



AFFORDABLE HOUSING TAX INCREMENT FINANCING PROGRAM

FREQUENTLY ASKED QUESTIONS

- Q. What is the basis for the affordable housing tax increment financing program?**
- A.** Maine’s Municipal Affordable Housing Development District Act adopted in 2003 (30-A M.R.S. §5245, et seq.)
- Q. What is tax increment financing of affordable housing?**
- A.** Tax increment financing of affordable housing allows a municipality to use some or all of the new property tax revenues resulting from affordable housing development and other development and inflationary growth in an affordable housing development district to pay authorized costs of those development projects and related improvements and facilities.
- Q. What is an affordable housing development district?**
- A.** An affordable housing development district is a specific geographic area of a municipality designated as such a district for up to 30 years by the municipality’s legislative body after a public hearing. Development in the district occurs under an affordable housing development program adopted by the municipality’s legislative body after a hearing.
- Q. What is an affordable housing development program?**
- A.** An affordable housing development program describes the affordable housing development projects and related improvements and facilities to be financed with all or a portion of the new property tax revenues from development and inflationary growth in the district and the project costs and other funding sources. The development program also describes the means for ensuring the continuing affordability of at least 33 percent of the housing in the district.
- Q. What is the effect on new property tax revenues when development occurs without an affordable housing development district?**
- A.** When development occurs, the taxable value of property in the municipality increases and, as a result, new property tax revenues are produced. As taxable value increases, the municipality’s share of state revenue sharing and education subsidies decreases and its county taxes increase. The effect of these adjustments in state revenue sharing and education subsidies and county tax obligations is to reduce the net amount of new tax dollars available to the municipality.

Q. What are the advantages of establishing an affordable housing development district to finance affordable housing development?

A. The municipality can exclude up to 100% of the increased taxable value of all the property in the district from the total municipal valuation as long as the incremental tax revenues generated by that increased taxable value are used to pay authorized costs of affordable housing development projects and related improvements and facilities. This sheltering of increased assessed value allows the municipality to use the corresponding amount of incremental tax revenues from the district for authorized project costs without any adverse adjustments to the municipality's state revenue sharing and education subsidies or county taxes.

Q. What are the key requirements of an affordable housing development district and affordable housing development program?

A. The key requirements of a district and its development program are:

- At least 25% of the area of the district must be suitable for residential use or in need of rehabilitation or redevelopment.
- The area of the district must not exceed 2% of the total municipal acreage.
- The area of all development districts in the municipality (including existing and proposed housing and non-housing districts) must not exceed 5% of the total municipal acreage.
- The original assessed value of all affordable housing development districts in the municipality, including the proposed district, must not exceed 5% of the value of all taxable property in the municipality as of April 1st before the date of MaineHousing approval of the new district.
- The district can be in effect no more than 30 years after the tax year of approval.
- The district must be primarily a residential development and may include open space, common areas and one or more small-scale nonresidential uses of service to the residents of the development.
- The development program must meet an identified community housing need.
- At least 33% of the dwelling units in the district must be "affordable" as defined in the statute.
- A mechanism must exist to ensure the ongoing affordability of at least 33% of the dwelling units in the district (10 years for single-family, owner-occupied homes including condominiums and 30 years for rental units).
- Sheltered tax increment revenues generated by the increased taxable value of property in the district must only be used to pay authorized project costs inside or outside the district.

Q. What qualifies as affordable housing in an affordable housing development district?

A. Affordable housing is a single-family, owner-occupied home, including a condominium, or an apartment or other rental unit for a household earning no more than 120% of area median income. Purchase price limits on homes and rent restrictions on rental units are not required.

Q. What project costs can be paid with tax increment revenues from an affordable housing development district?

A. Authorized costs of improvements and facilities located inside the boundaries of the district include:

- Capital costs, including land acquisition; public infrastructure improvements; demolition and renovation of existing buildings; site preparation and finishing work; and licensing, permitting, planning, engineering, architectural, testing, legal and accounting fees
- Financing costs
- Project operating costs (property management, utilities, maintenance, insurance, taxes, capital reserve account, etc.)
- Professional service costs (licensing, architectural, planning, engineering, legal, etc.)
- Administrative and start-up expenses
- Costs of recreational and child care facilities available to the residents of the district

Costs of improvements and facilities outside the district must be directly related to or made necessary by the creation or operation of the district. They include:

- Costs of infrastructure required by the establishment or operation of the district (sewer and water treatment plants, storm and sewer lines, water lines, electrical lines, improvements to fire stations, amenities to streets, etc.)
- Costs of public safety improvements made necessary by the establishment of the district
- Costs to mitigate adverse impacts of the district on the municipality and its residents, including public kindergarten to grade 12 costs and public facilities and improvements
- Costs to establish permanent housing development revolving loan funds or investment funds

Q. What funding mechanisms can be used to pay approved project costs?

A. A credit enhancement agreement under which the municipality pays a percentage or fixed amount of the tax increment revenues from the affordable housing development district to the developer of affordable housing in the district may be used to finance authorized project costs.

