 2011, c. 101, §21 (AMD).]

3. Apportionment formula. A municipality or plantation may adopt ordinances apportioning the value of improvements within a development district according to a formula that reflects actual benefits that accrue to the various properties because of the development and maintenance.
[PL 2011, c. 101, §21 (AMD).]

4. Increase of assessments and extension of time limits. A municipality or plantation may increase assessments or extend the specified period after notice and hearing as required under subsection 2.
[PL 2011, c. 101, §21 (AMD).]

5. Collection. Assessments made under this section must be collected in the same manner as municipal or plantation taxes. The constable or municipal tax collector or plantation assessor has all the authority and powers by law to collect the assessments. If any property owner fails to pay any assessment or part of an assessment on or before the dates required, the municipality or plantation has all the authority and powers to collect the delinquent assessments vested in the municipality or plantation by law to collect delinquent municipal or plantation taxes.
[PL 2011, c. 101, §21 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §21 (AMD).

§5229. Rules

The commissioner may adopt rules necessary to carry out the duties imposed by this chapter and to ensure municipal or plantation compliance with this subchapter following designation of a tax increment financing district. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 101, §22 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §22 (AMD).

§5230. Grants

A municipality or plantation may receive grants or gifts for any of the purposes of this chapter. The tax increment revenues within a development district may be used as the local match for certain grant programs. [PL 2011, c. 101, §23 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §23 (AMD).

§5231. Bond financing

The legislative body of a municipality or plantation may authorize, issue and sell bonds, including, but not limited to, general obligation or revenue bonds or notes, that mature within 30 years from the date of issue to finance all project costs needed to carry out the development program within the development district. The plantation or municipal officers authorized to issue the bonds or notes may borrow money in anticipation of the sale of the bonds for a period of up to 3 years by issuing temporary notes and notes in renewal of the bonds. All revenues derived under section 5227 or under section 5228, subsection 1 received by the municipality or plantation are pledged for the payment of the activities described in the development program and used to reduce or cancel the taxes that may otherwise be required to be expended for that purpose. The notes, bonds or other forms of financing may not be included when computing the municipality's or plantation's net debt. Nothing in this section restricts the ability of the municipality or plantation to raise revenue for the payment of project costs in any manner otherwise authorized by law. [PL 2013, c. 184, §6 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §24 (AMD). PL 2013, c. 184, §6 (AMD).

§5232. Tax exemption

All publicly owned parking structures and pedestrian skyway systems are exempt from taxation by the municipality or plantation, county and State. This section does not exempt any lessee or person in possession from taxes or assessments payable under Title 36, section 551. [PL 2011, c. 101, §25 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §25 (AMD).

§5233. Advisory board

The legislative body of a municipality or plantation may create an advisory board, a majority of whose members must be owners or occupants of real property located in or adjacent to the development district they serve. The advisory board shall advise the legislative body and the designated administrative entity on the planning, construction and implementation of the development program and maintenance and operation of the district after the program has been completed. [PL 2011, c. 101, §26 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §26 (AMD).

§5234. Special provisions

Notwithstanding the provisions of section 5223, subsection 1 and any other provision of law, in the case of investments exceeding $100,000,000 in shipyard facilities in districts authorized prior to June 30, 1999, revenues must be set aside and deposited by the municipality or plantation to the appropriate development program fund account established under section 5227, subsection 3 and expended to satisfy the obligations of the accounts without the need for further action by the municipality or plantation by appropriation or otherwise. Unless otherwise provided by the municipality or plantation in connection with its approval of the district, tax increment revenues on all captured assessed value may not be taken into account for purposes of calculating any limitation on the municipality's or plantation's annual expenditures or appropriations, and the payment of tax increment revenues on captured assessed value is not subject to any limitation or restriction on the municipality's or plantation's authority or power to enter into contracts with respect to making payments for a term equal to the term of the district. [PL 2011, c. 101, §27 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §27 (AMD).

§5235. Unorganized territory

For the purposes of this chapter, a county may act as a municipality for the unorganized territory within the county and may designate development districts within the unorganized territory. When a county acts under this section, the county commissioners act as the municipality and as the municipal legislative body, the State Tax Assessor acts as the municipal assessor and the unorganized territory fund receives the funds designated for the municipal general fund. For purposes of section 5228, the State acts as the municipal assessing authority. [PL 2001, c. 669, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW).

SUBCHAPTER 2

STATE TAX INCREMENT FINANCING DISTRICTS

§5241. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2001, c. 669, §1 (NEW).]

1. Base period. "Base period" means the 3 calendar years preceding the calendar year in which an application for approval of a state tax increment financing district is submitted to the commissioner by a municipality.
[PL 2001, c. 669, §1 (NEW).]

2. Affiliated business. "Affiliated business" means 2 businesses exhibiting either of the following relationships:

A. One business owns 50% or more of the stock of the other business or owns a controlling interest in the other; or [PL 2001, c. 669, §1 (NEW).]

B. Fifty percent of the stock or a controlling interest is directly or indirectly owned by a common owner or owners. [PL 2001, c. 669, §1 (NEW).]
[PL 2001, c. 669, §1 (NEW).]

3. Affiliated group. "Affiliated group" means a designated business and its corresponding affiliated businesses.
[PL 2001, c. 669, §1 (NEW).]

4. Captured assessed value. "Captured assessed value" means the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance the project costs contained within the development program.
[PL 2001, c. 669, §1 (NEW).]

5. Commission.
[PL 2007, c. 395, §30 (RP).]

6. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development.
[PL 2001, c. 669, §1 (NEW).]

7. Committee. "Committee" means the Revenue Forecasting Committee established in Title 5, section 1710-E.
[PL 2001, c. 669, §1 (NEW).]

8. Designated business. "Designated business" means a business located within the boundaries of a development district and designated by the municipality as a "designated business" for purposes of state tax increment financing.
[PL 2001, c. 669, §1 (NEW).]

9. Development district. "Development district" means a specified area within the corporate limits of a municipality that has been designated as provided under section 5226 and that is to be developed by the municipality under a development program.
[PL 2001, c. 669, §1 (NEW).]

10. Development program. "Development program" means a statement of means and objectives designed to provide new employment opportunities, retain existing employment, improve or broaden the tax base and improve the physical facilities and structures or the quality of pedestrian and vehicular transportation, as described in section 5224.
[PL 2001, c. 669, §1 (NEW).]

11. Financial plan. "Financial plan" means a statement of the project costs and sources of revenue required to accomplish the development program.
[PL 2001, c. 669, §1 (NEW).]

12. Gross state tax increment. "Gross state tax increment" means the difference, if any, between the sales and income tax revenues attributable to the state tax increment financing district for the current period and the sales and income tax revenues attributable to the state tax increment financing district for the base period.
[PL 2001, c. 669, §1 (NEW).]

13. Market area. "Market area" means a geographic region exclusive of a state tax increment financing district that will be affected by the operation of the district.
[PL 2001, c. 669, §1 (NEW).]

14. Project costs. "Project costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5225, subsection 1 and included in a development program.
[PL 2001, c. 669, §1 (NEW).]

15. State tax increment. "State tax increment" means the net annual gain, if any, in sales tax paid as a result of taxable events occurring within a state tax increment financing district and the net annual gain, if any, in state income taxes withheld as a result of wages paid for labor performed within the district.
[PL 2001, c. 669, §1 (NEW).]

16. State tax increment financing district. "State tax increment financing district" means a type of tax increment financing district, or portion of a district, that uses state tax increment financing under section 5242.
[PL 2001, c. 669, §1 (NEW).]

17. Tax increment financing district. "Tax increment financing district" means a type of development district, or portion of a district, that uses tax increment financing under section 5227.
[PL 2001, c. 669, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2007, c. 395, §30 (AMD).

§5242. State tax increment financing

1. Eligibility. Any tax increment financing district designated by a municipality and approved by the commissioner under section 5226, subsection 2 is eligible to be approved as a state tax increment financing district if captured assessed value within the district is created after July 30, 1991, except that, in accordance with subsection 12, no new state tax increment financing district may be created after June 30, 1996.
[PL 2001, c. 669, §1 (NEW).]

2. Procedure for establishing state tax increment financing district. A municipality desiring to establish a state tax increment financing district must apply to the commissioner for approval of the proposed state tax increment financing district. The procedure for application is as follows.

A. The proposed state tax increment financing district must be approved locally by vote of the municipal officers of the municipality within which the proposed district will be located. Before approving a state tax increment financing district, the municipal officers must hold at least one public hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the county in which the municipality is located. [PL 2001, c. 669, §1 (NEW).]

B. The municipal officers shall adopt for the proposed state tax increment financing district a development program that identifies all designated businesses within the district and sets forth the amount of sales tax paid by designated businesses in connection with operations within the proposed district, the number of employees at designated businesses and the total state income taxes withheld by designated businesses for the base period. The development program may be combined with or integrated into the development program for the underlying municipal development district pursuant to subchapter I or may be separately stated, maintained and implemented. The development program may specify the allocable shares of the municipality and each designated business for liability for refund of the state tax increment revenues resulting from an audit. That allocation may be made by any means determined by the municipal officers to reasonably reflect the economic benefit derived from operation of the district. [PL 2001, c. 669, §1 (NEW).]

