I. Statutory Perspective on Community Redevelopment

Historically, community redevelopment activity in the State of Florida has relied heavily on tax increment financing through municipal community redevelopment agencies (CRAs). The Community Redevelopment Act of 1969 (Act), contained in Chapter 163, Part III of the Florida Statutes, enables a county or a municipality to create a CRA upon a "finding of necessity" and a further finding that there is a need for a CRA to function in the county or the municipality to carry out community redevelopment. Community development and redevelopment include undertakings, activities, or projects of a county, municipality, or CRA in a community redevelopment area for the elimination or prevention of slum and blight or for the provision of affordable housing to residents of low- or moderate-income, including the elderly and may include slum clearance and redevelopment or rehabilitation or conservation, in accordance with a community redevelopment plan and may include the preparation of such plan.

In accordance with the Act, a Redevelopment Trust Fund is established for each CRA. Funds allocated to and deposited into this fund are used by the CRA to finance or refinance any community redevelopment undertaken in accordance with an approved community redevelopment plan. Annual funding of the redevelopment trust fund is 95 percent of the increment in the income, proceeds, revenues, and funds of each taxing authority derived from or held in connection with the undertaking and carrying out of community redevelopment. When authorized or approved by resolution or ordinance of the governing body, a county, municipality, or CRA has the power in its corporate capacity to issue redevelopment revenue bonds to finance the undertaking of any community redevelopment, including the payment of principal and interest upon any advances for surveys and plans or preliminary loans, and has the power to issue refunding bonds for the payment or retirement of bonds or other obligations previously issued.

Any money which remains in the trust fund after the payment of expenses at the end of a fiscal year may be: a) returned to each taxing authority in proportion to the amount of the payment into the trust fund; b) used to reduce indebtedness; c) deposited into an escrow account for the purpose of later reducing any indebtedness to which increment revenues are pledged; or d) appropriated to a specific redevelopment project pursuant to an approved plan which project will be completed within 3 years from the date of such appropriation.

II. County, City and CRA Relationships

While the governing body of counties with home rule charters may retain the powers conferred by this Act, historically, the powers have been delegated, by resolution, to the governing body of a municipality, upon request. Such delegation to a municipality confers only such powers as specifically enumerated in the delegating resolution. Any power not specifically delegated is reserved exclusively to the governing body of the county. The statute gives charter counties numerous powers regarding CRAs. However, many charter counties have delegated these powers to municipalities – often with the municipality expecting the delegation as an entitlement. Therefore, the concerns of both charter and non-charter counties regarding delegation of powers and the use of tax increment financing are quite similar.

III. Problem Statement

Redevelopment is clearly an important need in many of Florida's communities. In recent years, however, there has been substantial controversy regarding CRAs and over dependence on tax increment financing, particularly in light of the proliferation of CRAs. ***While CRAs are a good tool for redevelopment, some counties and municipalities have expressed concerns regarding the return on investment given the long-term commitment of tax revenues without specific performance obligations.*** Additionally, local governments, counties and municipalities alike, must be cognizant of the effect this commitment has on the governments' ability to finance public facilities and services for the community at large, in the long term.

IV. Problem Resolution

A. Establishment of Common Principles and Best Practices

A proposed solution is the establishment of a set of common principles and best practices which will be adopted jointly by counties (FAC), municipalities (FLC) and the redevelopment community (FRDA). These principles may be the basis for interlocal agreements between counties and municipalities and will provide for a framework for future legislation, if required, to implement the common principles. These common principles and best practices shall include the following:

1. The CRA will delineate specific redevelopment projects to be funded with municipal and county tax increment financing (TIF), thus allowing the taxing entity the opportunity to fund the specific redevelopment project from sources other than the TIF.

2. The CRA will establish a critical time path for redevelopment projects.

3. The CRA will consult with county and municipal staff to keep the taxing entities reasonably informed throughout the planning, design and construction of the redevelopment projects.

