

* * * Tax Increment Financing * * *

Sec. 25. 24 V.S.A. chapter 53, subchapter 7 is added to read:

Subchapter 7. Community and Housing Infrastructure Program

§ 1906. DEFINITIONS

As used in this subchapter:

(1) “Affordable housing” has the same meaning as in section § 4303 of this title.

(2) “Affordable housing development” means a housing development of which at least 15 percent of the units are affordable housing units. Affordable units shall be subject to covenants or restrictions that preserve their affordability until all indebtedness for the housing infrastructure project of which the housing development is part has been retired.

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

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

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

(6) “Financing” means debt, including principal, interest, and any fees or charges directly related to that debt, incurred by a sponsor, or other

1 instruments or borrowing used by a sponsor, to pay for a housing infrastructure
2 project and, in the case of a sponsor that is a municipality, authorized by the
3 municipality pursuant to section 1910a of this subchapter.

4 (7) “Housing development” means the construction, rehabilitation, or
5 renovation of any building on a housing development site approved under this
6 subchapter.

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

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

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

16 (11) “Improvements” means:

17 (A) the installation, construction, or reconstruction of infrastructure
18 that will serve a public good and fulfill the purpose stated in section 1907 of
19 this subchapter; and

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

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

4 (13) “Lifetime education property tax increment retention” means the
5 total education property tax increment to be retained for a housing
6 infrastructure project across its lifetime.

7 (14) “Moderate-income housing” means housing for which the total
8 annual cost of renting or ownership, as applicable, does not exceed 30 percent
9 of the gross annual income of a household at 150 percent of the highest of the
10 following:

11 (A) the county median income, as defined by the U.S. Department of
12 Housing and Urban Development;

13 (B) the standard metropolitan statistical area median income if the
14 municipality is located in such an area, as defined by the U.S. Department of
15 Housing and Urban Development; or

16 (C) the statewide median income, as defined by the U.S. Department
17 of Housing and Urban Development.

18 (15) “Moderate-income housing development” means a housing
19 development of which at least 25 percent of the units are moderate-income
20 housing units. Moderate-income units shall be subject to covenants or
21 restrictions that preserve their affordability until all indebtedness for the

1 housing infrastructure project of which the housing development is part has
2 been retired.

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

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

8 (18) “Related costs” means expenses incurred and paid by a
9 municipality, exclusive of the actual cost of constructing and financing
10 improvements, that are directly related to the creation and implementation of
11 the municipality’s housing infrastructure project, including reimbursement of
12 sums previously advanced by the municipality for those purposes. Related
13 costs may include direct municipal expenses such as departmental or personnel
14 costs related to creating or administering the housing infrastructure project to
15 the extent they are paid from the tax increment realized from municipal and not
16 education taxes and using only that portion of the municipal increment above
17 the percentage required for servicing debt as determined in accordance with
18 subsection 1910c of this subchapter.

19 (19) “Sponsor” means the person undertaking to finance a housing
20 infrastructure project. Any of a municipality, a developer, or an independent

1 agency that meets State lending standards may serve as a sponsor for a housing
2 infrastructure project.

3 § 1907. PURPOSE

4 The purpose of the Community and Housing Infrastructure Program is to
5 encourage the development of new primary residences for households of low
6 and moderate income across both rural and urban areas of all Vermont counties
7 that would not be created but for the infrastructure improvements funded by
8 the Program.

