CHAPTER 2002-294

Council Substitute for House Bill No. 1341

An act relating to community redevelopment; amending s. 163.336; F.S.; extending the date for a pilot project; amending s. 163.340, F.S.; revising definitions; amending s. 163.355, F.S.; providing additional criteria for a finding of necessity for community redevelopment; amending s. 163.356, F.S.; allowing certain charter counties to create multiple community redevelopment agencies within the unincorporated county areas; providing for the membership of the board of commissioners of the community redevelopment agency; amending s. 163.361, F.S.; requiring the appropriate governing body to hold public hearings and provide notice to taxing authorities concerning modifications of community redevelopment plans; amending s. 163.362, F.S.; providing a deadline for completing projects in a community redevelopment plan; amending s. 163.385, F.S.; revising provisions relating to issuance and maturation of refunding bonds; amending s. 163.387, F.S.; providing time limitations on the annual appropriation made by each taxing authority after the initial community redevelopment plan has been approved; providing that certain special districts are exempt from providing tax increment dollars to the community redevelopment trust fund; revising provisions for exemption from funding of the trust fund; amending s. 163.410, F.S.; providing that the governing body of a charter county must act on a delegation-of-powers request within a specific timeframe; providing for applicability; amending s. 288.106, F.S.; redefining the term "local financial support exemption option" with respect to the tax refund program; amending s. 288.107, F.S.; revising the criteria for participation in the bonus refund program; revising the formula for calculating the refund; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 163.336, Florida Statutes, is amended to read:

163.336 Coastal resort area redevelopment pilot project.—

(3) PILOT PROJECT EXPIRATION.—The authorization for the pilot project and the provisions of this section expire December 31, 2006 ~~2002~~. The Legislature shall review these requirements before their scheduled expiration.

Section 2. Subsections (3), (7), and (8) of section 163.340, Florida Statutes, are amended to read:

163.340 Definitions.—The following terms, wherever used or referred to in this part, have the following meanings:

(3) "Governing body" means the council, commission, or other legislative body charged with governing the county or municipality.

(7) "Slum area" means an area having physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime because ~~in which~~ there is a predominance of buildings or improvements, whether residential or nonresidential, which are impaired by reason of dilapidation, deterioration, age, or obsolescence and exhibiting one or more of the following factors:~~;~~

(a) Inadequate provision for ventilation, light, air, sanitation, or open spaces;

(b) High density of population, compared to the population density of adjacent areas within the county or municipality; and overcrowding, as indicated by government-maintained statistics or other studies and the requirements of the florida Building Code; or

(c) The existence of conditions that ~~which~~ endanger life or property by fire or other causes~~; or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and is detrimental to the public health, safety, morals, or welfare~~.

(8) "Blighted area" means an area in which there are ~~either:~~

~~(a) An area in which there are~~ a substantial number of ~~slum,~~ deteriorated, or deteriorating structures, in which ~~and~~ conditions, as indicated by government-maintained statistics or other studies, are leading ~~that lead~~ to economic distress or endanger life or property, and in which two or more of the following factors are present ~~by fire or other causes or one or more of the following factors that substantially impairs or arrests the sound growth of a county or municipality and is a menace to the public health, safety, morals, or welfare in its present condition and use~~:

(a)~~1.~~ Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;

(b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such conditions;

(c)~~2.~~ Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(d)~~3.~~ Unsanitary or unsafe conditions;

(e)~~4.~~ Deterioration of site or other improvements;

(f)~~5.~~ Inadequate and outdated building density patterns;

(g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;

(h)~~6.~~ Tax or special assessment delinquency exceeding the fair value of the land;

(i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;

(j) Incidence of crime in the area higher than in the remainder of the county or municipality;

(k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;

(l) A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;

~~7. Inadequate transportation and parking facilities; and~~

(m)~~8.~~ Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or

(n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.

~~(b) An area in which there exists faulty or inadequate street layout; inadequate parking facilities; or roadways, bridges, or public transportation facilities incapable of handling the volume of traffic flow into or through the area, either at present or following proposed construction.~~

However, the term "blighted area" also means any area in which at least one of the factors identified in paragraphs (a) through (n) are present and all taxing authorities subject to s. 163.387(2)(a) agree, either by interlocal agreement or agreements with the agency or by resolution, that the area is blighted. Such agreement or resolution shall only determine that the area is blighted. For purposes of qualifying for the tax credits authorized in chapter 220, "blighted area" means an area as defined in this subsection ~~described in paragraph (a)~~.