C. Prior to approval of the proposed state tax increment financing district, the committee shall estimate the annual amount to be deposited in the state tax increment contingent account pursuant to subsection 6 for all existing state tax increment financing districts, including the proposed district, and that estimate may be used only in determining compliance with the limitations imposed under subsection 8, paragraphs C and D. [PL 2001, c. 669, §1 (NEW).]

D. The municipality, acting through its municipal officers or their designee, shall submit an application to the commissioner on such form or forms and with such supporting data as the commissioner requires for approval of the proposed state tax increment financing district, including without limitation certifications by the designated businesses as to the average annual number of persons employed by each designated business within the boundaries of the proposed district, the average total state income taxes withheld by designated businesses during the base period and the average annual amount of sales tax remittances paid by each designated business from operations within the boundaries of the proposed district during the base period. [PL 2001, c. 669, §1 (NEW).]

[PL 2001, c. 669, §1 (NEW).]

3. Approval. Prior to issuing a certificate of approval for any state tax increment financing district, the commissioner must determine that:

A. The economic development described in the development program will not go forward without the approval of the state tax increment financing district. This requirement does not apply to the addition of state tax increment financing provisions to municipal development districts that are created prior to June 30, 1992; [PL 2001, c. 669, §1 (NEW).]

B. The proposed district will make a contribution to the economic growth of the State, the control of pollution in the State or the betterment of the health, welfare or safety of the inhabitants of the State; and [PL 2001, c. 669, §1 (NEW).]

C. The economic development described in the development program will not result in a substantial detriment to existing businesses in the State. In order to make this determination, the commissioner shall consider, pursuant to Title 5, chapter 375, subchapter 2, those factors the commissioner determines necessary to measure and evaluate the effect of the proposed district on existing businesses, including:

(1) Whether a proposed district should be approved if, as a result of the benefits to designated businesses, there will not be sufficient demand within the market area of the State to be served by the project to employ the efficient capacity of existing businesses; and

(2) Whether any adverse economic effect of the proposed district on existing businesses is outweighed by the contribution described in paragraph B.

The municipality has the burden of demonstrating that the proposed district will not result in a substantial detriment to existing businesses in accordance with the requirements of this paragraph, including rules adopted pursuant to this paragraph, except that, when no interested parties object to the proposed district, the requirements of this paragraph are deemed satisfied. Interested parties must be given an opportunity, with or without a hearing at the discretion of the commissioner, to present their objections to the proposed district on grounds that the proposed district will result in a substantial detriment to existing businesses. If any interested party presents objections with reasonable specificity and persuasiveness, the commissioner may divulge any information concerning the economic development described in the development program that the commissioner considers necessary for a fair presentation by the objecting party and an evaluation of those objections. If the commissioner finds that the municipality has failed to meet its burden as specified in this paragraph, the application must be denied.

Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Upon approval of the state tax increment financing district, the commissioner shall issue a certificate of approval.
[RR 2001, c. 2, Pt. A, §40 (COR).]

4. Retained state tax revenues. The following provisions govern retained state tax revenues.

A. On or before April 15th of each year, designated businesses located within a state tax increment financing district shall report the amount of sales tax paid in connection with operations within the district, the number of employees within the district, the state income taxes withheld from employees within the district for the immediately preceding calendar year and any further information the State Tax Assessor may reasonably require.

On or before June 30th of each year, the State Tax Assessor shall determine the state tax increment of a district for the preceding calendar year. [PL 2001, c. 669, §1 (NEW).]

B. A municipality may receive up to 25% of the state tax increment revenues generated by or at designated businesses within a state tax increment financing district as determined by the State Tax Assessor subject to the further limitations in subsection 8, and that amount is referred to in this section as "retained state tax increment revenues." [PL 2001, c. 669, §1 (NEW).]
[PL 2001, c. 669, §1 (NEW).]

5. Calculation of state tax increment. The State Tax Assessor shall calculate a state tax increment for a particular state tax increment financing district by:

A. Determining the gross state tax increment as applicable to the particular district; [PL 2001, c. 669, §1 (NEW).]

B. Determining the state tax increment as applicable to the particular district by removing from the gross state tax increment:

(1) Revenues attributed to business activity shifted from affiliated businesses to the state tax increment financing district. This adjustment is calculated by comparing the current year's sales and income tax revenues for each designated business that is a member of an affiliated group with revenues for the group as a whole. If the growth in sales and income tax revenue for the entire group exceeds the growth of sales and income tax revenue generated by the designated business, the gross state tax increment does not have to be adjusted to remove business activity shifted from affiliated businesses. If the growth in sales and income tax revenue for the affiliated group is less than the growth in sales and income tax revenue for the designated business, the difference is presumed to have been shifted from affiliated businesses to the designated business and the gross state tax increment for the district is reduced by the difference; and

(2) Revenues attributed to normal growth. This adjustment is calculated by subtracting from the gross state tax increment a figure obtained by multiplying the previous year's total amount of sales taxes reported and income taxes withheld by designated businesses within the district by the percentage change in sales tax receipts and withholding taxes for all businesses within the State as a whole; [PL 2001, c. 669, §1 (NEW).]

C. Offsetting designated businesses with negative tax increments with those with positive increments in determining the state tax increment for the district as a whole; and [PL 2001, c. 669, §1 (NEW).]

D. Excluding all income tax revenue in calculating the state tax increment attributable to retail business operations. [PL 2001, c. 669, §1 (NEW).]

[PL 2001, c. 669, §1 (NEW).]

6. State tax increment contingent account created. The Commissioner of Administrative and Financial Services shall establish, maintain and administer the state tax increment contingent account. On or before June 30th of each year, the Commissioner of Administrative and Financial Services shall deposit an amount equal to the total retained state tax increment revenues for the preceding calendar year for approved state tax increment financing districts in the state tax increment contingent account. On or before July 31st of each year, the Commissioner of Administrative and Financial Services shall pay to each municipality an amount equal to the retained state tax increment revenues for the preceding calendar year from all state tax increment financing districts located within that municipality.
[PL 2001, c. 669, §1 (NEW).]

7. Application of payment to municipalities. All retained state tax increment revenues paid to a municipality must be deposited in the appropriate development program fund established in section 5227, subsection 3 and invested, used and applied in the manner described in the development program, except that:

A. The amount of retained state tax increment revenues paid to a municipality may not exceed the amount of tax increment revenues generated by the municipality pursuant to section 5227, subsection 3 and required to be deposited in a development program fund account; and [PL 2001, c. 669, §1 (NEW).]

B. All retained state tax increment revenues not required to satisfy the estimated obligations of the development program fund account revert to the State. [PL 2001, c. 669, §1 (NEW).]

[PL 2001, c. 669, §1 (NEW).]

8. Limitations. The following limitations apply.

A. A state tax increment financing district may apply only to designated businesses involved in nonretail commercial activities, including, but not limited to, manufacturing, wholesaling, warehousing, distribution, office, administration and other service-related commercial activities. Notwithstanding this paragraph, a state tax increment financing district may apply to designated businesses involved in retail commercial activities pursuant to subsection 9. The state tax increment must be calculated pursuant to this section. [PL 2001, c. 669, §1 (NEW).]

B. A development program for a state tax increment financing district must identify all designated businesses within the district and specify the direct financial benefits to be provided to the designated businesses, if any. A municipality may designate a business relocating from another location in this State, when that relocation involves moving the locus of employment and sales, only if the municipal officers find that the relocation will result in an increase in the amount of sales or the number of employees of the business above the average annual sales and employment levels at the prior location during the base period. When such a relocating business is designated, the sales tax, the number of employees and the state income taxes withheld for the base period must

be those reported in the development program for that business at its prior location. [PL 2001, c. 669, §1 (NEW).]

C. The retained state tax increment revenues attributable to an individual state tax increment financing district may not exceed 10% of the aggregated total allowed within the state tax increment contingent account. [PL 2001, c. 669, §1 (NEW).]

D. At no time may the aggregate annual retained state tax increment revenues for all state tax increment financing districts exceed $20,000,000. [PL 2001, c. 669, §1 (NEW).]

E. A transfer of ownership interest in or any of the assets of an existing business may not be construed as creating newly generated state tax revenues except to the extent of actual increase in the amount of sales or the number of employees above the average annual sales and employment levels during the base period. [PL 2001, c. 669, §1 (NEW).]

F. State tax increment revenues received by a municipality pursuant to subsection 4 may be used by the municipality to offset up to 1/2 of existing tax increment financing obligations arising under section 5227. [PL 2001, c. 669, §1 (NEW).]

G. State tax increment revenues received by a municipality with respect to a particular state tax increment financing district pursuant to subsection 4 may not exceed the amount of estimated state tax increment revenues contained in the district's development program approved by the commissioner pursuant to subsection 2. [PL 2001, c. 669, §1 (NEW).]

[PL 2001, c. 669, §1 (NEW).]

9. Districts containing retail business operations. The commissioner shall approve a state tax increment financing district in which a retail business operation is a designated business upon making a factual determination that the following conditions are satisfied:

A. The district will result in total annual sales tax revenues equal to or greater than $3,000,000 or the district involves, aids or otherwise relates to downtown redevelopment. For purposes of this subsection, "downtown redevelopment" means any rehabilitation or improvement of an area described in the development program that has been used primarily for retail trade and related purposes for at least 25 years, is identified in the municipality's comprehensive plan or zoning ordinance as an area designated for retail trade and related uses and is a blighted area or an area in need of rehabilitation or redevelopment; and [PL 2001, c. 669, §1 (NEW).]

