

1 Sec. 21. 24 V.S.A. chapter 53, subchapter 7 is added to read:

2 Subchapter 7. Community and Housing Infrastructure Program

3 § 1906. DEFINITIONS

4 As used in this subchapter:

5 (1) “Affordable housing” has the same meaning as in 24 V.S.A. § 4303.

6 (2) “Affordable housing development” has the same meaning as in

7 24 V.S.A. § 4303.

8 (3) “Brownfield” means a property on which the presence or potential
9 presence of a hazardous material, pollutant, or contaminant complicates the
10 expansion, development, redevelopment, or reuse of the property.

11 (4) “Committed” means pledged and appropriated for the purpose of the
12 current and future payment of financing and related costs.

13 (5) “Developer” means the person undertaking to construct a housing
14 development.

15 (6) “Financing” means debt, including principal, interest, and any fees
16 or charges directly related to that debt, incurred by a sponsor, or other
17 instruments or borrowing used by a sponsor, to pay for a housing infrastructure
18 project and, in the case of a sponsor that is a municipality, authorized by the
19 municipality pursuant to section 1910a of this subchapter.

20 (7) “Housing development” means the construction of any building on a
21 housing development site approved under this subchapter.

1 (8) “Housing development site” means the parcel or parcels
2 encompassing a housing development as authorized by a municipality pursuant
3 to section 1908 of this subchapter.

4 (9) “Housing infrastructure agreement” means a legally binding
5 agreement to finance and develop a housing infrastructure project and to
6 construct a housing development among a municipality, a developer, and, if
7 applicable, a third-party sponsor.

8 (10) “Housing infrastructure project” means one or more improvements
9 authorized by a municipality pursuant to section 1908 of this subchapter.

10 (11) “Improvements” means:

11 (A) any of the following that will serve a public good and fulfill the
12 purpose of housing infrastructure tax increment financing as stated in section
13 1907 of this subchapter:

14 (i) the installation or construction of infrastructure required to
15 achieve habitability at the housing development site;

16 (ii) site preparation for development or redevelopment, including
17 land and property acquisition, demolition, brownfield remediation, or flood
18 remediation and mitigation; and

19 (iii) for a housing infrastructure project application that satisfies
20 the affordability criterion of subsection 1910(f) of this subchapter, the

1 installation or construction of infrastructure that meets the definition of
2 improvements under section 1891 of this title; and

3 (B) the funding of debt service interest payments for a period of up to
4 four years, beginning on the date on which the debt is first incurred.

5 (12) “Legislative body” means the mayor and alderboard, the city
6 council, the selectboard, and the president and trustees of an incorporated
7 village, as appropriate.

8 (13) “Municipality” means a city, town, or incorporated village.

9 (14) “Original taxable value” means the total valuation as determined in
10 accordance with 32 V.S.A. chapter 129 of all taxable real property located
11 within a housing development site as of its creation date, provided that no
12 parcel within the housing development site shall be divided or bisected.

13 (15) “Related costs” means expenses incurred and paid by a
14 municipality, exclusive of the actual cost of constructing and financing
15 improvements, that are directly related to the creation and implementation of
16 the municipality’s housing infrastructure project, including reimbursement of
17 sums previously advanced by the municipality for those purposes. Related
18 costs may include direct municipal expenses such as departmental or personnel
19 costs related to creating or administering the housing infrastructure project to
20 the extent they are paid from the tax increment realized from municipal and not
21 education taxes and using only that portion of the municipal increment above

1 the percentage required for serving debt as determined in accordance with
2 subsection 1910c(c) of this subchapter.

3 (16) “Sponsor” means the person undertaking to finance a housing
4 infrastructure project. Any of a municipality, a developer, or an independent
5 agency that meets State lending standards may serve as a sponsor for a housing
6 infrastructure project.

7 § 1907. PURPOSE

8 The purpose of housing infrastructure tax increment financing is to provide
9 revenues for improvements and related costs to encourage the development of
10 primary residences for households of low or moderate income.

11 § 1908. CREATION OF HOUSING INFRASTRUCTURE PROJECT AND
12 HOUSING DEVELOPMENT SITE

13 (a) The legislative body of a municipality may create within its jurisdiction
14 a housing infrastructure project, which shall consist of improvements that
15 stimulate the development of housing, and a housing development site, which
16 shall consist of the parcel or parcels on which a housing development is
17 installed or constructed and any immediately contiguous parcels.

