

Tenn. Code Ann. § 7-53-305

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Tennessee Code Table of Contents PAW- ET TABLE OF CONTENTS Title 7 Consolidated Governments and Local Governmental Functions and Entities Local Government Functions Chapter 53 Industrial Development Corporations Part 3 Operation and Powers

7-53-305. Exemption from taxation — Payments in lieu of ad valorem taxes — Securities. [Effective until July 1, 2026. See the version effective on July 1, 2026.]

- (a)
- (1) The corporation is hereby declared to be performing a public function in behalf of the municipality with respect to which the corporation is organized and to be a public instrumentality of such municipality. Accordingly, the corporation and all properties at any time owned by it, and the income and revenues from the properties, and all bonds issued by it, and the income from the bonds, shall be exempt from all taxation in the state of Tennessee. Also for purposes of the Securities Act of 1980, compiled as title 48, chapter 1, part 1, bonds issued by the corporation shall be deemed to be securities issued by a public instrumentality or a political subdivision of the state of Tennessee.
- (2)
- (A) Notwithstanding this section to the contrary, and unless the municipality adopts an ordinance or resolution requiring that any agreement with respect to the payments in lieu of taxes entered into pursuant to this subdivision (a)(2) be approved by the municipality, a corporation may negotiate and receive from any lessee of the corporation, without any delegation from the municipality, payments in lieu of taxes with respect to a tax-credit housing project, if the payments are payable to all applicable taxing jurisdictions and:
- (i)
- (a) Are not less than the taxes that would have been paid to each such taxing jurisdiction for the tax year prior to the year the project became a tax-credit housing project; and
- (b) The chief executive officer of the municipality has executed a letter supporting the project that is filed with the corporation; or
- (ii)
- (a) Are less than the taxes that would have been paid to each such taxing jurisdiction for the tax year prior to the year the project became a tax-credit housing project; and
- (b) The chief executive officer of each affected taxing jurisdiction has executed a letter supporting the project that is filed with the corporation.
- (B) The corporation is declared to be serving a public purpose by negotiating and receiving from any lessee of the corporation payments in lieu of taxes with respect to a tax-credit housing project.
- (C) As used in this subdivision (a)(2), "tax-credit housing project" or "project" means a project that has received an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986 (26 U.S.C. § 42), or any successor provision, from the Tennessee housing development agency or is otherwise eligible for the tax credits as the result of the issuance of bonds, the interest on which is not subject to federal income taxation.
- (D) The corporation may acquire and lease a tax-credit housing project as authorized in this chapter, notwithstanding any limitations in this chapter on the power of the corporation to purchase or otherwise acquire apartments.
- (b)
- (1)
- (A)
- (i) The corporation has the authority to negotiate, accept, or waive from any of the corporation's lessees payments in lieu of taxes only upon receipt of a formal delegation of such authority from the municipality or municipalities that formed the corporation. Any such authorization must only be granted upon a finding by the municipality or municipalities that the payments or waiver of the payments are deemed to be in furtherance of the corporation's public purposes. The legislative body of the municipality or municipalities making the delegation may require the corporation to submit for approval any agreement with any of the corporation's lessees providing for the acceptance or waiver of payments in lieu of taxes.
- (ii) If the proposed agreement would result in payments in lieu of taxes being made to any taxing jurisdiction that are less than the taxes that otherwise would be payable to such jurisdiction, the corporation shall not enter into any such agreement until the corporation has given written notice of such agreement to the chief executive officer of each such taxing jurisdiction. Upon receipt of such notice, the chief executive officer may either:
- (a) Notify the corporation that the agreement must be submitted to the legislative body of that taxing jurisdiction for approval or disapproval; or
- (b) Notify the corporation that the chief executive officer does not object to the proposed agreement.
- (iii) If the chief executive officer does not provide any notification to the corporation within ten (10) days of receipt of the notice from the corporation, then the corporation may proceed to enter into the proposed agreement.
- (iv) If the chief executive officer requires that the agreement be submitted to the legislative body of the taxing jurisdiction, the corporation shall not enter into the agreement unless it is approved by such legislative body.