B. A state tax increment is likely to result from the district and that increment will not include sales tax revenues derived from a transferring or shifting of retail sales from another geographic area within the State to the district. [PL 2001, c. 669, §1 (NEW).]

The municipality making the application bears the burden of proving to the commissioner by a preponderance of the evidence that the district satisfies the criteria under paragraphs A and B. For purposes of this subsection, "retail business operation" means a business location engaged in making retail sales of consumer goods for household use to consumers who personally visit the location to purchase the goods.

[PL 2001, c. 669, §1 (NEW).]

10. Duration of state designation. State tax increment financing districts have a maximum duration of 10 years.

[PL 2001, c. 669, §1 (NEW).]

11. Program; administration. The commissioner shall administer this subchapter. The commissioner shall adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the program, including, but not limited to, rules for determining and certifying eligibility and, in consultation with the State Tax Assessor, the amount of the tax increment attributable to particular districts. The commissioner may also establish by rule fees for administration of the program, including

fees payable to the State Tax Assessor for obligations under this Part. All fees collected pursuant to this subsection must be deposited into the General Fund. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.
[PL 2001, c. 669, §1 (NEW).]

12. Designation of new state tax increment financing districts prohibited. The designation of new state tax increment financing districts is prohibited, subject to review by the joint standing committees of the Legislature having jurisdiction over economic development and taxation matters. Designation of new state tax increment financing districts may be resumed only by act of the Legislature.
[PL 2001, c. 669, §1 (NEW).]

13. Confidential information. The following records are confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. Any record obtained or developed by a municipality, the commissioner or the State Tax Assessor for designation or approval of a state tax increment financing district. After receipt by the municipality, the commissioner or the State Tax Assessor of the application or proposal, a record pertaining to the application or proposal is not considered confidential unless it meets the requirements of paragraphs B to F; [PL 2001, c. 669, §1 (NEW).]

B. Any record obtained or developed by a municipality, the commissioner or the State Tax Assessor when:

(1) A person, which may include a municipality, to whom the record belongs or pertains has requested that the record be designated confidential; or

(2) The municipality has determined that information in the record gives the owner or a user of that information an opportunity to obtain business or competitive advantage over another person who does not have access to the information or that access to the information by others would result in a business or competitive disadvantage, loss of business or other significant detriment to any person to whom the record belongs or pertains; [PL 2001, c. 669, §1 (NEW).]

C. Any record, including any financial statement or tax return, obtained or developed by the municipality, the commissioner or the State Tax Assessor, the disclosure of which would constitute an invasion of personal privacy, as determined by the governmental entity in possession of that record or information; [PL 2001, c. 669, §1 (NEW).]

D. Any record, including any financial statement or tax return, obtained or developed by the municipality, the commissioner or the State Tax Assessor in connection with any monitoring or servicing activity by the municipality, the commissioner or the State Tax Assessor that pertains to a state tax increment financing district; [PL 2001, c. 669, §1 (NEW).]

E. Any record obtained or developed by the municipality, the commissioner or the State Tax Assessor that contains an assessment by a person who is not employed by that municipality or the State of the creditworthiness or financial condition of any person or project; and [PL 2001, c. 669, §1 (NEW).]

F. Any financial statement if a person to whom the statement belongs or pertains has requested that the record be designated confidential. [PL 2001, c. 669, §1 (NEW).]

A person may not knowingly divulge or disclose records determined confidential by this subsection.
[PL 2001, c. 669, §1 (NEW).]

14. Audit process. Nothing in this section may be construed to limit the State Tax Assessor's authority to conduct an audit of any taxpayer included as a designated business in a development program pursuant to subsection 2, paragraph B. If distributions are made to a municipality with respect

to a state tax increment financing district, the designated businesses within that district are subject to audit. When it is determined by the State Tax Assessor upon audit that a municipality has received a distribution larger than that to which it is entitled under this section, the overpayment must be applied against subsequent distributions. When there is not a subsequent distribution, the designated business or businesses to which overpayments were made are liable for the amount of the overpayments and may be assessed pursuant to Title 36.
[PL 2001, c. 669, §1 (NEW).]

SECTION HISTORY

RR 2001, c. 2, §A40 (COR). PL 2001, c. 669, §1 (NEW).

§5243. Development program fund; state tax increment revenues

If a municipality has designated captured assessed value under section 5227, subsection 1, the municipality shall annually set aside all state tax increment revenues payable to the municipality for public purposes and deposit all such revenues to the appropriate development program fund account in the following priority: [PL 2001, c. 669, §1 (NEW).]

1. Development sinking fund account. To the development sinking fund account established pursuant to section 5227, subsection 3, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5231 and the financial plan; and
[PL 2001, c. 669, §1 (NEW).]

2. Project cost account. To the project cost account established pursuant to section 5227, subsection 3, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual project costs to be paid from the account.
[PL 2001, c. 669, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW).

§5244. Previously designated districts

Development districts and development programs designated before the effective date of this chapter remain in effect as authorized by law at the time of their designation and are governed by former chapter 207 as it existed immediately before its repeal except to the extent of any amendments to such development districts and development programs that are made in accordance with this chapter. [PL 2001, c. 669, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW).

SUBCHAPTER 3

MUNICIPAL AFFORDABLE HOUSING DEVELOPMENT DISTRICTS

§5245. Findings and declaration of necessity

1. Legislative finding. The Legislature finds that there is a need for the development of affordable, livable housing and the containment of the costs of unplanned growth in Maine municipalities.
[PL 2003, c. 426, §1 (NEW).]

2. Authorization. For the reasons set out in subsection 1, a municipality may develop a program to provide impetus for affordable housing development within a district of the municipality, as provided in the comprehensive plan adopted by the legislative body of the municipality.

[PL 2003, c. 426, §1 (NEW).]

3. Declaration of public purpose. It is declared that the actions required to assist the implementation of affordable housing development programs are a public purpose and that the execution and financing of these programs are a public purpose.
[PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW).

§5246. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2003, c. 426, §1 (NEW).]

1. Affordable housing. "Affordable housing" means a decent, safe and sanitary dwelling, apartment or other living accommodation for a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended.
[RR 2017, c. 1, §27 (COR).]

2. Affordable housing development district. "Affordable housing development district" or "district" means a specified area within the corporate limits of a municipality that has been designated as provided under sections 5247 and 5250 to be developed under an affordable housing development program and financed under section 5250-A.
[PL 2003, c. 426, §1 (NEW).]

3. Affordable housing development program. "Affordable housing development program" or "program" means a statement of means and objectives designed to encourage the development and maintenance of affordable housing within an affordable housing development district.
[PL 2003, c. 426, §1 (NEW).]

4. Amenities. "Amenities" means items of street furniture, signs and landscaping, including, but not limited to, plantings, benches, trash receptacles, street signs, sidewalks and pedestrian malls.
[PL 2003, c. 426, §1 (NEW).]

5. Authority. "Authority" means the Maine State Housing Authority.
[PL 2003, c. 426, §1 (NEW).]

6. Captured assessed value. "Captured assessed value" means the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance the project costs contained within the affordable housing development program.
[PL 2003, c. 426, §1 (NEW).]

7. Current assessed value. "Current assessed value" means the assessed value of the district certified by the municipal assessor as of April 1st of each year that the affordable housing development district remains in effect.
[PL 2003, c. 426, §1 (NEW).]

8. Director. "Director" means the Director of the Maine State Housing Authority.
[PL 2003, c. 426, §1 (NEW).]

9. Financial plan. "Financial plan" means a statement of the project costs and sources of revenue required to accomplish the affordable housing development program.
[PL 2003, c. 426, §1 (NEW).]

10. Increased assessed value. "Increased assessed value" means the valuation amount by which the current assessed value of an affordable housing development district exceeds the original assessed

value of the district. If the current assessed value is equal to or less than the original, there is no increased assessed value.
[PL 2003, c. 426, §1 (NEW).]

11. Maintenance and operation. "Maintenance and operation" means all activities necessary to maintain affordable housing after development and all activities necessary to operate the affordable housing, including, but not limited to, informational, promotional, safety and surveillance activities.
[PL 2003, c. 426, §1 (NEW).]

12. Original assessed value. "Original assessed value" means the assessed value of an affordable housing development district as of March 31st of the tax year preceding the year in which it was designated, and, for affordable housing development districts designated on or after April 1, 2014, "original assessed value" means the taxable assessed value of an affordable housing development district as of March 31st of the tax year preceding the year in which it was designated by the municipality or plantation.
[PL 2013, c. 312, §1 (AMD).]

13. Project costs. "Project costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5249, subsection 1 and included in an affordable housing development program.
[PL 2003, c. 426, §1 (NEW).]

14. Tax increment. "Tax increment" means real property taxes assessed by a municipality, in excess of any state, county or special district tax, upon the increased assessed value of property in the affordable housing development district.
[PL 2003, c. 426, §1 (NEW).]