18 (b) To create a housing infrastructure project and housing development
19 site, a municipality, in coordination with stakeholders, shall:

20 (1) develop a housing development plan, including:

1 (A) a description of the proposed housing infrastructure project, the
2 proposed housing development, and the proposed housing development site;

3 (B) identification of a sponsor;

4 (C) a tax increment financing plan meeting the standards of
5 subsection 1910(f) of this subchapter;

6 (D) a pro forma projection of expected costs of the proposed housing
7 infrastructure project;

8 (E) a projection of the tax increment to be generated by the proposed
9 housing development; and

10 (F) a development schedule that includes a list, a cost estimate, and a
11 schedule for the proposed housing infrastructure project and the proposed
12 housing development;

13 (2) develop a plan describing the housing development site by its
14 boundaries and the properties therein, entitled “Proposed Housing
15 Development Site (municipal name), Vermont”;

16 (3) hold one or more public hearings, after public notice, on the
17 proposed housing infrastructure project, including the plans developed
18 pursuant to this subsection; and

19 (4) adopt by act of the legislative body of the municipality the plan
20 developed under subdivision (2) of this subsection, which shall be recorded
21 with the municipal clerk and lister or assessor.

1 (c) The creation of a housing development site shall occur at 12:01 a.m. on
2 April 1 of the calendar year in which the Vermont Economic Progress Council
3 approves the use of tax increment financing for the housing infrastructure
4 project pursuant to section 1910 of this subchapter.

5 § 1909. HOUSING INFRASTRUCTURE AGREEMENT

6 (a) The housing infrastructure agreement for a housing infrastructure
7 project shall:

8 (1) clearly identify the sponsor for the housing infrastructure project;

9 (2) clearly identify the developer and the housing development for the
10 housing development site;

11 (3) obligate the tax increments retained pursuant to section 1910c of this
12 subchapter for not more than the financing and related costs for the housing
13 infrastructure project;

14 (4) provide terms to ensure that:

15 (A) throughout the life of the housing development site, any housing
16 unit within the housing development be offered exclusively as a primary
17 residence;

18 (B) any housing development receiving approval as an affordable
19 housing development satisfy the conditions of 24 V.S.A. § 4303;

20 (5) provide for performance assurances to reasonably secure the
21 obligations of all parties under the housing infrastructure agreement.

1 (b) A municipality shall provide notice of the terms of the housing
2 infrastructure agreement for the municipality's housing infrastructure project
3 to the legal voters of the municipality and shall provide the same information
4 as set forth in subsection 1910a(e) of this subchapter.

5 § 1910. HOUSING INFRASTRUCTURE PROJECT APPLICATION;

6 VERMONT ECONOMIC PROGRESS COUNCIL

7 (a) Application. A municipality, upon approval of its legislative body, may
8 apply to the Vermont Economic Progress Council to use tax increment
9 financing for a housing infrastructure project.

10 (b) Review. The Vermont Economic Progress Council may approve only
11 applications that:

12 (1) meet the process requirements, either of the location criteria, and
13 either of the project criteria of this section; and

14 (2) are submitted on or before December 31, 2035.

15 (c) Process requirements. The Vermont Economic Progress Council shall
16 review a municipality's housing infrastructure project application to determine
17 whether the municipality has:

18 (1) created a housing infrastructure project and housing development
19 site pursuant to section 1908 of this subchapter;

20 (2) executed a housing infrastructure agreement for the housing
21 infrastructure project adhering to the standards of section 1909 of this

1 subchapter with a developer and, if the municipality is not financing the
2 housing infrastructure project itself, a sponsor; and

3 (3) approved or pledged to use incremental municipal tax revenues for
4 the housing infrastructure project in the proportion provided for municipal tax
5 revenues in section 1910c of this subchapter.