9 § 1908. CREATION OF HOUSING INFRASTRUCTURE PROJECT AND

10 HOUSING DEVELOPMENT SITE

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

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

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

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

21 (B) identification of a sponsor;

1 (C) a tax increment financing plan meeting the standards of
2 subsection 1910(h) of this subchapter;

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

5 (E) a projection of the tax increment to be generated by the proposed
6 housing development;

7 (F) a development schedule that includes a list, a cost estimate, and a
8 schedule for the proposed housing infrastructure project and the proposed
9 housing development; and

10 (G) a determination that the proposed housing development furthers
11 the purpose of section 1907 of this subchapter;

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

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

18 (4) adopt by act of the legislative body of the municipality the plan
19 developed under subdivision (2) of this subsection, which shall be recorded
20 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 and sufficient remedies or, if the municipality so
15 elects, an ordinance to ensure that any housing unit within the housing
16 development be offered exclusively as a primary residence until all
17 indebtedness for the housing infrastructure project of which the housing
18 development is part has been retired; and

19 (B) that is sold as rental housing be offered exclusively as a primary
20 residence until all indebtedness for the housing infrastructure project has been

1 retired, provided that this condition shall be satisfied by biennially providing a
2 landlord certificate or homestead declaration;

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

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

9 § 1910. HOUSING INFRASTRUCTURE PROJECT APPLICATION;

10 VERMONT ECONOMIC PROGRESS COUNCIL

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

14 (b) But-for test. The Vermont Economic Progress Council shall review
15 each application other than those for which the housing development is an
16 affordable housing development to determine whether the infrastructure
17 improvements proposed to serve the housing development site and the
18 proposed housing development would not have occurred as proposed in the
19 application or would have occurred in a significantly different and less
20 desirable manner than as proposed in the application but for the proposed
21 utilization of the incremental tax revenues.

1 (c) Process requirements. The Vermont Economic Progress Council shall
2 review a municipality’s housing infrastructure project application to determine
3 whether the municipality has:

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

6 (2) executed a housing infrastructure agreement for the housing
7 infrastructure project that adheres to the standards of section 1909 of this
8 subchapter with a developer and, if the municipality is not financing the
9 housing infrastructure project itself, a sponsor; and

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

13 (d) Project criteria. The Vermont Economic Progress Council shall review
14 a municipality’s housing infrastructure project application to determine
15 whether:

16 (1) at least 60 percent of the floor area of the projected housing
17 development is dedicated to housing; or

18 (2) the projected housing development meaningfully addresses the
19 purpose of section 1907 of this subchapter.

20 (e) Affordability criterion. The Vermont Economic Progress Council shall
21 review a municipality’s housing infrastructure project application to determine

1 whether the projected housing development is an affordable housing
2 development or a moderate-income housing development for purposes of the
3 increased education property tax increment retention percentage under section
4 1910c of this subchapter.

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

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

20 (g) Approval. The Vermont Economic Progress Council shall approve or
21 deny an application submitted pursuant to this section not later than 90 days

1 following the site visit conducted as part of the application’s review. The
2 Vermont Economic Progress Council shall only approve tax increment
3 financing for applications:

4 (1) that meet the process requirements, either of the project criteria of
5 this section, and, for an application for which the housing development is not
6 an affordable housing development, the but-for test;

7 (2) for which the Council has approved the tax increment financing
8 plan; and

9 (3) that are submitted on or before December 31, 2035.

10 (h) Limit.

11 (1) The Vermont Economic Progress Council shall not annually approve
12 more than \$40,000,000.00 in aggregate lifetime education property tax
13 increment retention.

14 (2) The Vermont Economic Progress Council may increase the limit in
15 subdivision (1) of this section by not more than \$5,000,000.00 upon
16 application by the Governor to, and approval of, the Joint Fiscal Committee.
17 In evaluating the Governor’s request, the Joint Fiscal Committee shall consider
18 the economic and fiscal condition of the State, including recent revenue
19 forecasts and budget projections. The Vermont Economic Progress Council
20 shall provide the Joint Fiscal Committee with testimony, documentation,
21 housing infrastructure project application data, and any other information the

1 Committee requests to demonstrate that increasing the cap will create an
2 opportunity for the creation of additional housing to meet the needs of a
3 municipality or municipalities and the State.