15. Tax shifts. "Tax shifts" means the effect on a municipality's state revenue sharing, education subsidies and county tax obligations that results from the designation of an affordable housing development district and the capture of increased assessed value.
[PL 2003, c. 426, §1 (NEW).]

16. Tax year. "Tax year" means the period of time beginning on April 1st and ending on the succeeding March 31st.
[PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW). PL 2013, c. 312, §1 (AMD). RR 2017, c. 1, §27 (COR).

§5247. Affordable housing development districts

1. Creation. A municipal legislative body may designate an affordable housing development district within the boundaries of the municipality in accordance with the requirements of this subchapter. If the municipality has a charter, the designation of an affordable housing development district may not be in conflict with the provisions of the municipal charter.
[PL 2003, c. 426, §1 (NEW).]

2. Considerations for approval. Before designating an affordable housing development district within the boundaries of a municipality, or before establishing an affordable housing development program for a designated affordable housing development district, the legislative body of a municipality must consider whether the proposed district or program will contribute to the expansion of affordable housing opportunities within the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality. Interested parties must be given a reasonable opportunity to present testimony concerning the proposed district or program at the hearing provided for in section 5250, subsection 1. If an interested party claims at the public hearing that the proposed district or program will result in a substantial detriment to that party's existing property interests in the municipality and

produces substantial evidence to that effect, the legislative body shall consider that evidence. When considering that evidence, the legislative body also shall consider whether any adverse economic effect of the proposed district or program on that interested party's existing property interests in the municipality is outweighed by the contribution made by the district or program to the availability of affordable housing within the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality.
[PL 2003, c. 426, §1 (NEW).]

3. Conditions for approval. Designation of an affordable housing development district is subject to the following conditions.

A. At least 25%, by area, of the real property within an affordable housing development district must:

(1) Be suitable for residential use;

(2) Be a blighted area; or

(3) Be in need of rehabilitation or redevelopment. [PL 2003, c. 426, §1 (NEW).]

B. The affordable housing development district is subject to the area cap established in section 5223, subsection 3, paragraph B. [PL 2003, c. 426, §1 (NEW).]

C. The original assessed value of a proposed affordable housing development district plus the original assessed value of all existing affordable housing development districts within the municipality may not exceed 5% of the total value of taxable property within the municipality as of April 1st preceding the date of the director's approval of the designation of the proposed affordable housing development district. [PL 2003, c. 426, §1 (NEW).]

D. [PL 2013, c. 312, §2 (RP).]

E. The affordable housing development program must show that the development meets an identified community housing need. The affordable housing development program must provide a mechanism to ensure the ongoing affordability for a period of at least 10 years for single-family, owner-occupied units and 30 years for rental units. [PL 2003, c. 426, §1 (NEW).]

F. [PL 2013, c. 312, §2 (RP).]

G. The district must be primarily a residential development on which at least 33% of the dwelling units are affordable housing and that may be designed to be compact and walkable and to include internal open space, other common open space and one or more small-scale nonresidential uses of service to the residents of the development. [PL 2003, c. 426, §1 (NEW).]
[PL 2013, c. 312, §2 (AMD).]

4. Powers of municipality. Within an affordable housing development district and consistent with an affordable housing development program, a municipality may acquire, construct, reconstruct, improve, preserve, alter, extend, operate or maintain property or promote development intended to meet the objectives of the affordable housing development program. Pursuant to the affordable housing development program, the municipality may acquire property, land or easements through negotiation or by using eminent domain powers in the manner authorized for community development programs under section 5204. The municipality's legislative body may adopt ordinances regulating traffic in and access to any facilities constructed within the affordable housing development district. The municipality may install public improvements.
[PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW). PL 2013, c. 312, §2 (AMD).

§5248. Affordable housing development programs

1. Adoption. The legislative body of a municipality shall adopt an affordable housing development program for each affordable housing development district. The affordable housing development program must be adopted at the same time as the district as part of the district adoption proceedings or, if at a different time, in the same manner as adoption of the district, with the same notice and hearing requirements of section 5250. Before adopting an affordable housing development program, the municipal legislative body shall consider the factors and evidence specified in section 5247.
[PL 2003, c. 426, §1 (NEW).]

2. Requirements. The affordable housing development program must include:

A. A financial plan in accordance with subsection 3; [PL 2003, c. 426, §1 (NEW).]

B. A description of facilities, improvements or programs to be financed in whole or in part by the affordable housing development program; [PL 2003, c. 426, §1 (NEW).]

C. Plans for the relocation of persons displaced by the development activities; [PL 2003, c. 426, §1 (NEW).]

D. The environmental controls to be applied; [PL 2003, c. 426, §1 (NEW).]

E. The proposed operation of the affordable housing development district after the planned improvements are completed; [PL 2003, c. 426, §1 (NEW).]

F. An assurance that the program complies with section 4349-A; [PL 2003, c. 426, §1 (NEW).]

G. The duration of the program, which may start during any tax year specified in the approval of the affordable housing development program by a municipal legislative body, except that the program may not exceed 30 years after the tax year in which the designation of the district is approved by the director as provided in section 5250, subsection 3; and [PL 2013, c. 312, §3 (AMD).]

H. All documentation submitted to or prepared by the municipality under section 5247, subsection 2. [PL 2003, c. 426, §1 (NEW).]
[PL 2013, c. 312, §3 (AMD).]

3. Financial plan for affordable housing development district. The financial plan for an affordable housing development district must include:

A. Cost estimates for the affordable housing development program; [PL 2003, c. 426, §1 (NEW).]

B. The amount of public indebtedness to be incurred; [PL 2003, c. 426, §1 (NEW).]

C. Sources of anticipated revenues; [PL 2003, c. 426, §1 (NEW).]

D. A description of the terms and conditions of any agreements, contracts or other obligations related to the affordable housing development program; and [PL 2003, c. 426, §1 (NEW).]

E. For each year of the affordable housing development program:

(1) Estimates of increased assessed values of the district;

(2) The portion of the increased assessed values to be applied to the affordable housing development program as captured assessed values and resulting tax increments in each year of the program; and

(3) A calculation of the tax shifts resulting from designation of the affordable housing development district. [PL 2003, c. 426, §1 (NEW).]
[PL 2003, c. 426, §1 (NEW).]

4. Limitation. For affordable housing development districts, a municipality may expend the tax increments received for any affordable housing development program only in accordance with the financial plan.

[PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW). PL 2013, c. 312, §3 (AMD).

§5249. Project costs

1. Authorized project costs. The director shall review proposed project costs to ensure compliance with this subsection. Authorized project costs are:

A. Costs of improvements made within the affordable housing development district, including, but not limited to:

(1) Capital costs, including, but not limited to:

(a) The acquisition of land or construction of public infrastructure improvements for affordable housing development;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) Site preparation and finishing work; and

(d) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses;

(2) Financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(3) Real property assembly costs;

(4) Professional service costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses;

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of an affordable housing development program;

(6) Relocation costs, including, but not limited to, relocation payments made following condemnation;

(7) Organizational costs relating to the establishment of the affordable housing district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of affordable housing development districts and the implementation of project plans;

(8) Costs of facilities used predominantly for recreational purposes, including, but not limited to, recreation centers, athletic fields and swimming pools;

(9) Costs for child care, including finance costs and construction, staffing, training, certification and accreditation costs related to child care located in the affordable housing development district;

(10) Costs of case management and support services; and

(11) Operating costs, including but not limited to property management and administration, utilities, routine repairs and maintenance, insurance, real estate taxes and funding of a projects capital reserve account; and [PL 2013, c. 312, §4 (AMD).]

B. Costs of improvements that are made outside the affordable housing development district but are directly related to or are made necessary by the establishment or operation of the district, including, but not limited to:

(1) That portion of the costs reasonably related to the construction, alteration or expansion of any facilities not located within the district that are required due to improvements or activities within the district, including, but not limited to, sewage treatment plants, water treatment plants or other environmental protection devices; storm or sanitary sewer lines; water lines; electrical lines; improvements to fire stations; and amenities on streets;

(2) Costs of public safety improvements made necessary by the establishment of the district;

(3) Costs of funding to mitigate any adverse impact of the district upon the municipality and its constituents. This funding may be used for funding public kindergarten to grade 12 costs and public facilities and improvements; and

(4) Costs to establish permanent housing development revolving loan funds or investment funds. [PL 2003, c. 426, §1 (NEW).]

[PL 2013, c. 312, §4 (AMD).]

2. Limitation. Tax increments received from any affordable housing development program may not be used to circumvent other tax laws.
[PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW). PL 2013, c. 312, §4 (AMD).

§5250. Procedure

1. Notice and hearing. Before designating an affordable housing development district or adopting an affordable housing development program, the municipal legislative body or the municipal legislative body's designee must hold at least one public hearing on the proposed district. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality.
[PL 2003, c. 426, §1 (NEW).]

2. Review by director. Before final designation of an affordable housing development district, the director shall review the proposal for the district to ensure that the proposal complies with statutory requirements.
[PL 2003, c. 426, §1 (NEW).]

3. Effective date. A designation of an affordable housing development district is effective upon approval by the director.
[PL 2003, c. 426, §1 (NEW).]

