

1 First: By striking out Sec. 16, 24 V.S.A. chapter 53, subchapter 7, and its
2 associated reader assistance heading in their entirety and inserting in lieu
3 thereof a new Sec. 16 to read as follows:

4 Sec. 16. 24 V.S.A. chapter 53, subchapter 7 is added to read:

5 Subchapter 7. Community and Housing Infrastructure Program

6 § 1906. DEFINITIONS

7 As used in this subchapter:

8 (1) “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 (2) “Committed” means pledged and appropriated for the purpose of the
12 current and future payment of financing and related costs.

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

15 (4) “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 (5) “Housing development” means the construction of one or more
21 buildings in which at least 60 percent of the aggregate gross floor area upon

1 completion is dedicated to housing or for which the Community and Housing
2 Infrastructure Program Board has granted approval pursuant to subsection
3 1910(d) of this subchapter.

4 (6) “Housing development site” means the parcel or parcels
5 encompassing a housing development as authorized by a municipality pursuant
6 to section 1908 of this subchapter.

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

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

13 (9) “Improvements” means:

14 (A) any of the following that will serve a public good and fulfill the
15 purpose of housing infrastructure tax increment financing as stated in section
16 1907 of this subchapter:

17 (i) the installation or construction of power or telecommunications
18 infrastructure; wastewater, storm water, water dispersal, water collection,
19 water treatment facilities and equipment, or related wastewater, storm water, or
20 water equipment; public roads, streets, bridges, multimodal facilities, public
21 transit stop equipment and amenities, street and sidewalk lighting, sidewalks,

1 streetscapes, way-finding signs and kiosks, traffic signals, medians, or turn
2 lanes; or

3 (ii) site preparation for development or redevelopment, including
4 land and property acquisition, demolition, brownfield remediation, or flood
5 remediation and mitigation; and

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

8 (10) “Legislative body” means the mayor and alderboard, the city
9 council, the selectboard, and the president and trustees of an incorporated
10 village, as appropriate.

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

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

16 (13) “Related costs” means expenses incurred and paid by a
17 municipality, exclusive of the actual cost of constructing and financing
18 improvements, that are directly related to the creation and implementation of
19 the municipality’s housing infrastructure project, including reimbursement of
20 sums previously advanced by the municipality for those purposes. Related
21 costs may include direct municipal expenses such as departmental or personnel

1 costs related to creating or administering the housing infrastructure project to
2 the extent they are paid from the tax increment realized from municipal and not
3 education taxes and using only that portion of the municipal increment above
4 the percentage required for serving debt as determined in accordance with
5 subsection 1910c(c) of this subchapter.

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

10 § 1907. PURPOSE

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

14 § 1908. CREATION OF HOUSING INFRASTRUCTURE PROJECT AND
15 HOUSING DEVELOPMENT SITE

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

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

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

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

6 (B) identification of a sponsor;

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

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

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

13 (F) a development schedule that includes a list, a cost estimate, and a
14 schedule for the proposed housing infrastructure project and the proposed
15 housing development;

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

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

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

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

8 § 1909. HOUSING INFRASTRUCTURE AGREEMENT

9 (a) The housing infrastructure agreement for a housing infrastructure
10 project shall:

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

12 (2) clearly identify the developer and the housing development for the
13 housing development site;

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

17 (4) provide for performance assurances to reasonably secure the
18 obligations of all parties under the housing infrastructure agreement.

19 (b) A municipality shall provide notice of the terms of the housing
20 infrastructure agreement for the municipality's housing infrastructure project

1 to the legal voters of the municipality and shall provide the same information
2 as set forth in subsection 1910a(e) of this subchapter.

3 § 1910. HOUSING INFRASTRUCTURE PROJECT APPLICATION;

4 VERMONT ECONOMIC PROGRESS COUNCIL

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

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

10 (1) meet the process requirements, the project criterion, and any of the
11 location criteria of this section; and

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

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

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

18 (2) executed a housing infrastructure agreement for the housing
19 infrastructure project adhering to the standards of section 1909 of this
20 subchapter with a developer and, if the municipality is not financing the
21 housing infrastructure project itself, a sponsor; and

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

4 (d) Project criterion. The Vermont Economic Progress Council shall
5 review a municipality’s housing infrastructure project application to determine
6 whether the housing development plan meets either of the following criteria:

7 (1) at least 60 percent of the gross floor area of the projected housing
8 development is dedicated to housing; or

9 (2) the projected housing development will meaningfully address the
10 housing needs of the community, as determined by the Community and
11 Housing Infrastructure Program Board upon request of the Council.

