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Proposed Changes to Wisconsin Tax Incremental Financing Laws Could Harm Extra Collateral to Development Loans.

When lenders finance commercial real estate development in Wisconsin, part of the total financing "stack" is often TIF, or Tax Incremental Financing. In essence, TIF is financing provided by the local municipality to help facilitate the project's completion, in return for the local municipality receiving future tax revenues from the new development, after the initial investment is paid back.

TIF grants are often required to bring the property up to the point of being developable, including extending water and sewer lines to the property, expanding roadways and intersections, and resolving contamination or drainage issues. While extending utilities or improving roadways should be the municipality's job, at its expense, municipalities just do not have the tools to do this work, especially with levy limits in place and very little federal or state infrastructure funding.

TIF financing has been the workhorse for economic development for years, and is used by cities, villages and towns all over the State, large and small. The State of Wisconsin Department of Revenue TIF page provides detailed, up-to-date information on each TIF in a clear and transparent way.

One of the major benefits of TIF law is it allows local municipalities to determine exactly what is needed for their community, including how to tailor the TIF plan, and any development agreement with a developer to the facts of the specific project at hand: as well as phasing parts of the project; determining what preconditions the developer must meet before it receives any TIF money; and allowing the developer to assign the stream of money payments to a lender as extra collateral for a construction loan.

Over the last several years, a small group of lawmakers in the State Legislature has introduced bills to severely limit the use of TIF. In the last few weeks, another effort began to severely limit TIF in a number of ways.

If you are a bank that lends on new development, you ought to be aware that lending regulations will only permit you to lend a percentage of the total project costs, and the TIF financing is used to fill the "gap" in funding to pay for many of these municipal and infrastructure improvements. If TIF is not available to fill this gap, current regulations may not allow you to lend sufficient funds to make the project happen.

Several trade groups in the real estate field are working to educate legislators on the risks to development and to Wisconsin's ability to be competitive with surrounding states, as well as the benefits of keeping TIF as a necessary tool.

November 11 2019

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