Section 3. Section 163.355, Florida Statutes, is amended to read:

163.355 Finding of necessity by county or municipality.—No county or municipality shall exercise the community redevelopment authority conferred by this part until after the governing body has adopted a resolution, supported by data and analysis, which makes a legislative finding that the conditions in the area meet the criteria described in s. 163.340(7) or (8). The resolution must state ~~finding~~ that:

(1) One or more slum or blighted areas, or one or more areas in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, exist in such county or municipality; and~~,~~

(2) The rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas, including, if appropriate, the development of housing which residents of low or moderate income, including the elderly, can afford, is necessary in the interest of the public health, safety, morals, or welfare of the residents of such county or municipality.

Section 4. Subsections (1) and (2) of section 163.356, Florida Statutes, are amended to read:

163.356 Creation of community redevelopment agency.—

(1) Upon a finding of necessity as set forth in s. 163.355, and upon a further finding that there is a need for a community redevelopment agency to function in the county or municipality to carry out the community redevelopment purposes of this part, any county or municipality may create a public body corporate and politic to be known as a "community redevelopment agency." A charter county having a population less than or equal to 1.6 million may create, by a vote of at least a majority plus one of the entire governing body of the charter county, more than one community redevelopment agency. Each such agency shall be constituted as a public instrumentality, and the exercise by a community redevelopment agency of the powers conferred by this part shall be deemed and held to be the performance of an essential public function. ~~The~~ Community redevelopment agencies ~~agency~~ of a county have ~~has~~ the power to function within the corporate limits of a municipality only as, if, and when the governing body of the municipality has by resolution concurred in the community redevelopment plan or plans proposed by the governing body of the county.

(2) When the governing body adopts a resolution declaring the need for a community redevelopment agency, that body shall, by ordinance, appoint a board of commissioners of the community redevelopment agency, which shall consist of not fewer than five or more than nine ~~seven~~ commissioners. The terms of office of the commissioners shall be for 4 years, except that three of the members first appointed shall be designated to serve terms of 1, 2, and 3 years, respectively, from the date of their appointments, and all other members shall be designated to serve for terms of 4 years from the date of their appointments. A vacancy occurring during a term shall be filled for the unexpired term.

Section 5. Section 163.361, Florida Statutes, is amended to read:

163.361 Modification of community redevelopment plans.—

(1) If at any time after the approval of a community redevelopment plan by the governing body it becomes necessary or desirable to amend or modify such plan, the governing body may amend such plan upon the recommendation of the agency. The agency recommendation to amend or modify a redevelopment plan may include a change in the boundaries of the redevelopment area to add land to or exclude land from the redevelopment area, or may include the development and implementation of community policing innovations.

(2) The governing body shall hold a public hearing on a proposed modification of any ~~a~~ community redevelopment plan after public notice thereof by publication in a newspaper having a general circulation in the area of operation of the agency.

(3) In addition to the requirements of s. 163.346, and prior to the adoption of any modification to a community redevelopment plan that expands the boundaries of the community redevelopment area or extends the time certain set forth in the redevelopment plan as required by s. 163.362(10), the agency shall report such proposed modification to each taxing authority in

writing or by an oral presentation, or both, regarding such proposed modification.

(4) A modification to a community redevelopment plan that includes a change in the boundaries of the redevelopment area to add land must be supported by a resolution as provided in s. 163.355.

(5)~~(3)~~ If a community redevelopment plan is modified by the county or municipality after the lease or sale of real property in the community redevelopment area, such modification may be conditioned upon such approval of the owner, lessee, or successor in interest as the county or municipality may deem advisable and, in any event, shall be subject to such rights at law or in equity as a lessee or purchaser, or his or her successor or successors in interest, may be entitled to assert.

Section 6. Subsection (10) of section 163.362, Florida Statutes, is amended to read:

163.362 Contents of community redevelopment plan.—Every community redevelopment plan shall:

(10) Provide a time certain for completing all redevelopment financed by increment revenues. Such time certain shall occur no later than 30 years after the fiscal year in which the plan is approved, adopted, or amended pursuant to s. 163.361(1). However, for any agency created after July 1, 2002, the time certain for completing all redevelopment financed by increment revenues must occur within 40 years after the fiscal year in which the plan is approved or adopted.