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

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

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

1 (f) Tax increment financing plan. The Vermont Economic Progress
2 Council shall approve a municipality’s tax increment financing plan prior to a
3 sponsor’s incurrence of debt for the housing infrastructure project, including, if
4 the sponsor is a municipality, prior to a public vote to pledge the credit of the
5 municipality under section 1910a of this subchapter. The tax increment
6 financing plan shall include:

- 7 (1) a statement of costs and sources of revenue;
8 (2) estimates of assessed values within the housing development site;
9 (3) the portion of those assessed values to be applied to the housing
10 infrastructure project;
11 (4) the resulting tax increments in each year of the financial plan;
12 (5) the amount of bonded indebtedness or other financing to be incurred;
13 (6) other sources of financing and anticipated revenues; and
14 (7) the duration of the financial plan.

15 § 1910a. INDEBTEDNESS

16 (a) A municipality approved for tax increment financing under section
17 1910 of this subchapter may incur indebtedness against revenues of the
18 housing development site at any time during a period of up to five years
19 following the creation of the housing development site. The Vermont
20 Economic Progress Council may extend this debt incursion period by up to
21 three years. If no debt is incurred for the housing infrastructure project during

1 the debt incursion period, whether by the municipality or sponsor, the housing
2 development site shall terminate.

3 (b) Notwithstanding any provision of any municipal charter, each instance
4 of borrowing by a municipality to finance or otherwise pay for a housing
5 infrastructure project shall occur only after the legal voters of the municipality,
6 by a majority vote of all voters present and voting on the question at a special
7 or annual municipal meeting duly warned for the purpose, authorize the
8 legislative body to pledge the credit of the municipality, borrow, or otherwise
9 secure the debt for the specific purposes so warned.

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

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

15 (e) A municipal legislative body shall provide information to the public
16 prior to the public vote required under subsection (b) of this section. This
17 information shall include the amount and types of debt and related costs to be
18 incurred, including principal, interest, and fees; terms of the debt; the housing
19 infrastructure project to be financed; the housing development projected to
20 occur because of the housing infrastructure project; and notice to the voters
21 that if the tax increment received by the municipality from any property tax

1 source is insufficient to pay the principal and interest on the debt in any year,
2 the municipality shall remain liable for the full payment of the principal and
3 interest for the term of the indebtedness. If interfund loans within the
4 municipality are used, the information must also include documentation of the
5 terms and conditions of the loan.

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

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

10 § 1910b. ORIGINAL TAXABLE VALUE; TAX INCREMENT

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

18 (b) Annually throughout the life of the housing development site, the lister
19 or assessor shall include not more than the original taxable value of the real
20 property in the assessed valuation upon which the treasurer computes the rates
21 of all taxes levied by the municipality and every other taxing district in which

1 the housing development site is situated, but the treasurer shall extend all rates
2 so determined against the entire assessed valuation of real property for that
3 year.

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

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

13 (e) Not more than the percentages established pursuant to section 1910c of
14 this subchapter of the municipal and State education tax increments received
15 with respect to the housing development site and committed for the payment
16 for financing for improvements and related costs shall be segregated by the
17 municipality in a special tax increment financing account and in its official
18 books and records until all capital indebtedness incurred for the housing
19 infrastructure project has been fully paid. The final payment shall be reported
20 to the treasurer, who shall thereafter include the entire assessed valuation of the
21 housing development site in the assessed valuations upon which the municipal

1 and other tax rates are computed and extended, and thereafter no taxes from
2 the housing development site shall be deposited in the special tax increment
3 financing account.

