

DEFINITION OF A "BLIGHTED AREA" FOR PURPOSES OF DEVELOPMENT OR RENEWAL AREA PROGRAMS

This memorandum provides information on the definition of a "blighted area" for purposes of development or renewal area programs, including the use of tax increment financing (TIF).

The concept of creating TIF districts began in the 1940s and was originally conceived to provide an alternative method of public financing for the development of blighted and substandard areas. North Dakota statute on TIF was first enacted in 1973 and is contained in North Dakota Century Code Chapter 40-58, which is the chapter on urban renewal. The scope of the state's TIF statutes were expanded by 1989 Senate Bill No. 2042, which was recommended by the 1987-88 interim Jobs Development Commission. The bill expanded the allowable use of TIF for the development of slum or blighted areas to include financing for the development of unused or underutilized industrial or commercial property.

Pursuant to Section 40-58-05, a city may establish a TIF district by adopting a resolution finding that one or more slum or blighted areas or industrial or commercial properties exist which require development, redevelopment, rehabilitation, or conservation in the public interest. Section 40-58-06 requires approval of a development or renewal plan for a development or renewal area. Under Section 40-58-01.1, a "development or renewal area" is defined as "industrial or commercial property, a slum or blighted area, or a combination of these properties or areas that the local governing body designates as appropriate for a development or renewal project."

A "blighted area" is further defined under Section 40-58-01.1 to mean:

[A]n area other than a slum area which by reason of the presence of a substantial number of slums, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

The 2009-10 interim Taxation Committee reviewed issues surrounding the definition of a blighted area and, following its study, recommended 2011 Senate Bill No. 2032. As enacted, the bill revised the definition of a "blighted area" to exclude land assessed as agricultural property within the last 10 years, unless the land was located within the interior boundary of a city for at least 10 years.

The question of whether a slum or "blighted area" exists in a city appears to be a question of fact that must be answered by the city governing body.