Section 7. Paragraph (a) of subsection (1) of section 163.385, Florida Statutes, is amended to read:

163.385 Issuance of revenue bonds.—

(1)(a) When authorized or approved by resolution or ordinance of the governing body, a county, municipality, or community redevelopment agency has power in its corporate capacity, in its discretion, to issue redevelopment revenue bonds from time to time to finance the undertaking of any community redevelopment under this part, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans or preliminary loans, and has power to issue refunding bonds for the payment or retirement of bonds or other obligations previously issued. For any agency created before July 1, 2002, any redevelopment revenue bonds or other obligations issued to finance the undertaking of any community redevelopment under this part shall mature within 60 years after the end of the fiscal year in which the initial community redevelopment plan was approved or adopted. For any agency created on or after July 1, 2002, any redevelopment revenue bonds or other obligations issued to finance the undertaking of any community redevelopment under this part shall mature within 40 years after the end of the fiscal year in which the initial community redevelopment plan is approved or adopted. However, in no event shall any redevelopment revenue bonds or other obligations issued to finance the undertaking of any community redevelopment under this part

mature later than the expiration of the plan in effect at the time such bonds or obligations were issued. The security for such bonds may be based upon the anticipated assessed valuation of the completed community redevelopment and such other revenues as are legally available. Any bond, note, or other form of indebtedness pledging increment revenues to the repayment thereof shall mature no later than the end of the 30th fiscal year after the fiscal year in which increment revenues are first deposited into the redevelopment trust fund or the fiscal year in which the plan is subsequently amended. However, for any agency created on or after July 1, 2002, any form of indebtedness pledging increment revenues to the repayment thereof shall mature by the 40th year after the fiscal year in which the initial community redevelopment plan is approved or adopted. However, any refunding bonds issued pursuant to this paragraph may not mature later than the final maturity date of any bonds or other obligations issued pursuant to this paragraph being paid or retired with the proceeds of such refunding bonds.

Section 8. Subsections (1), (2), and (6) of section 163.387, Florida Statutes, are amended to read:

163.387 Redevelopment trust fund.—

(1) After approval of a community redevelopment plan, there shall be established for each community redevelopment agency created under s. 163.356 a redevelopment trust fund. Funds allocated to and deposited into this fund shall be used by the agency to finance or refinance any community redevelopment it undertakes pursuant to the approved community redevelopment plan. No community redevelopment agency may receive or spend any increment revenues pursuant to this section unless and until the governing body has, by ordinance, provided for the funding of the redevelopment trust fund for the duration of a community redevelopment plan. Such ordinance may be adopted only after the governing body has approved a community redevelopment plan. The annual funding of the redevelopment trust fund shall be in an amount not less than that increment in the income, proceeds, revenues, and funds of each taxing authority derived from or held in connection with the undertaking and carrying out of community redevelopment under this part. Such increment shall be determined annually and shall be that amount equal to 95 percent of the difference between:

(a) The amount of ad valorem taxes levied each year by each taxing authority, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of a community redevelopment area; and

(b) The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for each taxing authority, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the community redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each taxing authority prior to the effective date of the ordinance providing for the funding of the trust fund.

However, the governing body of any county as defined in s. 125.011(1) may, in the ordinance providing for the funding of a trust fund established with

respect to any community redevelopment area created on or after July 1, 1994, determine that the amount to be funded by each taxing authority annually shall be less than 95 percent of the difference between paragraphs (a) and (b), but in no event shall such amount be less than 50 percent of such difference.

(2)(a) Except for the purpose of funding the trust fund pursuant to subsection (3), upon the adoption of an ordinance providing for funding of the redevelopment trust fund as provided in this section, each taxing authority shall, by January 1 of each year, appropriate to the trust fund for so long as any indebtedness pledging increment revenues to the payment thereof is outstanding (but not to exceed 30 years) a sum that is no less than the increment as defined and determined in subsection (1) accruing to such taxing authority. If the community redevelopment plan is amended or modified pursuant to s. 163.361(1), each such taxing authority shall make the annual appropriation for a period not to exceed 30 years after the date the governing body amends the plan. However, for any agency created on or after July 1, 2002, each taxing authority shall make the annual appropriation for a period not to exceed 40 years after the fiscal year in which the initial community redevelopment plan is approved or adopted.

(b) Any taxing authority that does not pay the increment to the trust fund by January 1 shall pay to the trust fund an amount equal to 5 percent of the amount of the increment and shall pay interest on the amount of the increment equal to 1 percent for each month the increment is outstanding.

(c) The following public bodies or taxing authorities ~~created prior to July 1, 1993,~~ are exempt from paragraph (a):

1. A special district that levies ad valorem taxes on taxable real property in more than one county.

2. A special district for which the sole available source of revenue the district has the authority to levy ~~of which~~ is ad valorem taxes at the time an ordinance is adopted under this section.