4. Administration of district. The legislative body of a municipality may create a department, designate an existing department, office, agency, municipal housing or redevelopment authority or enter into a contractual arrangement with a private entity to administer activities authorized under this subchapter.
[PL 2003, c. 426, §1 (NEW).]

5. Amendments. A municipality may amend a designated affordable housing development district or an adopted affordable housing development program only after meeting the requirements of this section for designation of an affordable housing development district or adoption of an affordable

housing development program. A municipality may not amend the designation of an affordable housing development district if the amendment would result in the district's being out of compliance with any of the conditions in section 5247, subsection 3.
[PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW).

§5250-A. Affordable housing tax increment financing

1. Designation of captured assessed value. A municipality may retain all or part of the tax increment revenues generated from the increased assessed value of an affordable housing development district for the purpose of financing the affordable housing development program. The amount of tax increment revenues to be retained is determined by designating the captured assessed value. When an affordable housing development program for an affordable housing development district is adopted, the municipal legislative body shall adopt a statement of the percentage of increased assessed value to be retained as captured assessed value in accordance with the affordable housing development program. The statement of percentage may establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The municipal assessor shall certify the amount of the captured assessed value to the municipality each year.
[PL 2003, c. 426, §1 (NEW).]

2. Certification of assessed value. Upon or after the formation of an affordable housing development district, the assessor of the municipality in which the district is located shall certify the original assessed value of the taxable property within the boundaries of the affordable housing development district. Each year after the designation of an affordable housing development district, the municipal assessor shall certify the amount by which the assessed value has increased or decreased from the original value.

Nothing in this subsection allows or sanctions unequal apportionment or assessment of the taxes to be paid on real property in the State. An owner of real property within the affordable housing development district pays real property taxes apportioned equally with property taxes paid elsewhere in the municipality.
[PL 2003, c. 426, §1 (NEW).]

3. Affordable housing development program fund; affordable housing tax increment revenues. If a municipality has designated captured assessed value under subsection 1, the municipality shall:

A. Establish an affordable housing development program fund that consists of the following:

(1) A project cost account that is pledged to and charged with the payment of project costs that are outlined in the financial plan and are paid in a manner other than as described in subparagraph (2); and

(2) In instances of municipal indebtedness, a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the cost of the affordable housing development program fund; [PL 2003, c. 426, §1 (NEW).]

B. Annually set aside all affordable housing tax increment revenues on captured assessed values and deposit all such revenues to the appropriate affordable housing development program fund account established under paragraph A in the following order of priority:

(1) To the affordable housing development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the

amount, to satisfy all annual debt service on bonds and notes issued under section 5250-D and the financial plan; and

(2) To the affordable housing project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual affordable housing project costs to be paid from the account; [PL 2003, c. 426, §1 (NEW).]

C. Make transfers between affordable housing development program fund accounts established under paragraph A as required, provided that the transfers do not result in a balance in the affordable housing development sinking fund account that is insufficient to cover the annual obligations of that account; and [PL 2003, c. 426, §1 (NEW).]

D. Annually return to the municipal general fund any tax increment revenues remaining in the affordable housing development sinking fund account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development sinking fund account after taking into account any transfers made under paragraph C. The municipality, at any time, by vote of the municipal officers, may return to the municipal general fund any tax increment revenues remaining in the project cost account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development project cost account after taking into account any transfer made under paragraph C. In either case, the corresponding amount of local valuation may not be included as part of the captured assessed value as specified by the municipality. [PL 2019, c. 607, Pt. A, §2 (AMD).]

[PL 2019, c. 607, Pt. A, §2 (AMD).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW). PL 2019, c. 607, Pt. A, §2 (AMD).

§5250-B. Rules

The director may adopt rules necessary to carry out the duties imposed by this subchapter and to ensure municipal compliance with this subchapter following designation of an affordable housing development district. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW).

§5250-C. Grants

A municipality may receive grants or gifts for any of the purposes of this subchapter. The tax increment revenues within an affordable housing development district may be used as the local match for certain grant programs. [PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW).

§5250-D. Bond financing

The legislative body of a municipality may authorize, issue and sell bonds, including but not limited to general obligation or revenue bonds or notes, that mature within 30 years from the date of issue to finance all project costs needed to carry out the affordable housing development program within the affordable housing development district. The municipal officers authorized to issue the bonds or notes may borrow money in anticipation of the sale of the bonds for a period of up to 3 years by issuing temporary notes and notes in renewal of the bonds. All revenues derived under section 5250-A received by the municipality are pledged for the payment of the activities described in the affordable housing development program and used to reduce or cancel the taxes that may otherwise be required to be

expended for that purpose. The notes, bonds or other forms of financing may not be included when computing the municipality's net debt. Nothing in this section restricts the ability of the municipality to raise revenue for the payment of project costs in any manner otherwise authorized by law. [PL 2013, c. 312, §5 (AMD).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW). PL 2013, c. 312, §5 (AMD).

§5250-E. Administration

1. Reports. The legislative body of a municipality must report annually to the director regarding the status of an affordable housing development district. The report must:

A. Certify that the public purpose of the affordable housing district, as outlined in this subchapter, is being met; [PL 2003, c. 426, §1 (NEW).]

B. Account for any sales of property within the district; and [PL 2003, c. 426, §1 (NEW).]

C. Certify that rental units within the affordable housing development district have remained affordable. [PL 2003, c. 426, §1 (NEW).]

[PL 2003, c. 426, §1 (NEW).]

2. Recovery of public funds. The authority shall develop by rule provisions for recovery of public revenue if conditions for approval of an affordable housing development district are not maintained for the duration of the district. Rules adopted by the authority pursuant to this subsection must be submitted to the Legislature in accordance with Title 5, chapter 375, subchapter 2-A.
[PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW).

§5250-F. Advisory board

The legislative body of a municipality may create an advisory board, a majority of whose members must be owners or occupants of real property located in or adjacent to the affordable housing development district they serve. The advisory board shall advise the legislative body on the planning and implementation of the affordable housing development program, the construction of the district and the maintenance and operation of the district after the program has been completed. [PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW).

§5250-G. Unorganized territory

For the purposes of this subchapter, a county may act as a municipality for the unorganized territory within the county and may designate affordable housing development districts within the unorganized territory. When a county acts under this section, the county commissioners act as the municipality and as the municipal legislative body, the State Tax Assessor acts as the municipal assessor and the unorganized territory fund receives the funds designated for the municipal general fund. [PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW).

SUBCHAPTER 3

PINE TREE DEVELOPMENT ZONES

§5245. Findings and declaration of necessity

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

§5246. Definitions

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

§5247. Pine Tree Development Zones

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

§5248. Procedure

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 610, §1 (AMD). PL 2003, c. 688, §D1 (RP).

§5249. Selection criteria

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

§5250. Program administration; rules

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

§5250-A. Unorganized territory

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

§5250-B. Certification of qualified business

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

§5250-C. Report

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

SUBCHAPTER 4

PINE TREE DEVELOPMENT ZONES

§5250-H. Findings and declaration of necessity

1. Legislative finding. The Legislature finds that there is a need to encourage development in economically distressed areas of the State in order to:

A. Provide new employment opportunities; [PL 2003, c. 688, Pt. D, §2 (NEW).]

B. Improve existing employment opportunities; [PL 2003, c. 688, Pt. D, §2 (NEW).]

C. Improve and broaden the tax base; and [PL 2003, c. 688, Pt. D, §2 (NEW).]

D. Improve the general economy of the State. [PL 2003, c. 688, Pt. D, §2 (NEW).]
[PL 2003, c. 688, Pt. D, §2 (NEW).]

2. Authorization. For the reasons set out in subsection 1, a unit of local government, or 2 or more cooperating units of local government, may develop a program for improving a district within its collective boundaries:

A. To provide impetus for targeted business development; [PL 2003, c. 688, Pt. D, §2 (NEW).]

B. To increase employment; and [PL 2003, c. 688, Pt. D, §2 (NEW).]

C. To provide the facilities outlined in the development program adopted by the participating units of local government. [PL 2003, c. 688, Pt. D, §2 (NEW).]
[PL 2003, c. 688, Pt. D, §2 (NEW).]

3. Declaration of public purpose. The Legislature declares that the actions required to assist the implementation of these development programs are a public purpose and that the execution and financing of these programs are a public purpose.
[PL 2003, c. 688, Pt. D, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW).

§5250-I. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2003, c. 688, Pt. D, §2 (NEW).]

1. Affiliated business. "Affiliated business" means a member of a group of 2 or more businesses in which more than 50% of the voting stock of each member corporation or more than 50% of the ownership interest in a business other than a corporation is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member businesses.
[PL 2003, c. 688, Pt. D, §2 (NEW).]

2. Applicant.
[PL 2009, c. 461, §2 (RP).]

3. Average employment during base period. "Average employment during the base period" for a business means the total number of employees of that business as of each March 31st, June 30th, September 30th and December 31st of the base period, divided by 12.
[PL 2005, c. 351, §1 (AMD).]

4. Base level of employment. "Base level of employment" means the greater of either the total employment in the State of a business as of March 31st, June 30th, September 30th and December 31st of the calendar year immediately preceding the year of the business's application to become a certified Pine Tree Development Zone business divided by 4 or its average employment during the base period. Pursuant to section 5250-J, subsection 4-A, "base level of employment" may be adjusted to subtract the reduction in employment at the locations affected by the catastrophic occurrence to the extent that the employment was included in the base level of employment at the time of application for certification under section 5250-O.