4 (f) Notwithstanding any charter provision or other provision, all property
5 taxes assessed within a housing development site shall be subject to the
6 provisions of this section. Special assessments levied under chapter 76A or 87
7 of this title or under a municipal charter shall not be considered property taxes
8 for the purpose of this section if the proceeds are used exclusively for
9 operating expenses related to properties within the housing development site
10 and not for improvements within the housing development site.

11 § 1910c. USE OF TAX INCREMENT; RETENTION PERIOD

12 (a) Uses of tax increments. A municipality may apply tax increments
13 retained pursuant to this subchapter to debt incurred within the period
14 permitted under section 1910a of this subchapter, to related costs, and to the
15 direct payment of the cost of a housing infrastructure project. Any direct
16 payment shall be subject to the same public vote provisions of section 1910a of
17 this subchapter as apply to debt.

18 (b) Education property tax increment. Up to 70 percent of the education
19 property tax increment may be retained for up to 20 years, beginning the first
20 year in which debt is incurred for the housing infrastructure project. Upon
21 incurring the first debt, a municipality shall notify the Department of Taxes

1 and the Vermont Economic Progress Council of the beginning of the retention
2 period of the education property tax increment.

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

6 (d) Excess tax increment.

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

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

1 § 1910d. INFORMATION REPORTING

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

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

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

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

20 (b) Annually on or before April 1, the Vermont Economic Progress Council
21 and the Department of Taxes shall submit a report to the Senate Committees on

1 Economic Development, Housing and General Affairs and on Finance and the
2 House Committees on Commerce and Economic Development and on Ways
3 and Means on housing infrastructure projects approved pursuant to this
4 subchapter, including for each:

5 (1) the date of approval;

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

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

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

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

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

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

18 (8) projected and actual incremental revenue amounts;

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

21 (10) projected and actual financing.

1 (c) On or before January 15, 2035, the Vermont Economic Progress
2 Council shall submit a report to the Senate Committees on Economic
3 Development, Housing and General Affairs and on Finance and the House
4 Committees on Commerce and Economic Development and on Ways and
5 Means evaluating the success of the Community and Housing Infrastructure
6 Program in achieving its purpose, as stated in section 1907 of this chapter,
7 including by identifying the amount and kinds of housing produced through
8 the Program and by determining whether housing development pursued
9 through the Program meets the project criterion and location criteria of section
10 1910 of this chapter.

11 § 1910e. AUDITING

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

1 and annual and total municipal and education property tax increments
2 generated, expenditures for financing and related costs, and current balance.

3 § 1910f. GUIDANCE

4 (a) The Secretary of Commerce and Community Development, after
5 reasonable notice to a municipality and an opportunity for a hearing, may issue
6 decisions to a municipality on questions and inquiries concerning the
7 administration of housing infrastructure projects, statutes, rules,
8 noncompliance with this subchapter, and any instances of noncompliance
9 identified in audit reports conducted pursuant to section 1910e of this
10 subchapter.

11 (b) The Vermont Economic Progress Council shall prepare
12 recommendations for the Secretary of Commerce and Community
13 Development prior to any decision issued pursuant to subsection (a) of this
14 section. The Council may prepare recommendations in consultation with the
15 Commissioner of Taxes, the Attorney General, and the State Treasurer. In
16 preparing recommendations, the Council shall provide a municipality with a
17 reasonable opportunity to submit written information in support of its position.

18 (c) The Secretary of Commerce and Community Development shall review
19 the recommendations of the Council and issue a final written decision on each
20 matter within 60 days following receipt of the recommendations. The
21 Secretary may permit an appeal to be taken by any party to a Superior Court

1 for determination of questions of law in the same manner as the Supreme Court
2 may by rule provide for appeals before final judgment from a Superior Court
3 before issuing a final decision.

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

6 **§ 1910g. COMMUNITY AND HOUSING INFRASTRUCTURE PROGRAM**

7 **BOARD**

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

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

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

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

15 (3) the Chief Executive Officer of the Vermont Economic Development

16 Authority:

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

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

19 (c) Duties. Upon request of the Vermont Economic Progress Council, the
20 Board shall evaluate the housing development plan component of a
21 municipality's housing infrastructure project application to determine whether

1 the proposed housing development will meaningfully serve the housing needs
2 of the community.

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

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

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

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