6 (d) Location criteria. The Vermont Economic Progress Council shall
7 review a municipality's housing infrastructure project application to determine
8 whether the housing development site is located within one of the following
9 areas:

10 (1) an area designated Tier 1A or Tier 1B pursuant to 10 V.S.A. chapter
11 151 (State land use and development plans) or an area exempt from the
12 provisions of that chapter pursuant to 10 V.S.A. § 6081(dd) (interim housing
13 exemptions); or

14 (2) an existing settlement or an area within one-half mile of an existing
15 settlement, as that term is defined in 10 V.S.A. § 6001(16).

16 (e) Project criteria.

17 (1) The Vermont Economic Progress Council shall review a
18 municipality's housing infrastructure project application to determine whether
19 at least 60 percent of the gross floor area of the projected housing development
20 is dedicated to housing.

1 (2) If the Vermont Economic Progress Council determines that a
2 municipality's housing infrastructure project application satisfies the process
3 requirements and either of the location criteria of this section but does not
4 satisfy the project criterion under subdivision (1) of this subsection, the
5 Council shall request the Community and Housing Infrastructure Program
6 Board to determine whether the projected housing development will
7 meaningfully address the housing needs of the community, and the Board's
8 affirmative determination will satisfy this project criterion.

9 (f) Affordability criterion. The Vermont Economic Progress Council shall
10 review a municipality's housing infrastructure project application to determine
11 whether the projected housing development is an affordable housing
12 development.

13 (g) Tax increment financing plan. The Vermont Economic Progress
14 Council shall approve a municipality's tax increment financing plan prior to a
15 sponsor's incurrence of debt for the housing infrastructure project, including, if
16 the sponsor is a municipality, prior to a public vote to pledge the credit of the
17 municipality under section 1910a of this subchapter. The tax increment
18 financing plan shall include:

19 (1) a statement of costs and sources of revenue;

20 (2) estimates of assessed values within the housing development site;

1 (3) the portion of those assessed values to be applied to the housing
2 infrastructure project;

3 (4) the resulting tax increments in each year of the financial plan;

4 (5) the amount of bonded indebtedness or other financing to be incurred;

5 (6) other sources of financing and anticipated revenues; and

6 (7) the duration of the financial plan.

7 § 1910a. INDEBTEDNESS

8 (a) A municipality approved for tax increment financing under section
9 1910 of this subchapter may incur indebtedness against revenues of the
10 housing development site at any time during a period of up to five years
11 following the creation of the housing development site. The Vermont
12 Economic Progress Council may extend this debt incursion period by up to
13 three years. If no debt is incurred for the housing infrastructure project during
14 the debt incursion period, whether by the municipality or sponsor, the housing
15 development site shall terminate.

16 (b) Notwithstanding any provision of any municipal charter, each instance
17 of borrowing by a municipality to finance or otherwise pay for a housing
18 infrastructure project shall occur only after the legal voters of the municipality,
19 by a majority vote of all voters present and voting on the question at a special
20 or annual municipal meeting duly warned for the purpose, authorize the

1 legislative body to pledge the credit of the municipality, borrow, or otherwise
2 secure the debt for the specific purposes so warned.

3 (c) Any indebtedness incurred under this section may be retired over any
4 period authorized by the legislative body of the municipality.

5 (d) The housing development site shall continue until the date and hour the
6 indebtedness is retired or, if no debt is incurred, five years following the
7 creation of the housing development site.

8 (e) A municipal legislative body shall provide information to the public
9 prior to the public vote required under subsection (b) of this section. This
10 information shall include the amount and types of debt and related costs to be
11 incurred, including principal, interest, and fees; terms of the debt; the housing
12 infrastructure project to be financed; the housing development projected to
13 occur because of the housing infrastructure project; and notice to the voters
14 that if the tax increment received by the municipality from any property tax
15 source is insufficient to pay the principal and interest on the debt in any year,
16 the municipality shall remain liable for the full payment of the principal and
17 interest for the term of the indebtedness. If interfund loans within the
18 municipality are used, the information must also include documentation of the
19 terms and conditions of the loan.

20 (f) If interfund loans within the municipality are used as the method of
21 financing, no interest shall be charged.

1 (g) The use of a bond anticipation note shall not be considered a first
2 incurrence of debt pursuant to subsection (a) of this section.

