

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 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 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 1910a 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 1908 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 1908 of this subchapter.

12 (9) “Improvements” means:

13 (A) the installation or construction of infrastructure that will serve a
14 public purpose and fulfill the purpose of housing infrastructure tax increment
15 financing as stated in section 1907 of this subchapter, including utilities,
16 transportation, parking, public facilities and amenities, land and property
17 acquisition and demolition, brownfield remediation, site preparation, and flood
18 remediation and mitigation; and

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

1 (10) “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 (11) “Municipality” means a city, town, or incorporated village.

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

8 (13) “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 serving debt as determined in accordance with
18 subsection 1910c(b) of this subchapter.

19 (14) “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 housing infrastructure tax increment financing is to provide
5 revenues for improvements and related costs to stimulate the development of
6 affordable housing.

7 § 1908. CREATION OF HOUSING INFRASTRUCTURE PROJECT AND
8 HOUSING DEVELOPMENT SITE

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

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

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

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

19 (B) identification of a sponsor;

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

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

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

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

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

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

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

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

1 § 1909. HOUSING INFRASTRUCTURE AGREEMENT

2 (a) The housing infrastructure agreement for a housing infrastructure
3 project shall:

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

5 (2) clearly identify the developer and the housing development for the
6 housing development site;

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

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

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

16 § 1910. HOUSING INFRASTRUCTURE PROJECT APPLICATION;

17 VERMONT ECONOMIC PROGRESS COUNCIL

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

1 (b) **Review.** The Vermont Economic Progress Council may approve only
2 applications meeting the process requirements, the project criteria, and either
3 of the location criteria of this section. Staff of the Council may approve
4 applications submitted to meet the location criterion of subdivision (e)(1) of
5 this section, but applications submitted to meet the location criterion of
6 subdivision (e)(2) of this section shall require approval of the board.

7 (c) **Process requirements.** The Vermont Economic Progress Council shall
8 review a municipality's housing infrastructure project application to determine
9 whether the municipality has:

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

12 (2) executed a housing infrastructure agreement for the housing
13 infrastructure project adhering to the standards of section 1909 of this
14 subchapter with a developer and, if the municipality is not financing the
15 housing infrastructure project itself, a sponsor; and

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

19 (d) **Project criteria.** The Vermont Economic Progress Council shall review
20 a municipality's housing infrastructure project application to determine
21 whether the housing development plan meets the following criteria:

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

3 (2) the projected housing development would not have included housing
4 affordable to a household with an income equal to or less than 200 percent of
5 area median income but for the proposed utilization of the incremental tax
6 revenues.

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

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

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

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

1 financing plan shall include all information related to the proposed financing
2 necessary for approval by the Council and to ensure its viability and
3 consistency with the housing development plan developed pursuant to section
4 1908 of this subchapter.

5 § 1910a. INDEBTEDNESS

6 (a) A municipality approved for tax increment financing under section
7 1910 of this subchapter may incur indebtedness against revenues of the
8 housing development site at any time during a period of up to three years
9 following the creation of the housing development site. If no debt is incurred
10 for the housing infrastructure project during this three-year period, whether by
11 the municipality or sponsor, the housing development site shall terminate.

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

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

1 (d) The housing development site shall continue until the date and hour the
2 indebtedness is retired or, if no debt is incurred, three years following the
3 creation of the housing development site.

4 (e) A municipal legislative body shall provide information to the public
5 prior to the public vote required under subsection (b) of this section. This
6 information shall include the amount and types of debt and related costs to be
7 incurred, including principal, interest, and fees; terms of the debt; the housing
8 infrastructure project to be financed; the housing development projected to
9 occur because of the housing infrastructure project; and notice to the voters
10 that if the tax increment received by the municipality from any property tax
11 source is insufficient to pay the principal and interest on the debt in any year,
12 the municipality shall remain liable for the full payment of the principal and
13 interest for the term of the indebtedness. If interfund loans within the
14 municipality are used, the information must also include documentation of the
15 terms and conditions of the loan. If interfund loans within the municipality are
16 used as the method of financing, no interest shall be charged.