- (B) No agreement providing for the acceptance or waiver of payments in lieu of taxes, including any renewal or extension of such agreement, entered into by a municipality or corporation to which such authority has been delegated shall result in a corporation's lessee making payments in lieu of taxes in an amount less than the applicable ad valorem taxes for a period that is greater than twenty (20) years plus a reasonable construction or installation period not to exceed three (3) years, unless both the commissioner of economic and community development and the comptroller of the treasury have made a written determination that the agreement is in the best interest of the state.
- (C) The corporation shall attach to each agreement an analysis of the costs and benefits of the agreement, in such manner and under such conditions as shall be prescribed by the commissioner of economic and community development or the commissioner's designee.
- (2) With regard to any project located within an area designated as the center-city area by a municipality in which there has been created a central business improvement district pursuant to the Central Business Improvement District Act of 1971, compiled in chapter 84 of this title, the amount of such payments shall not be fixed below the lesser of:
- (A) Ad valorem taxes otherwise due and payable by a tax-paying entity upon the current fair market value of the leased properties; or
- (B) Ad valorem taxes that were or would have been due and payable on the leased properties for the period immediately preceding the date of their acquisition by the corporation.
- (3) The minimum payments in subdivisions (b)(2)(A) and (B) shall not be applicable to an eligible headquarters facility.
- (c) This section shall apply, from the date of their issuance, to all bonds heretofore or hereafter issued under this chapter and the income from such bonds whether heretofore or hereafter received.
- (d)
- (1) Payments in lieu of taxes and any lease payments payable to a corporation, to the extent such payments in lieu of taxes and lease payments in the aggregate do not exceed ad valorem taxes otherwise due and payable where the leased property is owned by an entity subject to taxation, shall become and remain a first lien upon the fee interest in the leased property from January 1 of the year in which such payment in lieu of taxes on lease payments is due. The corporation may enforce such lien, and also obtain interest at ten percent (10%) per annum from the date due and reasonable attorneys' fees, by suit filed in the circuit or chancery court.
- (2) Subdivision (d)(1) shall apply with equal force to all such subleases and their sublessees.
- (3) To the extent lease payments or payments in lieu of taxes exceed the amount necessary to defray debt service on project bonds or other financing, any payments not timely made as agreed may be collected by or on behalf of the city or county in the same manner as delinquent property taxes.
- (e)
- (1) On or before October 1 of each year, the corporation lessee shall submit to the comptroller of the treasury an annual report containing:
- (A) A list of all the real and personal property owned by the corporation and its associated entities and subsidiaries;
- (B) The value of each listed property as estimated by the lessee;
- (C) The date and term of the lease for each listed property;
- (D) The amount of payments made in lieu of property taxes for each listed property;
- (E) The date each listed property is scheduled to return to the regular tax rolls;
- (F) The property address and parcel identification number of the property assigned by the assessor of property;
- (G) The amount of rents paid;
- (H) The amount of any property taxes paid on the leasehold assessment under § 67-5-502(d);
- (I) Any changes in the name since the last filing;
- (J) How the payments in lieu of taxes are allocated between the city and county according to the economic development agreement; and
- (K) Identification of project type according to definitions provided in this chapter.
- (2) A copy of the filing made pursuant to subdivision (e)(1) shall be filed with the assessor of property in the county where the property is located on or before October 15 of the year in which the filing is made with the comptroller of the treasury. The assessor of property may audit or review, or both, the data report on all payment in lieu of tax agreements and conduct comparative analysis to ensure that all agreements are reported to the assessor of property.
- (3) Each lessee of the corporation shall be responsible for the timely completion and filing of the report. Failure to timely complete and file the report shall subject the lessee to a late filing fee of fifty dollars (\$50.00) payable to the comptroller of the treasury. In addition, any lessee failing to file the report with the comptroller of the treasury or the assessor within thirty (30) days after written demand for the report, shall owe an additional payment in lieu of tax in the amount of five hundred dollars (\$500). This payment shall be collectable by the trustee for the benefit of the county, in the same manner as property taxes, on certification from the comptroller of the treasury or the assessor.