4 (3) On or before December 15, 2030, the Vermont Economic Progress
5 Council shall recommend 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, on General and
8 Housing, and on Ways and Means an appropriate limit under this subsection
9 based on annually approved aggregate lifetime education property tax
10 increment retention to date.

11 § 1910a. INDEBTEDNESS

12 (a) A municipality approved for tax increment financing under section
13 1910 of this subchapter may incur indebtedness against revenues of the
14 housing development site at any time during a period of up to five years
15 following the creation of the housing development site. The Vermont
16 Economic Progress Council may extend this debt incursion period by up to
17 three years.

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

1 or annual municipal meeting duly warned for the purpose, authorize the
2 legislative body to pledge the credit of the municipality, borrow, or otherwise
3 secure the debt for the specific purposes so warned.

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

6 (d) The housing development site shall continue until the date and hour the
7 indebtedness is retired or, if no debt is incurred, the debt incursion period ends.

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. A municipality
10 may provide tax increment to a sponsor only upon receipt of an invoice for
11 payment of the financing, and the sponsor shall confirm to the municipality
12 once the tax increment has been applied to the financing. Any direct payment
13 shall be subject to the same public vote provisions of section 1910a of this
14 subchapter as apply to debt.

15 (b) Education property tax increment.

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

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

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

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

11 (d) Excess tax increment.

12 (1) Of the municipal and education property tax increments received in
13 any tax year that exceed the amounts committed for the payment of the
14 financing and related costs for a housing infrastructure project, equal portions
15 of each increment may be retained for the following purposes:

16 (A) to prepay principal and interest on the financing;

17 (B) to place in a special tax increment financing account required
18 pursuant to subsection 1910b(e) of this subchapter and use for future financing
19 payments; or

20 (C) to use for defeasance of the financing.

1 (2) Any remaining portion of the excess education property tax
2 increment shall be distributed to the Education Fund. Any remaining portion
3 of the excess municipal property tax increment shall be distributed to the city,
4 town, or village budget in the proportion that each budget bears to the
5 combined total of the budgets unless otherwise negotiated by the city, town, or
6 village.

7 (e) Adjustment of percentage. During the fifth year following the creation
8 of a housing development site, the municipality shall submit an updated tax
9 increment financing plan to the Vermont Economic Progress Council that shall
10 include adjustments and updates of appropriate data and information sufficient
11 for the Vermont Economic Progress Council to determine, based on tax
12 increment financing debt actually incurred and the history of increment
13 generated during the first five years, whether the percentages approved under
14 this section should be continued or adjusted to a lower percentage to be
15 retained for the remaining duration of the retention period and still provide
16 sufficient municipal and education increment to service the remaining debt.

17 § 1910d. INFORMATION REPORTING

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

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

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

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

15 (b) Annually on or before April 1, the Vermont Economic Progress Council
16 and the Department of Taxes shall submit a report to the Senate Committees on
17 Economic Development, Housing and General Affairs and on Finance and the
18 House Committees on Commerce and Economic Development, on General and
19 Housing, and on Ways and Means that provides the aggregate lifetime
20 education property tax increment retention approved that year, describes
21 common reasons applicants to the Community and Housing Infrastructure

1 Program fail to secure approval for tax increment financing, and includes for
2 each housing infrastructure project approved pursuant to this subchapter the
3 following:

4 (1) the date of approval;

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

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

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

10 (5) the sale prices for initial offerings of any housing units;

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

15 (7) projected and actual incremental revenue amounts;

16 (8) the allocation of incremental revenue, including the amount
17 allocated to related costs;

18 (9) projected and actual financing;

19 (10) an evaluation of the amount of public funds flowing to private
20 ownership or usage; and

1 (11) an evaluation of the amount of grand list growth attributable to the
2 housing development and the amount of grand list growth attributable to
3 property value appreciation.