3 § 1910b. ORIGINAL TAXABLE VALUE; TAX INCREMENT

4 (a) As of the date the housing development site is created, the lister or
5 assessor for the municipality shall certify the original taxable value and shall
6 certify to the legislative body in each year thereafter during the life of the
7 housing development site the amount by which the total valuation as
8 determined in accordance with 32 V.S.A. chapter 129 of all taxable real
9 property within the housing development site has increased or decreased
10 relative to the original taxable value.

11 (b) Annually throughout the life of the housing development site, the lister
12 or assessor shall include not more than the original taxable value of the real
13 property in the assessed valuation upon which the treasurer computes the rates
14 of all taxes levied by the municipality and every other taxing district in which
15 the housing development site is situated, but the treasurer shall extend all rates
16 so determined against the entire assessed valuation of real property for that
17 year.

18 (c) Annually throughout the life of the housing development site, a
19 municipality shall remit not less than the aggregate education property tax due
20 on the original taxable value to the Education Fund.

1 (d) Annually throughout the life of the housing development site, the
2 municipality shall hold apart, rather than remit to the taxing districts, that
3 proportion of all taxes paid that year on the real property within the housing
4 development site that the excess valuation bears to the total assessed valuation.
5 The amount held apart each year is the “tax increment” for that year. The tax
6 increment shall only be used for financing and related costs.

7 (e) Not more than the percentages established pursuant to section 1910c of
8 this subchapter of the municipal and State education tax increments received
9 with respect to the housing development site and committed for the payment
10 for financing for improvements and related costs shall be segregated by the
11 municipality in a special tax increment financing account and in its official
12 books and records until all capital indebtedness incurred for the housing
13 infrastructure project has been fully paid. The final payment shall be reported
14 to the treasurer, who shall thereafter include the entire assessed valuation of the
15 housing development site in the assessed valuations upon which the municipal
16 and other tax rates are computed and extended, and thereafter no taxes from
17 the housing development site shall be deposited in the special tax increment
18 financing account.

19 (f) Notwithstanding any charter provision or other provision, all property
20 taxes assessed within a housing development site shall be subject to the
21 provisions of this section. Special assessments levied under chapter 76A or 87

1 of this title or under a municipal charter shall not be considered property taxes
2 for the purpose of this section if the proceeds are used exclusively for
3 operating expenses related to properties within the housing development site
4 and not for improvements within the housing development site.

5 § 1910c. USE OF TAX INCREMENT; RETENTION PERIOD

6 (a) Uses of tax increments. A municipality may apply tax increments
7 retained pursuant to this subchapter to debt incurred within the period
8 permitted under section 1910a of this subchapter, to related costs, and to the
9 direct payment of the cost of a housing infrastructure project. Any direct
10 payment shall be subject to the same public vote provisions of section 1910a of
11 this subchapter as apply to debt.

12 (b) Education property tax increment.

13 (1) For a housing infrastructure project that does not satisfy the
14 affordability criterion of section 1910 of this subchapter, up to 70 percent of
15 the education property tax increment may be retained for up to 20 years,
16 beginning the first year in which debt is incurred for the housing infrastructure
17 project.

18 (2) For a housing infrastructure project that satisfies the affordability
19 criterion of section 1910 of this subchapter, up to 80 percent of the education
20 property tax increment may be retained for up to 20 years, beginning the first
21 year in which debt is incurred for the housing infrastructure project.

1 (3) Upon incurring the first debt, a municipality shall notify the
2 Department of Taxes and the Vermont Economic Progress Council of the
3 beginning of the retention period of the education property tax increment.

4 (c) Municipal property tax increment. Not less than 85 percent of the
5 municipal property tax increment may be retained, beginning the first year in
6 which debt is incurred for the housing infrastructure project.

7 (d) Excess tax increment.

8 (1) Of the municipal and education property tax increments received in
9 any tax year that exceed the amounts committed for the payment of the
10 financing and related costs for a housing infrastructure project, up to 30
11 percent may be retained to place in a special tax increment financing account
12 required pursuant to subsection 1910b(e) of this subchapter and use to offset
13 the payment of financing and related costs in any year in which no tax
14 increment is generated, provided that any excess tax increment retained in the
15 account shall be distributed to the Education Fund upon retirement of all
16 financing.

17 (2) Any remaining portion of the excess education property tax
18 increment shall be distributed to the Education Fund. Any remaining portion
19 of the excess municipal property tax increment shall be distributed to the city,
20 town, or village budget in the proportion that each budget bears to the

1 combined total of the budgets unless otherwise negotiated by the city, town, or
2 village.