A municipality may also reserve a portion of the tax increment revenues to be deposited into a municipal project cost account. The municipal portion of tax increment revenues in the municipal project cost account can be used to directly pay for eligible project costs approved as part of the development program.

Q. How much of the incremental tax revenues can be used to pay authorized project costs?

A. Up to 100% of the tax increment can be used.

- Q. How is the amount of incremental tax revenues to be used for authorized project costs determined?**
- A. When the municipality adopts an affordable housing development program, it designates the percentage of incremental tax revenues that will be used to pay authorized project costs. The portion of the increased assessed value of property in the district that generates these incremental tax revenues is called the captured assessed value.
- Q. From what date is the increase in taxable value of property in an affordable housing development district measured?**
- A. When an affordable housing development district is established, the taxable value of the property in the district is established as of the March 31st preceding the date of MaineHousing approval of the district. This value is the original assessed value and it provides a baseline for measuring increases in the taxable value of the property within the district during the life of the district.
- Q. What means is used to shelter the increased taxable value of property in an affordable housing development district?**
- A. The municipality shelters the increased assessed value of the property by claiming it as captured assessed value on the municipal valuation return that it files with Maine Revenue Services.
- Q. If incremental tax revenues exceed the amount needed to pay authorized project costs, may the municipality return those revenues to its general fund?**
- A. The municipality may return those revenues to its general fund, but may not shelter the corresponding portion of increased assessed value by claiming it as captured assessed value on its municipal valuation return. That portion of increased assessed value must be included in the municipality's total valuation and cannot be sheltered.
- Q. Other than returning tax increment revenues to a municipality's general fund, are there any situations in which the municipality is not allowed to shelter the increased assessed value of property in an affordable housing development district by claiming it as captured assessed value on its municipal valuation return?**
- A. If the district is not in compliance with conditions of its approval, the municipality may not claim the increased assessed value of property in the district as captured assessed value on its municipal valuation return for the period of noncompliance.
- Q. If a municipality inappropriately claims captured assessed value on its municipal valuation return, is the municipality liable for repaying any amounts?**
- A. If captured assessed value is claimed for any period that the affordable housing development district is not in compliance with conditions of its approval or for any period during which the municipality has returned tax increment revenues to its general fund, the municipality must pay to MaineHousing the value of tax shifts benefiting the municipality during that

period. If the municipal valuation return is corrected before the municipality's state revenue sharing, education subsidies and county taxes are affected, there would be no benefit of tax shifts to the municipality and the municipality would not be liable to pay any amounts. MaineHousing will remit any amounts recovered to the State Treasurer.

Q. What procedures must a municipality follow to designate an affordable housing development district and adopt an affordable housing development program for the district?

A. The municipality's legislative body must hold a public hearing. Notice of the hearing must be published in a newspaper of general circulation in the municipality at least 10 days before the hearing. A majority vote of the municipality's legislative body is required for the designation of the district and adoption of the development program.

Q. Are any other approvals of the affordable housing development district and affordable housing development program necessary?

A. The statute allowing the creation of affordable housing development districts requires MaineHousing to review and approve a municipality's district designation and the development program for the district to ensure compliance with statutory requirements.

Q. How does a municipality obtain MaineHousing approval of an affordable housing development district and the development program for the district?

A. The municipality must file an application with MaineHousing seeking approval of the district and development program. The application form is available on MaineHousing's website.

Q. What is the effective date of an affordable housing development district and the affordable housing development program for that district?

A. The effective date is the date of MaineHousing approval. MaineHousing issues a Certificate of Approval that indicates the effective date when it approves a municipality's district designation and the development program for the district.

Q. Can an affordable housing development district or affordable housing development program be amended?

A. An affordable housing development district and affordable housing development program can be amended following the same procedure for the original designation and adoption. Amendments must be submitted for approval to MaineHousing and become effective upon MaineHousing's approval.

Q. What types of changes to an affordable housing development district or affordable housing development program require MaineHousing approval?

A. Any change to the boundaries of the district or material changes to a development program require MaineHousing approval. They include changes in the duration of the district or the development program; changes in the increased assessed value retained as captured assessed

value; changes in the level of tax increment revenues allocated to the funding of specific project costs; the addition or deletion of project costs; and substitution of the mechanism to assure the ongoing affordability of at least 33 percent of the housing in the district.

Q. How does MaineHousing monitor compliance with ongoing requirements after an affordable housing development district and affordable housing development program are approved?

A. Municipalities are required to submit an annual report for each tax year to MaineHousing for each affordable housing development district in the municipality. The report has to be approved by the municipal legislative body and submitted to MaineHousing by April 30th of each year. The annual report form is available on MaineHousing's website.