Pursuant to section 5250-J, subsection 4-C, "base level of employment" must be adjusted for a qualified business that has more than one location in the State and creates 250 or more jobs at one of these locations, so that the base level of employment is calculated from the location of the significant employment expansion of 250 jobs or more on the basis of that specific location.
[PL 2023, c. 173, §1 (AMD).]

5. Base period. "Base period" means the 3 calendar years prior to the year in which a business applies to be certified as a qualified Pine Tree Development Zone business.
[PL 2005, c. 351, §1 (AMD).]

5-A. Catastrophic occurrence. "Catastrophic occurrence" means a fire, flood, hurricane, windstorm, earthquake or other similar event that is not within the control of a business to prevent.
[PL 2023, c. 173, §2 (AMD).]

5-B. Call center. "Call center" means a business enterprise that employs 50 or more full-time employees for the purpose of customer service.
[PL 2015, c. 368, §1 (NEW).]

6. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development.
[PL 2003, c. 688, Pt. D, §2 (NEW).]

7. Department. "Department" means the Department of Economic and Community Development.
[PL 2003, c. 688, Pt. D, §2 (NEW).]

7-A. Experiential tourism. "Experiential tourism" means tourism that allows individuals to be active participants in outdoor recreational activities including but not limited to: hiking, camping, birding and other wildlife viewing, nature photography, visits to historical and cultural sites and museums, nature tourism, adventure tourism and ecotourism.
[PL 2007, c. 466, Pt. A, §52 (AMD).]

8. Financial services. "Financial services" means services provided by an insurance company subject to taxation under Title 36, chapter 357; a captive insurance company formed or licensed under Title 24-A, chapter 83; a financial institution subject to taxation under Title 36, chapter 819; or a mutual fund service provider.
[PL 2019, c. 401, Pt. C, §2 (AMD).]

9. Labor market average weekly wage. "Labor market average weekly wage" means the average weekly wage as published by the Department of Labor for the labor market or markets in which potential qualified Pine Tree Development Zone employees are located for the 12 most recently reported months preceding the date of application.
[PL 2009, c. 461, §4 (AMD).]

10. Labor market unemployment rate. "Labor market unemployment rate" means the average unemployment rate as published by the Department of Labor for the labor market or markets in which potential qualified Pine Tree Development Zone employees are located for the 12 most recently reported months preceding the date of application.
[PL 2009, c. 461, §5 (AMD).]

11. Manufacturing. "Manufacturing" means:

A. The production of tangible personal property intended to be sold or leased ultimately for final use or consumption; [PL 2009, c. 461, §6 (NEW).]

B. The production of tangible personal property pursuant to a contract with the Federal Government or any agency thereof; or [PL 2009, c. 461, §6 (NEW).]

C. To make, process, convert or transform raw materials, components or parts into finished goods or products for final use or consumption to meet customer expectations or specifications. [PL 2009, c. 461, §6 (NEW).]

[PL 2009, c. 461, §6 (RPR).]

11-A. Military redevelopment zone. "Military redevelopment zone" means a specified area within a municipality that is contained within a labor market that includes a military facility that sustained a loss of 400 or more employed workers, if the loss was caused by a federal military facility closure or downsizing, during the 5-year period immediately preceding the time of application for designation as a military redevelopment zone, or is projected to sustain a loss of 400 or more employed workers during the 5-year period immediately following the time of application, and has been designated by the commissioner as a military redevelopment zone under section 5250-J, subsection 3-A.

[PL 2009, c. 461, §7 (AMD).]

11-B. Mutual fund service provider. "Mutual fund service provider" means a taxpayer, as defined in Title 36, section 111, subsection 7, subject to tax under Title 36, Part 8 other than a financial institution as defined in Title 36, section 5206-D, subsection 8, that derives more than 50% of its gross income from the direct or indirect provision of management, distribution or administration services to or on behalf of a regulated investment company or from trustees, sponsors and participants of employee benefit plans that have accounts in a regulated investment company.

[PL 2019, c. 401, Pt. C, §3 (NEW).]

12. Person.

[PL 2007, c. 627, §1 (RP).]

13. Pine Tree Development Zone. "Pine Tree Development Zone" or "zone" means a specified area within the boundaries of the State that has been designated by the commissioner as a Pine Tree Development Zone in accordance with section 5250-J, subsection 3-A or 3-B.

[PL 2009, c. 461, §8 (AMD).]

14. Pine Tree Development Zone benefits. "Pine Tree Development Zone benefits" means:

A. The exclusion from the limitations established under section 5223, subsection 3 of tax increment financing districts included within a Pine Tree Development Zone; [PL 2003, c. 688, Pt. D, §2 (NEW).]

B. Expanded employment tax increment financing benefits under Title 36, chapter 917; [PL 2003, c. 688, Pt. D, §2 (NEW).]

C. The sales tax exemption under Title 36, section 1760, subsection 87 and the sales tax reimbursement under Title 36, section 2016; [PL 2005, c. 351, §2 (AMD).]

D. The Pine Tree Development Zone tax credits provided by Title 36, sections 2529 and 5219-W; [PL 2005, c. 351, §2 (AMD).]

E. Discounted rates approved by the Public Utilities Commission, if applicable, and offered by transmission and distribution utilities as authorized under Title 35-A, section 3210-E, subsection 1; and [PL 2009, c. 627, §3 (AMD).]

F. Line extensions and conservation programs approved or authorized under Title 35-A, section 3210-E. [PL 2009, c. 627, §4 (AMD).]

[PL 2009, c. 627, §§3, 4 (AMD).]

15. Production.

[PL 2007, c. 627, §2 (RP).]

16. Qualified business activity. "Qualified business activity" means a business activity that is conducted within a Pine Tree Development Zone and is directly related to financial services, manufacturing or a targeted technology business for which the business receives a letter of certification from the commissioner pursuant to section 5250-O.

[PL 2017, c. 440, §1 (AMD).]

17. Qualified Pine Tree Development Zone business. "Qualified Pine Tree Development Zone business" or "qualified business" means any for-profit business in this State engaged in or that will engage in financial services, manufacturing or a targeted technology business that has added or will add at least one qualified Pine Tree Development Zone employee above its base level of employment in this State and that meets the following criteria:

A. It demonstrates that the establishment or expansion of operations within the Pine Tree Development Zone would not occur within the State absent the availability of the Pine Tree Development Zone benefits and provides, at a minimum, a signed and notarized statement to this effect. The department shall determine whether the business has met the requirements of this paragraph; and [PL 2017, c. 440, §2 (AMD).]

B. It has received a letter of certification as a qualified business pursuant to section 5250-O. [PL 2017, c. 440, §2 (AMD).]

[PL 2017, c. 440, §2 (AMD).]

18. Qualified Pine Tree Development Zone employees. Except for employees in call centers in Aroostook and Washington counties, "qualified Pine Tree Development Zone employees" means new, full-time employees hired in this State by a qualified Pine Tree Development Zone business for work directly in one or more qualified business activities for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461, as amended, and group health insurance are provided and whose income derived from employment within the Pine Tree Development Zone, calculated on a calendar year basis, is greater than the most recent annual per capita personal income in the county in which the qualified employee is employed. "Qualified Pine Tree Development Zone employees" does not include employees shifted to a qualified business activity from a nonqualified activity of the qualified Pine Tree Development Zone business or an affiliated business. The commissioner shall determine whether a shifting of employees has occurred.

For employees in call centers in Aroostook and Washington counties, "qualified Pine Tree Development Zone employees" means new, full-time employees hired in this State by a qualified Pine Tree Development Zone business for work directly in one or more qualified business activities for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461, as amended, and group health insurance are provided and whose income derived from employment within the Pine Tree Development Zone, calculated on a weekly basis, is greater than the average weekly wage for the most recent available calendar year as derived from the quarterly census of employment and wages and provided annually by the Department of Labor. The calculation of the average weekly wage must include data from the counties of Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox, Lincoln, Oxford, Penobscot, Piscataquis, Sagadahoc, Somerset, Waldo and Washington. Notwithstanding this subsection, with respect to employees in call centers in Aroostook and Washington counties, in a county in which the average annual unemployment rate at the time of certification for the most recent calendar year is greater than the state average for the same year, the wage threshold is 90% of the average weekly wage

as derived from the quarterly census of employment and wages. Notwithstanding this subsection, with respect to a call center in Aroostook or Washington county and upon approval of the commissioner, a qualified business located in a county in which the average annual unemployment rate at the time of certification for the most recent calendar year is greater than the state average for that same year qualifies for a phase-in of salary threshold requirements. A qualified business under this provision must meet 70% of the average weekly wage as derived from the quarterly census of employment and wages in the first year of certification, 80% of the average weekly wage as derived from the quarterly census of employment and wages in the 2nd year of certification and 90% of the average weekly wage as derived from the quarterly census of employment and wages in all following years of certification. Failure to meet any of these requirements results in automatic revocation of certification. "Qualified Pine Tree Development Zone employees" does not include employees shifted to a qualified business activity from a nonqualified activity of the qualified Pine Tree Development Zone business or an affiliated business. The commissioner shall determine whether a shifting of employees has occurred.
[PL 2015, c. 368, §2 (AMD).]

