

1 An act relating to project-based tax increment financing for housing
2 infrastructure

3 It is hereby enacted by the General Assembly of the State of Vermont:

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

5 Subchapter 7. Housing Infrastructure Tax Increment Financing

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 develop 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 to pay for a
17 housing infrastructure project and, in the case of a sponsor that is a
18 municipality, authorized by the municipality pursuant to section 1910 of this
19 subchapter.

1 (5) “Housing development” means the construction of one or more
2 buildings in which at least 50 percent of the aggregate gross floor area upon
3 completion is dedicated to housing.

4 (6) “Housing development site” means the parcel or parcels
5 encompassing a housing development authorized by a municipality pursuant to
6 section 1907 of this subchapter.

7 (7) “Housing infrastructure agreement” means a legally binding
8 agreement to develop a housing infrastructure project between a municipality
9 and a sponsor or developer, or both.

10 (8) “Housing infrastructure project” means one or more improvements
11 authorized by a municipality pursuant to section 1907 of this subchapter.

12 (9) “Improvements” means:

13 (A) the installation or construction of infrastructure, including
14 utilities, transportation, parking, public facilities and amenities, land and
15 property acquisition and demolition, brownfield remediation, site preparation,
16 and flood remediation and mitigation; and

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

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

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

2 (12) “Original taxable value” means the total valuation as determined in
3 accordance with 32 V.S.A. chapter 129 of all taxable real property located
4 within a housing development site as of its creation date.

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

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

1 § 1907. CREATION OF HOUSING INFRASTRUCTURE PROJECT AND
2 HOUSING DEVELOPMENT SITE

3 (a) The legislative body of a municipality may create within its jurisdiction
4 a housing infrastructure project, which shall consist of improvements that
5 stimulate the development of housing, and a housing development site, which
6 shall consist of the parcel or parcels on which a housing development is
7 installed or constructed.

8 (b) To create a housing infrastructure project and housing development
9 site, a municipality shall:

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

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

13 (B) identification of a sponsor;

14 (C) a financing plan for the proposed housing infrastructure project;

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

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

19 (F) a development schedule that includes a list, a cost estimate, and a
20 schedule for the proposed housing infrastructure project and the proposed
21 housing development;

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

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

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

10 (c) The creation of a housing development site shall occur at 12:01 a.m. on
11 April 1 of the calendar year in which the Vermont Economic Progress Council
12 approves the use of tax increment financing for the housing infrastructure
13 project pursuant to section 1909 of this subchapter.

14 § 1908. HOUSING INFRASTRUCTURE AGREEMENT

15 (a) The housing infrastructure agreement for a housing infrastructure
16 project shall:

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

18 (2) clearly identify the developer and the housing development for the
19 housing development site;

1 (3) obligate the tax increments retained pursuant to section 1910b of this
2 subchapter for not more than the financing and related costs for the housing
3 infrastructure project; and

4 (4) ensure the municipality pursuing the housing infrastructure project is
5 protected against developer or sponsor failure to perform.

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

10 § 1909. HOUSING INFRASTRUCTURE PROJECT APPLICATION;

11 VERMONT ECONOMIC PROGRESS COUNCIL

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

15 (b) The Vermont Economic Progress Council may approve only
16 applications meeting the standards of this section. Staff of the Council may
17 approve applications submitted to meet either location criterion of subdivisions
18 (d)(2)(A)–(B) of this section, but applications submitted to meet either location
19 criterion of subdivisions (d)(2)(C)–(D) of this section shall require approval of
20 the board.

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

4 (1) created a housing infrastructure project and housing development
5 site pursuant to section 1907 of this subchapter;

6 (2) executed a housing infrastructure agreement for the housing
7 infrastructure project adhering to the standards of section 1908 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 1910b of this subchapter.

13 (d) The Vermont Economic Progress Council shall review a municipality's
14 housing infrastructure project application to determine whether the housing
15 development plan meets the following criteria:

16 (1) at least 50 percent of the gross floor area of the projected housing
17 development is dedicated to housing; and

18 (2) the housing development site is located within one of the following
19 areas:

20 (A) an area designated Tier 1 pursuant to 10 V.S.A. chapter 151;

1 (B) an area exempt from the provisions of 10 V.S.A. chapter 151
2 pursuant to 10 V.S.A. § 6081(dd);

3 (C) an existing settlement as that term is defined in 10 V.S.A.
4 § 6001(16); or

5 (D) an area within one half-mile of an existing settlement as that term
6 is defined in 10 V.S.A. § 6001(16).