3. A library district, except a library district in a jurisdiction where the community redevelopment agency had validated bonds as of April 30, 1984.

4. A neighborhood improvement district created under the Safe Neighborhoods Act.

5. A metropolitan transportation authority.

6. A water management district created under s. 373.069.

(d)1. A local governing body that creates a community redevelopment agency under s. 163.356 may exempt from paragraph (a) a special district that levies ad valorem taxes within that community redevelopment area. The local governing body may grant the exemption either in its sole discretion or in response to the request of the special district. The local governing body must establish procedures by which a special district may submit a written request to be exempted from paragraph (a) ~~within 120 days after July 1, 1993~~.

2. In deciding whether to deny or grant a special district's request for exemption from paragraph (a), the local governing body must consider:

a. Any additional revenue sources of the community redevelopment agency which could be used in lieu of the special district's tax increment.

b. The fiscal and operational impact on the community redevelopment agency.

c. The fiscal and operational impact on the special district.

d. The benefit to the specific purpose for which the special district was created. The benefit to the special district must be based on specific projects contained in the approved community redevelopment plan for the designated community redevelopment area.

e. The impact of the exemption on incurred debt and whether such exemption will impair any outstanding bonds that have pledged tax increment revenues to the repayment of the bonds.

f. The benefit of the activities of the special district to the approved community redevelopment plan.

g. The benefit of the activities of the special district to the area of operation of the local governing body that created the community redevelopment agency.

3. The local governing body must hold a public hearing on a special district's request for exemption after public notice of the hearing is published in a newspaper having a general circulation in the county or municipality that created the community redevelopment area. The notice must describe the time, date, place, and purpose of the hearing and must identify generally the community redevelopment area covered by the plan and the impact of the plan on the special district that requested the exemption.

4. If a local governing body grants an exemption to a special district under this paragraph, the local governing body and the special district must enter into an interlocal agreement that establishes the conditions of the exemption, including, but not limited to, the period of time for which the exemption is granted.

5. If a local governing body denies a request for exemption by a special district, the local governing body shall provide the special district with a written analysis specifying the rationale for such denial. This written analysis must include, but is not limited to, the following information:

a. A separate, detailed examination of each consideration listed in subparagraph 2.

b. Specific examples of how the approved community redevelopment plan will benefit, and has already benefited, the purpose for which the special district was created.

6. The decision to either deny or grant an exemption must be made by the local governing body within 120 days after the date the written request was submitted to the local governing body pursuant to the procedures established by such local governing body.

(6) Moneys in the redevelopment trust fund may be expended from time to time for undertakings of a community redevelopment agency which are ~~the following purposes, when~~ directly related to financing or refinancing of redevelopment in a community redevelopment area pursuant to an approved community redevelopment plan for the following purposes, including, but not limited to:

(a) Administrative and overhead expenses necessary or incidental to the implementation of a community redevelopment plan adopted by the agency.

(b) Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing body or the community redevelopment agency for such expenses incurred before the redevelopment plan was approved and adopted.

(c) The acquisition of real property in the redevelopment area.

(d) The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants as provided in s. 163.370.

(e) The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.

(f) All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of agency bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.

(g) The development of affordable housing within the area.

(h) The development of community policing innovations.

Section 9. Section 163.410, Florida Statutes, is amended to read:

163.410 Exercise of powers in counties with home rule charters.—In any county which has adopted a home rule charter, the powers conferred by this part shall be exercised exclusively by the governing body of such county. However, the governing body of any such county which has adopted a home rule charter may, in its discretion, by resolution delegate the exercise of the powers conferred upon the county by this part within the boundaries of a municipality to the governing body of such a municipality. Such a delegation to a municipality shall confer only such powers upon a municipality as shall be specifically enumerated in the delegating resolution. Any power not specifically delegated shall be reserved exclusively to the governing body of the county. This section does not affect any community redevelopment agency created by a municipality prior to the adoption of a county home rule char-

ter. Unless otherwise provided by an existing ordinance, resolution, or interlocal agreement between any such county and a municipality, the governing body of the county that has adopted a home rule charter shall act on any request from a municipality for a delegation of powers or a change in an existing delegation of powers within 120 days after the receipt of all required documentation or such request shall be immediately sent to the governing body for consideration.

Section 10. (1) Amendments to part III of chapter 163, Florida Statutes, as provided by this act, do not apply to any ordinance or resolution authorizing the issuance of any bond, note, or other form of indebtedness to which are pledged increment revenues pursuant to a community development plan, or amendment or modification thereto, as approved or adopted before July 1, 2002.

