

***Superseded 5/10/2016***

**17C-4-201 Consent of a taxing entity or public entity to an agency receiving tax increment or sales tax funds for community development project.**

- (1) An agency may negotiate with a taxing entity and public entity for the taxing entity's or public entity's consent to the agency receiving the entity's or public entity's tax increment or sales tax revenues, or both, for the purpose of providing funds to carry out a proposed or adopted community development project area plan.
- (2) The consent of a taxing entity or public entity under Subsection (1) may be expressed in:
  - (a) a resolution adopted by the taxing entity or public entity; or
  - (b) an interlocal agreement, under Title 11, Chapter 13, Interlocal Cooperation Act, between the taxing entity or public entity and the agency.
- (3) Before an agency may use tax increment or sales tax revenues collected under a resolution or interlocal agreement adopted for the purpose of providing funds to carry out a proposed or adopted community development project area plan, the agency shall:
  - (a) obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the agency and the taxing entity have each followed all legal requirements relating to the adoption of the resolution or interlocal agreement, respectively; and
  - (b) provide a signed copy of the certification described in Subsection (3)(a) to the appropriate taxing entity.
- (4) A resolution adopted or interlocal agreement entered under Subsection (2) on or after March 30, 2009 shall specify:
  - (a) if the resolution or interlocal agreement provides for the agency to be paid tax increment:
    - (i) the method of calculating the amount of the taxing entity's tax increment from the project area that will be paid to the agency, including the agreed base year and agreed base taxable value;
    - (ii) the number of tax years that the agency will be paid the taxing entity's tax increment from the project area; and
    - (iii) the percentage of the taxing entity's tax increment or maximum cumulative dollar amount of the taxing entity's tax increment that the agency will be paid; and
  - (b) if the resolution or interlocal agreement provides for the agency to be paid a public entity's sales tax revenue:
    - (i) the method of calculating the amount of the public entity's sales tax revenue that the agency will be paid;
    - (ii) the number of tax years that the agency will be paid the sales tax revenue; and
    - (iii) the percentage of sales tax revenue or the maximum cumulative dollar amount of sales tax revenue that the agency will be paid.
- (5)
  - (a) Unless the taxing entity otherwise agrees, an agency may not be paid a taxing entity's tax increment:
    - (i) that exceeds the percentage or maximum cumulative dollar amount of tax increment specified in the resolution or interlocal agreement under Subsection (2); or
    - (ii) for more tax years than specified in the resolution or interlocal agreement under Subsection (2).
  - (b) Unless the public entity otherwise agrees, an agency may not be paid a public entity's sales tax revenue:
    - (i) that exceeds the percentage or maximum cumulative dollar amount of sales tax revenue specified in the resolution or interlocal agreement under Subsection (2); or

- (ii) for more tax years than specified in the resolution or interlocal agreement under Subsection (2).
- (6) A school district may consent to an agency receiving tax increment from the school district's basic levy only to the extent that the school district also consents to the agency receiving tax increment from the school district's local levy.
- (7)
  - (a) A resolution or interlocal agreement under this section may be amended from time to time.
  - (b) Each amendment of a resolution or interlocal agreement shall be subject to and receive the benefits of the provisions of this part to the same extent as if the amendment were an original resolution or interlocal agreement.
- (8) A taxing entity's or public entity's consent to an agency receiving funds under this section is not subject to the requirements of Section 10-8-2.
- (9)
  - (a) For purposes of this Subsection (9), "successor taxing entity" means any taxing entity that:
    - (i) is created after the date of adoption of a resolution or execution of an interlocal agreement under this section; and
    - (ii) levies a tax on any parcel of property located within the project area that is the subject of the resolution or the interlocal agreement described in Subsection (9)(a)(i).
  - (b) A resolution or interlocal agreement executed by a taxing entity under this section may be enforced by or against any successor taxing entity.