

12-1771a. Environmentally contaminated areas; financing of investigation and remediation; tax increment bonds. (a) The governing body of a city may establish an increment in ad valorem taxes using the procedure set forth in subsection (b) for projects that are initiated upon a finding that the area is a blighted area as defined under K.S.A. 12-1770a, and amendments thereto, when the following conditions exist:

(1) The proposed district has been identified by the Kansas department of health and environment or the United States environmental protection agency to be an environmentally contaminated area;

(2) the city has entered into a consent decree or settlement agreement or has taken action expressing an intent to enter into a consent decree or settlement agreement with the Kansas department of health and environment or the United States environmental protection agency that addresses the investigation and remediation of the environmental contamination;

(3) the consent decree or settlement agreement contains a provision that has the effect of releasing property owners who are not responsible for the contamination from the responsibility of paying the response costs of the investigation and remediation of the contamination; and

(4) the city intends to establish a redevelopment district pursuant to K.S.A. 12-1771, and amendments thereto, to finance, in whole or in part, the investigation and remediation of contamination within such district.

(b) An environmental increment established after a city has found that the conditions described in subsection (c) of K.S.A. 12-1770a, and amendments thereto, exists shall be set on a yearly basis. For purposes of this section, a yearly basis shall be a calendar year. Each year's increment shall be an amount sufficient to pay the direct costs of investigation and remediation of the contaminated condition anticipated to be incurred that year including principal and interest due on any special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part the remediation and investigation, costs relating to remediation investigation and feasibility studies, operation and maintenance expenses and other expenses relating directly to the investigation and remediation of contamination. Each year's environmental increment shall not exceed 20% of the amount of taxes that are produced by all taxing subdivisions within any currently existing or subsequently created redevelopment district area in the year the redevelopment district is first established, notwithstanding that such subdivision was not required to receive notice of the establishment of the district.

(c) The budget that establishes the yearly environmental increment shall be certified by the city to the county clerk and county treasurer no later than August 25th, preceding the calendar year for which the budget is being set. Funds derived from an environmental increment established by this section and interest on all funds derived from an environmental increment established by this section may be used only for projects involving the investigation and remediation of contamination in the district.

(d) The real property taxes produced by the environmental increment established under subsection (b) from a redevelopment district established under the provisions of K.S.A. 12-1771, and amendments thereto, and this section shall be allocated and paid by the county treasurer to the treasurer of the city and deposited in a special separate fund of the city to pay the direct cost of investigation and remediation of contamination in the redevelopment district. Any funds collected by the city from parties determined to be responsible in any manner for the contaminated condition shall be: (1) Deposited in the same separate special fund created hereunder, and with all interest earned thereon, may be used only for projects involving the investigation and remediation of contamination in the established redevelopment district; or (2) distributed to parties who have entered into a contract with the city to pay a portion of investigation and remediation of the contamination in the redevelopment district and the terms of such contract provide that such parties are entitled to reimbursement for a portion of funds they have expended for such investigation and remediation of contamination from the recovery of costs that are collected from other third party responsible parties.

(e) A redevelopment district created under the provisions of this section shall constitute a separate taxing district. If all costs for such investigation and remediation of contamination in the redevelopment district have been paid and moneys remain in the special fund, such moneys shall be remitted to each taxing subdivision which paid moneys into the special fund on the basis of the proportion which the total amount of moneys paid by such taxing subdivision into the special fund bears to the total amount of all moneys paid by all taxing subdivisions into the fund.

(f) Nothing in this section shall prevent any city from establishing a redevelopment district for other purposes pursuant to K.S.A. 12-1770 et seq., and amendments thereto, which may include part or all of the real property included in the district established under this section.

(g) Redevelopment projects relating to environmental investigation and remediation under this section shall be completed within 20 years from the date the Kansas department of health and environment or the United States environmental protection agency issues an order or enters into a consent decree with the governing body of the city approving such project, unless the board of county commissioners and the board of education identified in K.S.A. 12-1771, and amendments thereto, approve a request in writing from the city to extend the project a maximum of 10 years beyond the original 20.

(h) Nothing in this section shall be construed to affect the obligations of the county to annually review the fair market value of property in accordance with procedures set by law or to affect the right of any taxpayer to protest and appeal the appraised or reappraised value of their property in accordance with procedures set forth by law.

(i) Commencing with the regular session of the legislature in 1993, each city that establishes a redevelopment district under this section shall make a status report on a biennial basis to the standing committee on commerce of the senate and the standing committee on economic development of the house of representatives during the month of January. The status report shall contain information on the status of the investigation and remediation of contamination in the redevelopment district.

(j) For the purposes of this act, the governing body of a city, in contracts entered into with the Kansas department of health and environment or the United States environmental protection agency, may pledge increments receivable in future years to pay costs directly relating to the investigation and remediation of environmentally contaminated areas. The provisions in such contracts pertaining to pledging increments in future years shall not be subject to K.S.A. 10-1101 et seq. or 79-2925 et seq., and amendments thereto.

History: L. 1991, ch. 59, § 2; L. 1993, ch. 136, § 1; L. 1996, ch. 228, § 3; L. 2001, ch. 103, § 4; L. 2004, ch. 174, § 1; July 1.