7 (e) The Vermont Economic Progress Council shall approve a
8 municipality’s tax increment financing plan prior to a sponsor’s incurrence of
9 debt for the housing infrastructure project, including, if the sponsor is a
10 municipality, prior to a public vote to pledge the credit of the municipality
11 under section 1910 of this subchapter. The tax increment financing plan shall
12 include all information related to the proposed financing necessary for
13 approval by the Council and to ensure its viability and consistency with the
14 housing development plan developed pursuant to section 1907 of this
15 subchapter.

16 § 1910. INDEBTEDNESS

17 (a) A municipality approved for tax increment financing under section
18 1909 of this subchapter may incur indebtedness against revenues of the
19 housing development site at any time during a period of up to three years
20 following the creation of the housing development site. If no debt is incurred

1 for the housing infrastructure project during this three-year period, whether by
2 the municipality or sponsor, the housing 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, three 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. If interfund loans within the municipality are
6 used as the method of financing, no interest shall be charged.

7 § 1910a. ORIGINAL TAXABLE VALUE; TAX INCREMENT

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

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

1 (c) Throughout the life of the housing development site, a municipality
2 shall remit not less than the aggregate education property tax due on the
3 original taxable value to the Education Fund.

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

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

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

8 § 1910b. USE OF TAX INCREMENT; RETENTION PERIOD

9 (a) Education property tax increment. For only debt incurred within the
10 period permitted under subsection 1910(a) of this subchapter and related costs,
11 up to 80 percent of the education property tax increment may be retained for
12 up to 20 years, beginning on July 1 of the year following the first incurrence of
13 debt by a sponsor.

14 (b) Municipal property tax increment. For only debt incurred within the
15 period permitted under subsection 1910(a) of this subchapter and related costs,
16 not less than the percentage of education property tax increment retained
17 pursuant to subsection (a) of this section of the municipal property tax
18 increment may be retained, beginning on July 1 of the year following the first
19 incurrence of debt by a sponsor.

20 (c) Excess tax increment.

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

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

6 (B) to place in a special tax increment financing account required
7 pursuant to subsection 1910a(e) of this subchapter and use for future financing
8 payments; or

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

10 (2) Any remaining portion of the excess education property tax
11 increment shall be distributed to the Education Fund. Any remaining portion
12 of the excess municipal property tax increment shall be distributed to the city,
13 town, or village budget in the proportion that each budget bears to the
14 combined total of the budgets unless otherwise negotiated by the city, town, or
15 village.

16 § 1910c. INFORMATION REPORTING

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

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

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 1910(e)
7 of this subchapter; and

8 (3) annually on or before October 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 1910d 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 January 1, the Vermont Economic Progress
16 Council and the Department of Taxes shall submit a report to the Senate
17 Committees on Economic Development, Housing and General Affairs and on
18 Finance and the House Committees on Commerce and Economic Development
19 and on Ways and Means on housing infrastructure projects approved pursuant
20 to this subchapter, including for each:

21 (1) the date of approval;

- 1 (2) a description of the housing infrastructure project;
- 2 (3) the original taxable value of the housing development site;
- 3 (4) the scope and value of projected and actual improvements and
4 developments in the housing development site;
- 5 (5) projected and actual incremental revenue amounts;
- 6 (6) the allocation of incremental revenue;
- 7 (7) projected and actual financing;
- 8 (8) performance measures as may be developed by the Vermont
9 Economic Progress Council; and
- 10 (9) the amount of infrastructure work performed by Vermont firms.

11 § 1910d. 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 housing infrastructure project is subject to the annual audit prescribed in
16 section 1681 or 1690 of this title and submit a copy to the Vermont Economic
17 Progress Council. If a housing infrastructure project is subject only to the
18 audit under section 1681 of this title, the Council shall ensure a process is in
19 place to subject the housing infrastructure project 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 § 1910e. 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 1910d 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 Sec. 2. 32 V.S.A. § 3325 is amended to read:

7 § 3325. VERMONT ECONOMIC PROGRESS COUNCIL

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

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

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

15 (3) housing infrastructure tax increment financing pursuant to 24 V.S.A.
16 chapter 53, subchapter 7.

17 * * *

18 (g) Decisions not subject to review. A decision of the Council to approve
19 or deny an application under subchapter 2 of this chapter, ~~or~~ to approve or
20 deny a tax increment financing district pursuant to 24 V.S.A. chapter 53,
21 subchapter 5 and section 5404a of this title, or to approve or deny a housing

1 infrastructure project pursuant to 24 V.S.A. chapter 53, subchapter 7 is an
2 administrative decision that is not subject to the contested case hearing
3 requirements under 3 V.S.A. chapter 25 and is not subject to judicial review.

4 Sec. 3. EFFECTIVE DATE

5 This act shall take effect on July 1, 2025.