4 (c) On or before January 15, 2035, 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, on General and
8 Housing, and on Ways and Means evaluating the success of the Community
9 and Housing Infrastructure Program in achieving its purpose, as stated in
10 section 1907 of this chapter, including by identifying the amount and kinds of
11 housing produced through the Program and by determining whether housing
12 development pursued through the Program meets the project criteria of section
13 1910 of this chapter.

14 § 1910e. AUDITING

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

1 shall ensure a process is in place to subject the account to an independent audit.
2 Procedures for the audit must include verification of the original taxable value
3 and annual and total municipal and education property tax increments
4 generated, expenditures for financing and related costs, and current balance.

5 § 1910f. RULEMAKING; GUIDANCE

6 (a) Authority to adopt rules and guidance.

7 (1) The Vermont Economic Progress Council may adopt rules that are
8 reasonably necessary to implement this subchapter.

9 (2) The Vermont Economic Progress Council shall issue guidance to
10 implement this subchapter on or before November 15, 2025. Upon issuance,
11 the Vermont Economic Progress Council shall publicly post and submit to the
12 Senate Committees on Economic Development, Housing and General Affairs
13 and on Finance and the House Committees on Commerce and Economic
14 Development, on General and Housing, and on Ways and Means any guidance
15 documents.

16 (b) Authority to issue decisions.

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

1 identified in audit reports conducted pursuant to section 1910e of this
2 subchapter.

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

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

17 (c) Remedy for noncompliance. If the Secretary issues a decision under
18 subsection (b) of this section that includes a finding of noncompliance and that
19 noncompliance has resulted in the improper reduction in the amount due the
20 Education Fund, the Secretary, unless and until the Secretary is satisfied that
21 there is no longer any such failure to comply, shall request that the State

1 Treasurer bill the municipality for the total identified underpayment. The
2 amount of the underpayment shall be due from the municipality upon receipt
3 of the bill. If the municipality does not pay the underpayment amount within
4 60 days, the amount may be withheld from any funds otherwise payable by the
5 State to the municipality or a school district in the municipality or of which the
6 municipality is a member.

7 (d) Referral; Attorney General. In lieu of or in addition to any action
8 authorized in subsection (c) of this section, the Secretary of Commerce and
9 Community Development or the State Treasurer may refer the matter to the
10 Office of the Attorney General with a recommendation that an appropriate civil
11 action be initiated.

12 (e) Appeal; hearing officer. A hearing that is held pursuant to this section
13 shall be subject to the provisions of 3 V.S.A. chapter 25 relating to contested
14 cases. The hearing shall be conducted by the Secretary or by a hearing officer
15 appointed by the Secretary. If a hearing is conducted by a hearing officer, the
16 hearing officer shall have all authority to conduct the hearing that is provided
17 for in the applicable contested case provisions of 3 V.S.A. chapter 25,
18 including issuing findings of fact, hearing evidence, and compelling, by
19 subpoena, the attendance and testimony of witnesses.

1 Sec. 26. 32 V.S.A. § 3325 is amended to read:

2 § 3325. VERMONT ECONOMIC PROGRESS COUNCIL

3 (a) Creation. The Vermont Economic Progress Council is created to
4 exercise the authority and perform the duties assigned to it, including its
5 authority and duties relating to:

6 (1) the Vermont Employment Growth Incentive Program pursuant to
7 subchapter 2 of this chapter; ~~and~~

8 (2) tax increment financing districts pursuant to 24 V.S.A. chapter 53,
9 subchapter 5 and section 5404a of this title; and

10 (3) the Community and Housing Infrastructure Program pursuant to 24
11 V.S.A. chapter 53, subchapter 7.

12 (b) Membership.

13 (1) The Council shall have 11 voting members:

14 (A) nine residents of the State appointed by the Governor with the
15 advice and consent of the Senate who are knowledgeable and experienced in
16 the subjects of community development and planning, education funding
17 requirements, economic development, State fiscal affairs, property taxation, or
18 entrepreneurial ventures and represent diverse geographical areas of the State
19 and municipalities of various sizes;

20 (B) one member of the Vermont House of Representatives appointed
21 by the Speaker of the House; and

1 (C) one member of the Vermont Senate appointed by the Senate
2 Committee on Committees.