3 § 1910d. INFORMATION REPORTING

4 (a) A municipality with an active housing infrastructure project shall:

5 (1) develop a system, segregated for the housing infrastructure project,
6 to identify, collect, and maintain all data and information necessary to fulfill
7 the reporting requirements of this section;

8 (2) provide timely notification to the Department of Taxes and the
9 Vermont Economic Progress Council of any housing infrastructure project
10 debt, public vote, or vote by the municipal legislative body immediately
11 following the debt incurrence or public vote on a form prescribed by the
12 Council, including copies of public notices, agendas, minutes, vote tally, and a
13 copy of the information provided to the public pursuant to subsection 1910a(e)
14 of this subchapter; and

15 (3) annually on or before February 15, submit on a form prescribed by
16 the Vermont Economic Progress Council an annual report to the Council and
17 the Department of Taxes, including the information required by subdivision (2)
18 of this subsection if not previously submitted, the information required for
19 annual audit under section 1910e of this subchapter, and any information
20 required by the Council or the Department of Taxes for the report required
21 pursuant to subsection (b) of this section.

1 (b) Annually on or before April 1, the Vermont Economic Progress Council
2 and the Department of Taxes shall submit a report to the Senate Committees on
3 Economic Development, Housing and General Affairs and on Finance and the
4 House Committees on Commerce and Economic Development and on Ways
5 and Means on housing infrastructure projects approved pursuant to this
6 subchapter, including for each:

7 (1) the date of approval;

8 (2) a description of the housing infrastructure project;

9 (3) the original taxable value of the housing development site;

10 (4) the scope and value of projected and actual improvements and
11 developments in the housing development site, including the number of
12 housing units created;

13 (5) the expected or actual sale and rental prices of any housing units;

14 (6) the number of housing units known to be occupied on a basis other
15 than as primary residence;

16 (7) the number and types of housing units for which a permit is being
17 pursued under 10 V.S.A. chapter 151 (State land use and development plans)
18 and, for each applicable housing development, the current stage of the
19 permitting process;

20 (8) projected and actual incremental revenue amounts;

1 (9) the allocation of incremental revenue, including the amount
2 allocated to related costs; and

3 (10) projected and actual financing.

4 (c) On or before January 15, 2030, the Vermont Economic Progress
5 Council shall submit a report to the Senate Committees on Economic
6 Development, Housing and General Affairs and on Finance and the House
7 Committees on Commerce and Economic Development and on Ways and
8 Means that:

9 (1) describes for each housing development site the change in assessed
10 valuation and the municipal grand list across the life of the housing
11 infrastructure project;

12 (2) describes barriers municipalities, developers, and sponsors encounter
13 in using the Community and Housing Infrastructure Program; and

14 (3) provides considerations for updating the Community and Housing
15 Infrastructure Program to address any barriers identified under subdivision (2).

16 (d) On or before January 15, 2035, the Vermont Economic Progress
17 Council shall submit a report to the Senate Committees on Economic
18 Development, Housing and General Affairs and on Finance and the House
19 Committees on Commerce and Economic Development and on Ways and
20 Means evaluating the success of the Community and Housing Infrastructure
21 Program in achieving its purpose, as stated in section 1907 of this chapter,

1 including by identifying the amount and kinds of housing produced through
2 the Program and by determining whether housing development pursued
3 through the Program meets the project criterion and location criteria of section
4 1910 of this chapter.

5 § 1910e. AUDITING

6 Annually on or before April 1 until the year following the end of the period
7 for retention of education property tax increment, a municipality with a
8 housing infrastructure project approved under this subchapter shall ensure that
9 the special tax increment financing account required by section 1910b of this
10 subchapter is subject to the annual audit prescribed in section 1681 or 1690 of
11 this title and submit a copy to the Vermont Economic Progress Council. If an
12 account is subject only to the audit under section 1681 of this title, the Council
13 shall ensure a process is in place to subject the account to an independent audit.
14 Procedures for the audit must include verification of the original taxable value
15 and annual and total municipal and education property tax increments
16 generated, expenditures for financing and related costs, and current balance.

