

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

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

3 Subchapter 7. Community Housing Infrastructure Program

4 § 1906. DEFINITIONS

5 As used in this subchapter:

6 (1) “Affordable housing” means either of the following:

7 (A) owner-occupied housing for which the total annual cost of
8 ownership, including principal, interest, taxes, insurance, and condominium
9 association fees, does not exceed 30 percent of the gross annual income of a
10 household at 575 percent of the current federal poverty guidelines; or

11 (B) rental housing for which the total annual cost of renting,
12 including rent, utilities, and condominium association fees, does not exceed 30
13 percent of the gross annual income of a household at 575 percent of the current
14 federal poverty guidelines.

15 (2) “Affordable housing development” means a housing development of
16 which at least 20 percent of the units or a minimum of five units, whichever is
17 greater, are affordable housing units. Affordable housing units shall be subject
18 to covenants or restrictions that preserve their affordability for a minimum of
19 15 years or longer as provided in municipal bylaws.

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

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

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

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

13 (7) “Housing development” means the construction of one or more
14 buildings in which at least 50 percent of the aggregate gross floor area upon
15 completion is dedicated to housing.

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

19 (9) “Housing infrastructure agreement” means a legally binding
20 agreement to finance and develop a housing infrastructure project and to

1 construct a housing development among a municipality, a developer, and, if
2 applicable, a third-party sponsor.

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

5 (11) “Improvements” means:

6 (A) the installation or construction of infrastructure that will serve a
7 public **good** and fulfill the purpose of housing infrastructure tax increment
8 financing as stated in section 1907 of this subchapter, including utilities, digital
9 infrastructure, transportation, public recreation, commercial and industrial
10 facilities, parking, public facilities and amenities, land and property acquisition
11 and demolition, brownfield remediation, site preparation, and flood
12 remediation and mitigation; and

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

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

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

19 (14) “Original taxable value” means the total valuation as determined in
20 accordance with 32 V.S.A. chapter 129 of all taxable real property located

1 within a housing development site as of its creation date, provided that no
2 parcel within the housing development site shall be divided or bisected.

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

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

1 § 1907. PURPOSE

2 The purpose of housing infrastructure tax increment financing is to provide
3 revenues for improvements and related costs to stimulate housing development
4 in Vermont.

5 § 1908. CREATION OF HOUSING INFRASTRUCTURE PROJECT AND
6 HOUSING DEVELOPMENT SITE

7 (a) The legislative body of a municipality may create within its jurisdiction
8 a housing infrastructure project, which shall consist of improvements that
9 stimulate the development of housing, and a housing development site, which
10 shall consist of the parcel or parcels on which a housing development is
11 installed or constructed and any immediately contiguous parcels.

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

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

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

17 (B) identification of a sponsor;

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

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

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

3 (F) a development schedule that includes a list, a cost estimate, and a
4 schedule for the proposed housing infrastructure project and the proposed
5 housing development;

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

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

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

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

19 § 1909. HOUSING INFRASTRUCTURE AGREEMENT

20 (a) The housing infrastructure agreement for a housing infrastructure
21 project shall:

- 1 (1) clearly identify the sponsor for the housing infrastructure project;
- 2 (2) clearly identify the developer and the housing development for the
- 3 housing development site;
- 4 (3) obligate the tax increments retained pursuant to section 1910c of this
- 5 subchapter for not more than the financing and related costs for the housing
- 6 infrastructure project; and
- 7 (4) provide for performance assurances to reasonably secure the
- 8 obligations of all parties under the housing infrastructure agreement.

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

13 § 1910. HOUSING INFRASTRUCTURE PROJECT APPLICATION;

14 VERMONT ECONOMIC PROGRESS COUNCIL

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

18 (b) Review. The Vermont Economic Progress Council may approve only
19 applications meeting the process requirements, the project criteria, and either
20 of the location criteria of this section.

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 adhering 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 whether
15 the housing 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 projected housing development is an affordable housing
19 development.

1 (e) Location criteria. The Vermont Economic Progress Council shall review
2 a municipality's housing infrastructure project application to determine whether
3 the housing development site is located within one of the following areas:

4 (1) an area designated Tier 1A or Tier 1B pursuant to 10 V.S.A. chapter
5 151 (State land use and development plans) or an area exempt from the
6 provisions of that chapter pursuant to 10 V.S.A. § 6081(dd) (interim housing
7 exemptions);

8 (2) an area designated Tier 2 pursuant to 10 V.S.A. chapter 151 (State
9 land use and development plans) or an area in which the housing development
10 site is compatible with regional and town land use plans as evidenced by a
11 letter of support from the regional planning commission for the municipality;

12 or

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

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

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

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

8 § 1910a. INDEBTEDNESS

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

17 (b) Notwithstanding any provision of any municipal charter, each instance
18 of borrowing by a municipality to finance or otherwise pay for a housing
19 infrastructure project shall occur only after the legal voters of the municipality,
20 by a majority vote of all voters present and voting on the question at a special
21 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. Up to 80 percent of the education
13 property tax increment may be retained for up to 20 years, beginning the first
14 year in which debt is incurred for the housing infrastructure project. Upon
15 incurring the first debt, a municipality shall notify the Department of Taxes
16 and the Vermont Economic Progress Council of the beginning of the retention
17 period of the education property tax increment.

18 (c) Municipal property tax increment. Not less than 100 percent of the
19 municipal property tax increment may be retained, beginning the first year in
20 which debt is incurred for the housing infrastructure project.

21 (d) 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 1910b(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 § 1910d. 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;

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 and on Ways
19 and Means on housing infrastructure projects approved pursuant to this
20 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, including the number of
5 housing units created;
- 6 (5) projected and actual incremental revenue amounts;
- 7 (6) the allocation of incremental revenue; and
- 8 (7) projected and actual financing.

9 § 1910e. AUDITING

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

1 § 1910f. GUIDANCE

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

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

16 (c) The Secretary of Commerce and Community Development shall review
17 the recommendations of the Council and issue a final written decision on each
18 matter within 60 days following receipt of the recommendations. The
19 Secretary may permit an appeal to be taken by any party to a Superior Court
20 for determination of questions of law in the same manner as the Supreme Court

1 may by rule provide for appeals before final judgment from a Superior Court
2 before issuing a final decision.

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

5 Sec. 2. 32 V.S.A. § 3325 is amended to read:

6 § 3325. VERMONT ECONOMIC PROGRESS COUNCIL

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

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

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

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

16 * * *

17 (g) Decisions not subject to review. A decision of the Council to approve
18 or deny an application under subchapter 2 of this chapter, ~~or~~ to approve or
19 deny a tax increment financing district pursuant to 24 V.S.A. chapter 53,
20 subchapter 5 and section 5404a of this title, or to approve or deny a housing
21 infrastructure project pursuant to 24 V.S.A. chapter 53, subchapter 7 is an

1 administrative decision that is not subject to the contested case hearing
2 requirements under 3 V.S.A. chapter 25 and is not subject to judicial review.

3 Sec. 3. EFFECTIVE DATE

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