3 (2)(A) The Council shall have two regional members from each region
4 of the State, one appointed by the regional development corporation of the
5 region and one appointed by the regional planning commission of the region.

6 (B) A regional member shall be a nonvoting member and shall serve
7 during consideration by the Council of an application from ~~his or her~~ the
8 member's region.

9 (3) Exclusively for purposes of reviewing and approving housing
10 infrastructure project applications under the Community and Housing
11 Infrastructure Program, the Council shall additionally have three nonvoting
12 members:

13 (A) the Executive Director of the Vermont Housing Finance Agency
14 or designee;

15 (B) the Executive Director of the Vermont Housing and Conservation
16 Board or designee; and

17 (C) the Commissioner of Housing and Community Development or
18 designee.

19 * * *

20 (g) Decisions not subject to review. A decision of the Council to approve
21 or deny an application under subchapter 2 of this chapter, ~~or~~ to approve or

1 deny a tax increment financing district pursuant to 24 V.S.A. chapter 53,
2 subchapter 5 and section 5404a of this title, or to approve or deny a housing
3 infrastructure project pursuant to 24 V.S.A. chapter 53, subchapter 7 is an
4 administrative decision that is not subject to the contested case hearing
5 requirements under 3 V.S.A. chapter 25 and is not subject to judicial review.

6 Sec. 27. 32 V.S.A. § 5404a(f) is amended to read:

7 (f) A municipality that establishes a tax increment financing district under
8 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties
9 contained within the district and apply not more than 70 percent of the State
10 education property tax increment, and not less than 85 percent of the municipal
11 property tax increment, to repayment of financing of the improvements and
12 related costs for up to 20 years pursuant to 24 V.S.A. § 1894, if approved by
13 the Vermont Economic Progress Council pursuant to this section, subject to the
14 following:

15 (1) In a municipality with one or more approved districts, the Council
16 shall not approve an additional district until the municipality retires the debt
17 incurred for all of the districts in the municipality.

18 (2) The Council shall not approve more than six districts in the State,
19 and not more than two per county, provided:

20 (A) The districts listed in 24 V.S.A. § 1892(d) shall not be counted
21 against the limits imposed in this subdivision (2).

1 (B) The Council shall consider complete applications in the order
2 they are submitted, except that if during any calendar month the Council
3 receives applications for more districts than are actually available in a county,
4 the Council shall evaluate each application and shall approve the application
5 that, in the Council's discretion, best meets the economic development needs
6 of the county.

7 (3)(A) A municipality shall immediately notify the Council if it resolves
8 not to incur debt for an approved district within five years of approval or a
9 five-year extension period as required in 24 V.S.A. § 1894.

10 (B) Upon receiving notification pursuant to subdivision (A) of this
11 subdivision (3), the Council shall terminate the district and may approve a new
12 district, subject to the provisions of this section and 24 V.S.A. chapter 53,
13 subchapter 5.

14 (4) The Council shall only approve under this section applications for
15 tax increment financing submitted prior to December 31, 2035.

16 Sec. 27a. COMMUNITY AND HOUSING INFRASTRUCTURE

17 PROGRAM; VERMONT ECONOMIC PROGRESS COUNCIL;

18 HOUSING DEVELOPMENT SITE; REPORT

19 On or before December 15, 2025, the Vermont Economic Progress Council
20 shall report to the Senate Committees on Economic Development, Housing and
21 General Affairs and on Finance and the House Committees on Commerce and

1 Economic Development, on General and Housing, and on Ways and Means on
2 considerations for amending the definition of “housing development site”
3 under V.S.A. §§ 1906 and 1908 to support the Community and Housing
4 Infrastructure Program, including a recommendation on whether to include
5 immediately contiguous parcels in the definition.