

Smart Growth TIF Legislation Passes the Maryland General Assembly

The Maryland General Assembly passed new legislation ([HB 613, Sustainable Communities - Designation and Financing Act](#)) that creates a stronger tie between tax increment financing (TIF) and the state's smart growth objectives. The bill reflects the recommendations of the [Maryland Sustainable Growth Commission](#), following up on reports prepared by the consulting team of [STV, Inc.](#); [Redevelopment Economics](#); and [Partners for Economic Solutions](#). The bill grants several new powers and creative financing options to TIF projects in Maryland's designated Sustainable Communities:

1. **Allowable uses of TIF funds** – The definition of allowable uses of TIF funds is expanded to include: historic preservation or rehabilitation, demolition and site preparation, remediation, transit service, affordable housing, stormwater management, and school facilities. An additional clarification is that the definition of eligible parking infrastructure expenditures was expanded to include private structures.
2. **O&M for Infrastructure in Sustainable Communities Areas** – Similar to previous authority granted for transit-oriented development (TOD) areas, TIF revenues may also be used to pay for operation and maintenance of infrastructure in Sustainable Communities areas. This would allow, for example, use of TIF funds for the operating costs of a parking structure.
3. **MEDCO Conduit to Bond Market Expanded** – The Maryland Economic Development Corporation (MEDCO) is authorized to act as a conduit to the bond market for Sustainable Communities TIF projects. Under previous law MEDCO could only act on behalf of transit-oriented development projects.
4. **Base Adjustment for Brownfields** – Developers of brownfield sites are granted the additional flexibility to adjust the assessable base downward (potentially to "0") in order to create a larger increment, thereby covering the greater financing gaps typical of brownfield projects.

Maryland's Sustainable Communities Program – From the Maryland Department of Planning [Sustainable Communities website](#): "Sustainable Communities seek to conserve resources; provide green spaces and parks for recreation and agriculture; offer many options for transportation; use natural and cultural resources wisely for future generations and consider the social and economic needs of all residents. See also: authorizing legislation: Smart, Green & Growing legislation ([House Bill 475](#), 2010 session); the [Sustainable Communities Tax Credit Program](#); and the [Listing of Approved Sustainable Communities](#).

Redevelopment Economics' Analysis – Under previous Maryland law TIF was geared primarily to building infrastructure for relatively large scale projects. Infrastructure TIFs, unchanged by the new law, continue to be unrestricted with reference to blight, geographic, or economic distress criteria. Previously, TIF was not a useful mechanism for many typical, smaller-scale urban infill projects because infrastructure needs were typically not a big part of financing gaps.

Under the new provisions, the potential use of TIF for smaller scale infill, brownfields, preservation, and TOD projects is vastly increased. When the expanded list of allowable uses of funds is combined with the potential to use pay-as-you-go mechanisms (as an alternative to borrowing) TIF could evolve to assist main street and community economic development-type projects.

Some examples of the greater flexibility would include:

- **Main Streets** – TIF could finance a façade grant program by capturing the TIF revenues from a Main Streets TIF district.
- **Brownfields/upfront cleanup** – A developer could front the needed investment in cleanup and site preparation, and, using a pay-as-you-go mechanism, the locality could reimburse the developer from TIF funds derived from the project. The added flexibility to reduce the TIF base (see no. 4, above), means that a larger increment can be captured.
- **Preservation Gap Financing** – A preservation project might be stuck due to the low funding levels for the Sustainable Communities (Historic) Tax Credit Program. A rehabilitation TIF could substantially replace the tax credit as a gap financing mechanism, now potentially covering both building rehabilitation and remediation of asbestos and lead paint.
- **High Density, TOD, and Mixed Use** – For high density projects, the cost of parking structures is usually the biggest part of project gaps. The new amendments create clarity on a key piece: that both public *and private* parking structures can be assisted through the TIF. The additional provision, that TIF revenues can be used for operation and maintenance of infrastructure, makes it possible for the TIF to also pay for the operating costs of the garage, thereby facilitating subsidized parking rates.
- **Mixed Income Housing** – A not uncommon scenario: a redevelopment project is planned as market rate, but the community requests mixed income, which would cause the project to “not pencil out.” Because TIF can now be used to finance affordable housing, the locality has an option of using TIF to cover the gap created by community recommendations for affordable units.

The STV/Redevelopment Economics report that laid the groundwork for the legislation was prepared for the [Maryland Sustainable Growth Commission](#) and funded by the Maryland Department of Transportation: see the "[Analysis of Tax Increment Financing and Smart Growth](#)."

See also [this Maryland Department of Planning Summary](#) of the bill.