18-A. Quarterly census of employment and wages. "Quarterly census of employment and wages" means the comprehensive tabulation of employment and wage information for workers produced by the quarterly census of employment and wages program, a cooperative program involving the federal Department of Labor, Bureau of Labor Statistics and the state employment security agencies.
[PL 2015, c. 368, §3 (NEW).]

19. State average weekly wage. "State average weekly wage" means the average weekly wage as published by the Department of Labor for the State as a whole for the 12 most recently reported months preceding the date of application.
[PL 2009, c. 461, §9 (AMD).]

20. State unemployment rate. "State unemployment rate" means the average unemployment rate published by the Department of Labor for the State as a whole for the 12 most recently reported months preceding the date of application.
[PL 2009, c. 461, §10 (AMD).]

21. Targeted technology business. "Targeted technology business" means a business primarily involved in a targeted technology as defined in Title 5, section 15301.
[PL 2003, c. 688, Pt. D, §2 (NEW).]

21-A. Tier 1 location. "Tier 1 location" means a location designated by the department to be eligible for Pine Tree Development Zone benefits for a period of 10 years.
[PL 2009, c. 461, §11 (NEW).]

21-B. Tier 2 location. "Tier 2 location" means a location designated by the department to be eligible for Pine Tree Development Zone benefits for a period of 5 years. After the 5 years, all Pine Tree Development Zone benefits expire, except for the expanded employment tax increment financing benefits under Title 36, chapter 917, which must be recalculated at that time to reflect the standard rates under that chapter.
[PL 2009, c. 461, §12 (NEW).]

22. Unit of local government. "Unit of local government" means a municipality, county, plantation, unorganized territory or Indian tribe.
[PL 2003, c. 688, Pt. D, §2 (NEW).]

23. Working waterfront. "Working waterfront" means a parcel of land abutting water subject to tidal influence or land located in the intertidal zone that is used primarily or predominantly to provide access to or support the conduct of commercial fishing and marine activities. For purposes of this subsection, "parcel" includes an entire unit of real estate notwithstanding the fact that it is divided by a road, way, railroad or pipeline.
[PL 2009, c. 21, §3 (NEW).]

24. Working waterfront industry. "Working waterfront industry" means an industry primarily involved in supporting commercial fishing, marine and boat building activities.
[PL 2009, c. 21, §4 (NEW).]

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW). PL 2005, c. 351, §§1-4 (AMD). PL 2005, c. 351, §26 (AFF). PL 2005, c. 637, §1 (AMD). PL 2005, c. 650, §1 (AMD). PL 2007, c. 466, Pt. A, §52 (AMD). PL 2007, c. 627, §§1, 2 (AMD). PL 2009, c. 21, §§1-4 (AMD). PL 2009, c. 461, §§2-12 (AMD). PL 2009, c. 627, §§2-4 (AMD). PL 2015, c. 368, §§1-3 (AMD). PL 2017, c. 440, §§1, 2 (AMD). PL 2019, c. 401, Pt. C, §§2, 3 (AMD). PL 2023, c. 173, §§1, 2 (AMD).

§5250-J. Pine Tree Development Zones

1. Creation.

[PL 2009, c. 461, §13 (RP).]

2. Requirements for designation. The commissioner shall adopt rules establishing the minimum requirements for the designation of Pine Tree Development Zones pursuant to subsections 3-A and 3-B.
[PL 2009, c. 461, §14 (AMD).]

2-A. Application for designation as military redevelopment zone.

[PL 2009, c. 461, §15 (RP).]

3. Limitations. The designation of Pine Tree Development Zones is subject to the following limitations:

A. [PL 2009, c. 461, §16 (RP).]

B. [PL 2009, c. 461, §16 (RP).]

C. Pine Tree Development Zone benefits may not be used to encourage or facilitate the transfer of existing positions or property of a qualified business or affiliated businesses to a qualified business activity from a nonqualified activity elsewhere in the State; [PL 2005, c. 351, §5 (AMD); PL 2005, c. 351, §26 (AFF).]

D. Pine Tree Development Zone benefits may not be provided based upon any property, employees or positions transferred by the business or affiliated businesses to a qualified business activity from a nonqualified activity; and [PL 2009, c. 461, §16 (AMD).]

E. [PL 2005, c. 351, §5 (RP); PL 2005, c. 351, §26 (AFF).]

F. One or more qualified Pine Tree Development Zone business activities must be a permissible activity in the Pine Tree Development Zone. [PL 2009, c. 461, §16 (AMD).]

G. [PL 2009, c. 461, §16 (RP).]

H. [PL 2009, c. 461, §16 (RP).]
[PL 2009, c. 461, §16 (AMD).]

3-A. Pine Tree Development Zone classification; tier 1 locations. Beginning January 1, 2009, the department shall classify the following on an annual basis as tier 1 locations:

A. From January 1, 2009 to December 31, 2009, all units of local government; [PL 2009, c. 652, Pt. D, §1 (AMD); PL 2009, c. 652, Pt. D, §2 (AFF).]

B. Beginning January 1, 2010, a unit of local government that is contained in a county other than Cumberland County or York County, as well as a unit of local government that is contained in Cumberland County or York County with a municipal unemployment rate that is 15% higher than its labor market unemployment rate, based upon data published by the Department of Labor from

the last completed calendar year; [PL 2009, c. 652, Pt. D, §1 (AMD); PL 2009, c. 652, Pt. D, §2 (AFF).]

C. A unit of local government that has been designated by the department as a participating municipality in the Pine Tree Development Zone program as of December 31, 2008; [PL 2009, c. 652, Pt. D, §1 (NEW); PL 2009, c. 652, Pt. D, §2 (AFF).]

D. Property within a military redevelopment zone as long as the property is classified by the department no later than December 31, 2018; [PL 2015, c. 336, §1 (AMD).]

E. Washington County, the Downeast region and the City of Sanford, including 3 pilot projects to be established by the commissioner:

(1) A pilot project for the property of the former Cutler naval computer and telecommunications station and a pilot project for the City of Sanford, which may be excluded from the qualified business definitions established under section 5250-I, subsections 16 and 17 if a for-profit business is engaged in, or will engage in, tourism development including recreational tourism, experiential tourism, hotel development and theme park resort facility development; and

(2) A pilot project that allows seasonal employees in seasonal industries based on natural resources to be considered qualified Pine Tree Development Zone employees for the purposes of section 5250-I, subsection 18; and [PL 2015, c. 336, §1 (AMD).]

F. Beginning January 1, 2016, the Town of Berwick in York County. [PL 2015, c. 336, §2 (NEW).]

[PL 2015, c. 336, §§1, 2 (AMD).]

3-B. Pine Tree Development Zone classification; tier 2 locations. Beginning January 1, 2010, the department shall classify the following units of local government on an annual basis as tier 2 locations:

A. All units of local government contained in Cumberland County or York County that are not classified as tier 1 locations pursuant to subsection 3-A. [PL 2009, c. 461, §18 (NEW).]

[PL 2009, c. 461, §18 (NEW).]

4. Application.

[PL 2009, c. 461, §19 (RP).]

4-A. Catastrophic occurrence; benefits. A qualified Pine Tree Development Zone business may apply for an adjustment of the base level of employment as described in this section, if it:

A. [PL 2023, c. 173, §3 (RP).]

B. Has sustained at least a 15% loss of employed workers due to a catastrophic occurrence. [PL 2023, c. 173, §3 (AMD).]

C. [PL 2023, c. 173, §3 (RP).]

For the purposes of this section and calculation of Pine Tree Development Zone benefits in section 5250-I, subsection 14, the base level of employment may be adjusted to subtract the reduction in employment at the locations affected by the catastrophic occurrence to the extent that the employment was included in the base level of employment at the time of application for certification under section 5250-O. A qualified business must apply for an adjustment of the base level of employment within 2 calendar years of the catastrophic occurrence.

[PL 2023, c. 173, §3 (AMD).]

4-B. Pine Tree Development Zone Reserve Fund established.

[PL 2011, c. 655, Pt. L, §2 (RP).]

4-C. Significant employment expansion; Pine Tree Development Zone benefits. A qualified Pine Tree Development Zone business that expands its employment at one of its locations in the State may apply for an adjustment of the base level of employment if it:

A. Has more than one location in the State; [PL 2009, c. 461, §21 (NEW).]

B. Creates 250 or more jobs at one location; [PL 2009, c. 461, §21 (NEW).]

C. Maintains its total employment in the State above 50% of its growth at the location of the employment expansion; and [PL 2009, c. 461, §21 (NEW).]

D. Has appropriate infrastructure and zoning or other land use regulations in place. [PL 2009, c. 461, §21 (NEW).]

For purposes of this section and calculation of Pine Tree Development Zone benefits in section 5250-I, subsection 14, the base level of employment must be calculated from the location where the business produces significant employment expansion of 250 jobs or more. The department shall determine on an annual basis if the business has produced significant employment expansion. If the department determines that the business does not meet the requirements of this section and its total employment in the State falls below 50% of its growth at this location of expansion, the business may not receive the adjustment pursuant to this section and the department shall calculate the base level of employment pursuant to section 5250-I, subsection 4.
[PL 2009, c. 461, §21 (NEW).]