4. The CRA may agree to alternative financing mechanisms to offset the tax increment payments to finance redevelopment projects. Potential financing alternatives follow.

    a. A county, municipality or other taxing authority could provide a sum of money or other in-kind contribution at the commencement of redevelopment projects. The amount of the up-front contribution (advance funding) could be calculated based on the expected tax increment payments attributable to the specific redevelopment projects contained in the community redevelopment plan. In exchange for advanced funding, the taxing entity's future TIF would be offset or otherwise deferred.

    b. A county or municipality could stimulate redevelopment by providing infrastructure in a community redevelopment area. Public investment in terms of improved drainage, repaving, new traffic signals, transit connections, and better signage can attract private investment and promote future private/public partnerships. A county's or municipality's public investment in infrastructure would be a direct credit against future TIF.

c. A county or municipality could provide redevelopment incentives, such as loan guarantees, grants, and business assistance in the form of low-interest loans, facade improvements, and rent subsidies. These incentives would be a direct credit against future TIF.

d. A county or municipality could provide greater incentives in the form of waiver of license and permitting fees; expedited permitting; absorption of developers' concurrency costs; and lower transportation impact fees for redevelopment that encourages the use of public transit, pedestrian, and bicycle modes of transportation. These incentives would be a direct credit against future TIF.

e. A county or municipality could provide tax incentives to homeowners or businesses in a redevelopment area. These incentives could be full or partial property tax rebates tied to activities made by the property owner to redevelop the property. Incentives to attract new businesses could include reduced tax rates for locating within the redevelopment area based on the number of new jobs the business will generate. These incentives would be a direct credit against future TIF.

f. A county or municipality could provide assistance to a CRA by acquiring tax-delinquent property or otherwise assembling land for disposition to a CRA for public purposes. The fair market value of the assembled land would be a direct credit against future TIF.

g. A county or municipality could provide in-kind services to a CRA. These services may include such governmental functions as planning or legal services. The value of these in-kind services would be a direct credit against future TIF.

B. Non-Charter County Participation

It is recognized that municipalities and counties, regardless of the county's status as charter or non-charter, should be partners of equal magnitude in redevelopment of blighted communities. ***Therefore in the case of a non-charter county a proposed solution is the limitation of the tax increment to amount no greater than the tax increment of the municipal taxing entity.***

Any municipality may unilaterally create a CRA to operate within its own boundaries if neither the municipality nor the CRA requests that a non-charter county provide an appropriation of it's incremental ad valorem tax revenues for the redevelopment activities planned for or undertaken within the community redevelopment area in an amount greater than that contributed by the municipality.

C. Return of TIF in Late Years of CRA

The life of a CRA is no more than 40 years. It is recognized that after a period of time a CRA's expenses (including debt service) in order to meet its adopted work plan will be less than revenue generated by the tax increment. Holding, or otherwise expending this surplus amount on non-work plan projects may create a hardship on the taxing entities that have contributed the tax increment by restricting the allocation of the increment to the CRA area. ***There a proposed solution would be to require CRAs after the 25th year of existence to return any money that remains in the trust fund after the payment of expenses at the end of a fiscal year to each taxing authority in proportion to the amount of the payment into the trust fund.*** This will enable the taxing authority to further address their own governmental needs.

V. 2002 Legislative Changes

Through the cooperative efforts of the Florida Association of Counties and the Florida League of Cities, during the 2002 legislative session, Florida lawmakers approved several changes in Chapter 163, Part III, F.S. The newly approved changes include, in relevant part: more stringent and extensive definitions of the terms, "slum" and "blight"; a definition of plan modifications that require approval (by resolution) of the governing body; and a time certain of 40 years for completion of redevelopment projects in accordance with a plan approved after July 1, 2002.

VI. Proposed 2004 Legislative Changes

Since the major issue is over dependence on tax increment financing with uncertain returns on investment, proposed changes to Chapter 163, Part III, F.S., during the 2004 legislative session, should include developing flexibility in the financing of CRAs. ***It is recommended that the statute allow for the implementation of the aforementioned common principles and best practices.***