- (f) The corporation to which authority has been delegated to create pilot leaseholds and payments in lieu of ad valorem taxes shall prepare biannual reports detailing the lessee's compliance with the terms and conditions of the pilot lease agreement or any other agreement whereby ad valorem taxes are substituted in favor of a payment in lieu of taxes. Such report shall detail the lessee's compliance and noncompliance where applicable, and its fiscal impact on revenues generated from ad valorem taxes in each municipality affected by such payment in lieu of taxes. This subsection (f) shall apply only to counties with populations of eight hundred thousand (800,000) or more, according to the 1990 federal census or any subsequent federal census, and to municipalities within such counties.
- (g)
- (1) An industrial development corporation may not negotiate any payment in lieu of tax agreement for less than the county ad valorem taxes otherwise due unless:
- (A) The corporation is a joint corporation organized by the county and one or more of the municipalities in the county;
- (B) The corporation has entered into an interlocal agreement with the county in regard to payments in lieu of ad valorem taxes; or
- (C) The corporation has received prior, written approval from the county mayor and the legislative body of the county regarding payments in lieu of ad valorem taxes.
- (2) Subdivision (g)(1) shall apply to any county having a population of not less than eight hundred ninety-seven thousand four hundred (897,400) nor more than eight hundred ninety-seven thousand five hundred (897,500) and at least five (5) industrial development corporations formed under title 7, chapter 53, according to the 2000 federal census or any subsequent federal census.
- (h) Notwithstanding this section or any other law to the contrary, an industrial development corporation organized solely by a municipality that does not impose a real property tax may only enter into a payment in lieu of ad valorem tax agreement or lease if:
- (1) The county in which the municipality is located has approved the entering into a payment in lieu of ad valorem tax agreement or lease with respect to the property at issue; or
- (2) Either the industrial development corporation or the municipality which organized the industrial development corporation agrees to pay to the county in which the municipality is located an amount equal to the amount of real property tax that would have been assessed to the property at issue for each year in which the payment in lieu of ad valorem tax agreement or lease is effective were the property not owned by the industrial development corporation during such time period.
- (i)
- (1) An industrial development corporation may negotiate a payment in lieu of tax agreement for less than the ad valorem taxes otherwise due for a retail business for a period longer than ten (10) years, plus a reasonable construction or installation period not to exceed three (3) years, if:
- (A) The corporation is a joint industrial development corporation with representation of all affected taxing jurisdictions within the county;
- (B) The corporation has entered into an interlocal agreement with other taxing jurisdictions to establish criteria for any payment in lieu of tax agreements that might affect shared tax bases;
- (C) The corporation has received written approval from each affected local governmental entity. As used in this subdivision (i)(1)(C), "affected local governmental entity" means a county or local special school district which will suffer an actual loss of tax revenue under a payment in lieu of tax agreement; or
- (D) The corporation pays the other affected local governments the amount of ad valorem taxes those governments would otherwise receive for the affected property based on its assessed value after the initial ten (10) years of the agreement.
- (2) The requirements under this subsection (i) shall not apply to payment in lieu of tax agreements affecting only the municipality that created the corporation and the beneficiary making the agreement.
- (3) This subsection (i) does not apply in any county having a population of not less than nine hundred thousand (900,000), according to the 2010 or any subsequent federal census.
- (j) Before an industrial development corporation approves a payment in lieu of tax agreement, the corporation shall hold a public meeting relating to the proposed agreement after notice is provided by the corporation or governing body, as may be required by law, at least five (5) days prior to the date of such public meeting. Such notice must include the time, place, and purpose of the public meeting.

History

Acts 1955, ch. 210, § 11; 1959, ch. 222, § 4; 1969, ch. 55, § 3; 1969, ch. 244, § 1; 1971, ch. 304, §§ 3, 4; 1976, ch. 515, § 6; 1978, ch. 739, § 6; T.C.A., § 6-2811; Acts 1986, ch. 724, § 1; 1997, ch. 243, § 1; 1998, ch. 398, § 1; 1998, ch. 828, §§ 4-6; 2000, ch. 914, § 1; 2000, ch. 961, § 1; 2001, ch. 339, §§ 1, 2; 2002, ch. 605, § 1; 2002, ch. 712, § 1; 2003, ch. 90, § 2; 2003, ch. 405, § 1; 2004, ch. 813, § 1; 2007, ch. 449, § 1; 2008, ch. 694, § 2; 2008, ch. 1013, §§ 2, 3; 2013, ch. 302, § 1; 2015, ch. 519, § 2; 2016, ch. 588, §§ 1, 2; 2016, ch. 777, §§ 1-4; 2018, ch. 1064, § 2; 2026, ch. 987, §§ 2-4.

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