5. Termination and repeal. A qualified Pine Tree Development Zone business located in a tier 1 location may not be certified under this subchapter after December 31, 2024, and a qualified Pine Tree Development Zone business located in a tier 2 location may not be certified under this subchapter after December 31, 2013. All Pine Tree Development Zone benefits provided under this subchapter are terminated on December 31, 2034. This subchapter is repealed July 1, 2035.
[PL 2023, c. 412, Pt. J, §1 (AMD).]

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW). PL 2005, c. 351, §5 (AMD). PL 2005, c. 351, §26 (AFF). PL 2005, c. 451, §1 (AMD). PL 2005, c. 637, §2 (AMD). PL 2005, c. 650, §§2-6 (AMD). PL 2005, c. 669, §1 (AMD). PL 2007, c. 466, Pt. A, §53 (AMD). PL 2009, c. 21, §5 (AMD). PL 2009, c. 461, §§13-22 (AMD). PL 2009, c. 652, Pt. D, §1 (AMD). PL 2009, c. 652, Pt. D, §2 (AFF). PL 2011, c. 655, Pt. L, §2 (AMD). PL 2015, c. 336, §§1, 2 (AMD). PL 2017, c. 440, §3 (AMD). PL 2021, c. 398, Pt. IIII, §1 (AMD). PL 2023, c. 173, §3 (AMD). PL 2023, c. 412, Pt. J, §1 (AMD).

§5250-K. Procedure

(REPEALED)

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW). PL 2005, c. 351, §6 (AMD). PL 2005, c. 351, §26 (AFF). PL 2009, c. 461, §23 (RP).

§5250-L. Selection criteria

(REPEALED)

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW). PL 2009, c. 461, §24 (RP).

§5250-M. Program administration; rules

The commissioner shall administer this subchapter. The commissioner shall adopt rules pursuant to the Maine Administrative Procedure Act for implementation of Pine Tree Development Zones, including, but not limited to, rules for determining and certifying eligibility, selecting zones for

designation and evaluating on a periodic basis the progress and success of each zone in achieving its goals. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2003, c. 688, Pt. D, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW).

§5250-N. Unorganized territory

For the purposes of this subchapter, a county may act as a municipality for the unorganized territory within the county and may designate development districts within the unorganized territory. When a county acts under this section, the county commissioners act as the municipality and as the municipal legislative body, the State Tax Assessor acts as the municipal assessor and the unorganized territory education and services fund receives the funds designated for the municipal general fund. [PL 2003, c. 688, Pt. D, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW).

§5250-O. Certification of qualified business

A business may apply to the commissioner for certification as a qualified Pine Tree Development Zone business. Upon review and determination by the commissioner that a business is a qualified Pine Tree Development Zone business, the commissioner shall issue a letter of certification to the business that includes a description of the qualified business activity for which the letter is being issued. Prior to issuing a letter of certification, the commissioner must find that the business activity will not result in a substantial detriment to existing businesses in the State. In order to make this determination, the commissioner shall consider those factors the commissioner determines necessary to measure and evaluate the effect of the proposed business activity on existing businesses, including whether any adverse economic effect of the proposed business activity on existing businesses is outweighed by the contribution to the economic well-being of the State. The commissioner shall provide a copy of the letter of certification to the State Tax Assessor. [PL 2019, c. 343, Pt. IIII, §8 (AMD).]

The commissioner shall issue a certificate of qualification to a qualified Pine Tree Development Zone business after the commissioner has verified that the business has added at least one qualified Pine Tree Development Zone employee above its base level of employment. This verification may be obtained in such manner as the commissioner may prescribe. The commissioner shall provide a copy of the certificate of qualification to the State Tax Assessor. [PL 2017, c. 440, §4 (NEW).]

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW). PL 2007, c. 263, §1 (AMD). PL 2017, c. 440, §4 (AMD). PL 2019, c. 343, Pt. IIII, §8 (AMD).

§5250-P. Annual reporting; evaluation

1. Annual reports. A qualified Pine Tree Development Zone business and the commissioner each shall report annually in accordance with this subsection.

A. On or before March 15th of each year, a qualified Pine Tree Development Zone business shall file a report with the commissioner for the immediately preceding calendar year, referred to in this subsection as "the report year," that contains the following information with such additional information and on forms as the commissioner may require:

(1) The total number of Maine employees and total salary and wages for those employees for the report year;

(2) The total number of qualified Pine Tree Development Zone employees and total salary and wages for those employees for the report year;

(3) The number of qualified Pine Tree Development Zone employees hired within the report year;

(4) The amount of investments made during the report year at the qualified Pine Tree Development Zone business location or directly related to the qualified business activity; and

(5) In aggregate, the estimated or total value of Pine Tree Development Zone benefits received or claimed in the report year. [PL 2019, c. 659, Pt. E, §3 (AMD).]

B. [PL 2019, c. 659, Pt. E, §3 (RP).]

C. On or before June 1st annually, beginning in 2019 and through 2024, and on or before March 1st annually thereafter, the commissioner shall report to the joint standing committees of the Legislature having jurisdiction over taxation matters and economic development matters information on qualified Pine Tree Development Zone businesses, including, but not limited to:

(1) The name, municipality in this State in which the business's primary place of business is located and business type, including the parent company of the business, if applicable, of each qualified Pine Tree Development Zone business for the report year;

(2) The estimated or total aggregate amount of Pine Tree Development Zone benefits received by qualified Pine Tree Development Zone businesses in the report year; and

(3) Aggregate information for each of the most recent 3 report years on:

(a) Employment levels for all Maine employees and for qualified Pine Tree Development Zone employees and associated salary and wages for both groups of employees;

(b) Average annual salary and wages and access to health insurance and retirement benefits for all Maine employees and for qualified Pine Tree Development Zone employees; and

(c) Amount of investment associated with the qualified Pine Tree Development Zone business locations or directly related to the qualified business activities. [PL 2023, c. 631, §1 (AMD).]

[PL 2023, c. 631, §1 (AMD).]

2. Evaluation; specific public policy objective; performance measures. The Pine Tree Development Zone program established by this subchapter is subject to ongoing legislative review in accordance with Title 3, chapter 37. In developing evaluation parameters to perform the review, the Office of Program Evaluation and Government Accountability, the Legislature's government oversight committee and the joint standing committee of the Legislature having jurisdiction over taxation matters shall consider:

A. That the specific public policy objective of the Pine Tree Development Zone program established by this subchapter is to create and retain quality jobs in this State by reducing the tax burden experienced by businesses and thereby making this State's business tax burden more comparable to other states, encouraging location and expansion of businesses in this State and improving the competitiveness of this State's businesses; and [PL 2017, c. 440, §5 (NEW).]

B. Performance measures, including:

(1) Change in employment levels of qualified Pine Tree Development Zone employees;

(2) Amount of investment directly related to a qualified business activity;

(3) Comparison of business tax burden in this State to other states;

(4) Comparison of other cost burdens in this State to other states;

(5) Comparison of the amount of public incentives received from the Pine Tree Development Zone program to the amount of public incentives received from other incentive programs in the State;

(6) Measures of industry competitiveness for businesses receiving Pine Tree Development Zone benefits;

(7) Measures of fiscal impact and overall economic impact to the State; and

(8) Other measures as may be relevant to the evaluation of program outcomes. [PL 2017, c. 440, §5 (NEW).]

The Office of Program Evaluation and Government Accountability shall provide a report of its evaluation of the Pine Tree Development Zone program established by this subchapter in accordance with Title 3, section 999 and shall also provide this report to the joint standing committee of the Legislature having jurisdiction over economic development matters, which may report out a bill to the Legislature in response to the report's recommendations.
[PL 2019, c. 305, §1 (AMD).]

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW). PL 2017, c. 440, §5 (RPR). PL 2019, c. 305, §1 (AMD). PL 2019, c. 659, Pt. E, §3 (AMD). PL 2023, c. 631, §1 (AMD).

SUBCHAPTER 5

PINE TREE RECREATION ZONE

(REPEALED)

§5250-Q. Pine Tree Recreation Zone

(REPEALED)

SECTION HISTORY

PL 2005, c. 555, §1 (NEW). PL 2005, c. 555, §3 (AFF). PL 2023, c. 412, Pt. J, §2 (RP).

SUBCHAPTER 6

PINE TREE DEVELOPMENT ZONE EXCEPTIONS

(REPEALED)

§5250-R. Definitions

(REPEALED)

SECTION HISTORY

PL 2007, c. 240, Pt. QQQQ, §1 (NEW). PL 2023, c. 412, Pt. J, §3 (RP).

§5250-S. Exceptions for manufacturing businesses

(REPEALED)

SECTION HISTORY

PL 2007, c. 240, Pt. QQQQ, §1 (NEW). PL 2007, c. 468, §§1, 2 (AMD). PL 2023, c. 412, Pt. J, §3 (RP).

§5250-T. Rules

(REPEALED)

SECTION HISTORY

PL 2007, c. 240, Pt. QQQQ, §1 (NEW). PL 2023, c. 412, Pt. J, §3 (RP).