(2) Amendments to part III of chapter 163, Florida Statutes, as provided by this act, shall not apply to any ordinance, resolution, interlocal agreement, or written agreement effective before July 1, 2002, that provides for the delegation of community redevelopment powers.

(3) The amendments to sections 163.340, 163.355, 163.361, and 163.362, Florida Statutes, by this act do not apply to or affect, directly or indirectly, any community development agency created before July 1, 2002, unless the community redevelopment area is expanded on or after July 1, 2002, in which case only the amendments to sections 163.340 and 163.355, Florida Statutes, by this act shall apply only to such expanded area.

(4) The amendments to sections 163.340, 163.355, 163.361, and 163.362, Florida Statutes, by this act do not apply to or affect, directly or indirectly, any municipality that has authorized a finding of necessity study by May 1, 2002, or has adopted its finding of necessity on or before August 1, 2002, and has adopted its community redevelopment plan on or before December 31, 2002.

(5) The amendments to sections 163.340, 163.355, 163.361, and 163.362, Florida Statutes, by this act do not apply to or affect, directly or indirectly, any municipality that has submitted before August 1, 2002, its finding of necessity, or application for approval of a community redevelopment plan, or an application to amend an existing community redevelopment plan to a county that has adopted a home rule charter.

(6) The amendments to sections 163.355, 163.362, 163.385, and 163.387, Florida Statutes, by this act do not apply to or affect, directly or indirectly, any county as defined in section 125.011(1), Florida Statutes, or any municipality located therein.

Section 11. Paragraph (k) of subsection (1) of section 288.106, Florida Statutes, is amended to read:

288.106 Tax refund program for qualified target industry businesses.—

(1) DEFINITIONS.—As used in this section:

(k) "Local financial support exemption option" means the option to exercise an exemption from the local financial support requirement available to any applicant whose project is located in a brownfield area or a county with a population of 75,000 or fewer or a county with a population of 100,000 or fewer which is contiguous to a county with a population of 75,000 or fewer. Any applicant that exercises this option shall not be eligible for more than 80 percent of the total tax refunds allowed such applicant under this section.

Section 12. Paragraph (e) of subsection (1), subsection (2), and paragraph (b) of subsection (3) of section 288.107, Florida Statutes, are amended to read:

288.107 Brownfield redevelopment bonus refunds.—

(1) DEFINITIONS.—As used in this section:

(e) "Eligible business" means:

1. A qualified target industry business as defined in s. 288.106(1)(o); or

2. A ~~other~~ business that can demonstrate a fixed capital investment of at least $2 million in mixed-use business activities, including multiunit housing, commercial, retail, and industrial in brownfield areas and which provides benefits to its employees ~~pays wages that are at least 80 percent of the average of all private sector wages in the county in which the business is located~~.

(2) BROWNFIELD REDEVELOPMENT BONUS REFUND.—Bonus refunds shall be approved by the office as specified in the final order issued by the director and allowed from the account as follows:

(a) A bonus refund of $2,500 shall be allowed to any qualified target industry business as defined by s. 288.106 for each new Florida job created in a brownfield area which is claimed on the qualified target industry business's annual refund claim authorized in s. 288.106(5).

(b) A bonus refund of up to $2,500 shall be allowed to any other eligible business as defined in subparagraph (1)(e)2. for each new Florida job created in a brownfield which is claimed under an annual claim procedure similar to the annual refund claim authorized in s. 288.106(5). The amount of the refund shall be equal to 20 percent of the average annual wage for the jobs created. ~~There shall be allowed from the account a bonus refund of $2,500 to any qualified target industry business or other eligible business as defined in paragraph (1)(e) for each new Florida job created in a brownfield which is claimed on the qualified target industry business's annual refund claim authorized in s. 288.106(5) or other similar annual claim procedure for other eligible business as defined in paragraph (1)(e) and approved by the office as specified in the final order issued by the director.~~

(3) CRITERIA.—The minimum criteria for participation in the brownfield redevelopment bonus refund are:

(b) The completion of a fixed capital investment of at least $2 million in mixed-use business activities, including multiunit housing, commercial, re-

tail, and industrial in brownfield areas, by an eligible business applying for a refund under paragraph (2)(b) ~~and~~ which provides benefits to its employees ~~pay wages that are at least 80 percent of the average of all private sector wages in the county in which the business is located~~.

Section 13. This act shall take effect July 1, 2002.

Approved by the Governor May 30, 2002.

Filed in Office Secretary of State May 30, 2002.