17 § 1910f. GUIDANCE

18 (a) The Secretary of Commerce and Community Development, after
19 reasonable notice to a municipality and an opportunity for a hearing, may issue
20 decisions to a municipality on questions and inquiries concerning the
21 administration of housing infrastructure projects, statutes, rules,

1 noncompliance with this subchapter, and any instances of noncompliance
2 identified in audit reports conducted pursuant to section 1910e of this
3 subchapter.

4 (b) The Vermont Economic Progress Council shall prepare
5 recommendations for the Secretary of Commerce and Community
6 Development prior to any decision issued pursuant to subsection (a) of this
7 section. The Council may prepare recommendations in consultation with the
8 Commissioner of Taxes, the Attorney General, and the State Treasurer. In
9 preparing recommendations, the Council shall provide a municipality with a
10 reasonable opportunity to submit written information in support of its position.

11 (c) The Secretary of Commerce and Community Development shall review
12 the recommendations of the Council and issue a final written decision on each
13 matter within 60 days following receipt of the recommendations. The
14 Secretary may permit an appeal to be taken by any party to a Superior Court
15 for determination of questions of law in the same manner as the Supreme Court
16 may by rule provide for appeals before final judgment from a Superior Court
17 before issuing a final decision.

18 (d) The Vermont Economic Progress Council may adopt rules that are
19 reasonably necessary to implement this subchapter.

1 § 1910g. COMMUNITY AND HOUSING INFRASTRUCTURE PROGRAM

2 BOARD

3 (a) Creation. There is created the Community and Housing Infrastructure
4 Program Board to assist the Vermont Economic Progress Council with
5 evaluating a municipality's housing infrastructure project application pursuant
6 to subsection 1910(d) of this subchapter.

7 (b) Membership. The Board shall be composed of the following members:

8 (1) the State Treasurer[, who shall serve as chair of the Board];

9 (2) the Executive Director of the Vermont Housing Finance Agency;

10 (3) the Chief Executive Officer of the Vermont Economic Development
11 Authority;

12 (4) the Executive Director of the Vermont Bond Bank; and

13 (5) the Executive Director of the Vermont League of Cities and Towns.

14 (c) Duties. Upon request of the Vermont Economic Progress Council, the
15 Board shall evaluate the housing development plan component of a
16 municipality's housing infrastructure project application to determine whether
17 the proposed housing development will meaningfully serve the housing needs
18 of the community.

19 (d) Assistance. The Board shall have the administrative and technical
20 assistance of the [Office of the State Treasurer][Agency of Commerce and
21 Community Development].

1 (e) Meetings. The Board shall meet upon request of the Vermont
2 Economic Progress Council.

3 (f) Compensation and reimbursement. Members of the Board shall be
4 entitled to per diem compensation and reimbursement of expenses as permitted
5 under section 1010 of this title.

6 (g) Decisions not subject to review. A decision of the Board under
7 subsection (c) of this section is an administrative decision that is not subject to
8 the contested case hearing requirements under 3 V.S.A. chapter 25 and is not
9 subject to judicial review.

10 Sec. 21a. 24 V.S.A. 1910(d) is amended to read:

11 (d) Location criteria. The Vermont Economic Progress Council shall
12 review a municipality's housing infrastructure project application to determine
13 whether the housing development site is located within one of the following
14 areas:

15 (1) an area designated Tier 1A or Tier 1B pursuant to 10 V.S.A. chapter
16 151 (State land use and development plans) or an area exempt from the
17 provisions of that chapter pursuant to 10 V.S.A. § 6081(dd) (interim housing
18 exemptions); or

19 (2) ~~an existing settlement or an area within one half mile of an existing~~
20 ~~settlement, as that term is defined in 10 V.S.A. § 6001(16)~~ an area designated
21 Tier 2 pursuant to 10 V.S.A. chapter 151 (State land use and development

1 plans), provided that approval shall be granted under this subdivision only
2 upon approval of any permits required for the housing development pursuant to
3 10 V.S.A. chapter 151.

4 **Sec. 27. EFFECTIVE DATES**

5 (a) Sec. 21a shall take effect one year following the first designation of an
6 area as Tier 2 pursuant to 10 V.S.A. chapter 151 (State land use and
7 development plans).