17 § 1910b. ORIGINAL TAXABLE VALUE; TAX INCREMENT

18 (a) As of the date the housing development site is created, the lister or
19 assessor for the municipality shall certify the original taxable value and shall
20 certify to the legislative body in each year thereafter during the life of the
21 housing development site the amount by which the total valuation as

1 determined in accordance with 32 V.S.A. chapter 129 of all taxable real
2 property within the housing development site has increased or decreased
3 relative to the original taxable value.

4 (b) Throughout the life of the housing development site, the lister or
5 assessor shall include not more than the original taxable value of the real
6 property in the assessed valuation upon which the treasurer computes the rates
7 of all taxes levied by the municipality and every other taxing district in which
8 the housing development site is situated, but the treasurer shall extend all rates
9 so determined against the entire assessed valuation of real property for that
10 year.

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

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

20 (e) Not more than the percentages established pursuant to section 1910c of
21 this subchapter of the municipal and State education tax increments received

1 with respect to the housing development site and committed for the payment
2 for financing for improvements and related costs shall be segregated by the
3 municipality in a special tax increment financing account and in its official
4 books and records until all capital indebtedness incurred for the housing
5 infrastructure project has been fully paid. The final payment shall be reported
6 to the treasurer, who shall thereafter include the entire assessed valuation of the
7 housing development site in the assessed valuations upon which the municipal
8 and other tax rates are computed and extended, and thereafter no taxes from
9 the housing development site shall be deposited in the special tax increment
10 financing account.

11 (f) Notwithstanding any charter provision or other provision, all property
12 taxes assessed within a housing development site shall be subject to the
13 provisions of this section. Special assessments levied under chapter 76A or 87
14 of this title or under a municipal charter shall not be considered property taxes
15 for the purpose of this section if the proceeds are used exclusively for
16 operating expenses related to properties within the housing development site
17 and not for the housing infrastructure project.

18 § 1910c. USE OF TAX INCREMENT; RETENTION PERIOD

19 (a) Education property tax increment. For only debt incurred within the
20 period permitted under section 1910a of this subchapter and related costs, up to
21 80 percent of the education property tax increment may be retained for up to

1 20 years, beginning on July 1 of the year following the first incurrence of debt
2 by a sponsor.

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

9 (c) Excess tax increment.

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

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

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

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

19 (2) Any remaining portion of the excess education property tax
20 increment shall be distributed to the Education Fund. Any remaining portion
21 of the excess municipal property tax increment shall be distributed to the city,

1 town, or village budget in the proportion that each budget bears to the
2 combined total of the budgets unless otherwise negotiated by the city, town, or
3 village.

4 § 1910d. INFORMATION REPORTING

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

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

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

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

1 required by the Council or the Department of Taxes for the report required
2 pursuant to subsection (b) of this section.

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

9 (1) the date of approval;

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

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

12 (4) the scope and value of projected and actual improvements and
13 developments in the housing development site;

14 (5) projected and actual incremental revenue amounts;

15 (6) the allocation of incremental revenue;

16 (7) projected and actual financing;

17 (8) performance measures as may be developed by the Vermont
18 Economic Progress Council; and

19 (9) the amount of infrastructure work performed by Vermont firms.

1 § 1910e. AUDITING

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

13 § 1910f. GUIDANCE

14 (a) The Secretary of Commerce and Community Development, after
15 reasonable notice to a municipality and an opportunity for a hearing, may issue
16 decisions to a municipality on questions and inquiries concerning the
17 administration of housing infrastructure projects, statutes, rules,
18 noncompliance with this subchapter, and any instances of noncompliance
19 identified in audit reports conducted pursuant to section 1910e of this
20 subchapter.

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

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

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

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

18 § 3325. VERMONT ECONOMIC PROGRESS COUNCIL

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

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

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

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

7 * * *

8 (g) Decisions not subject to review. A decision of the Council to approve
9 or deny an application under subchapter 2 of this chapter, ~~or~~ to approve or
10 deny a tax increment financing district pursuant to 24 V.S.A. chapter 53,
11 subchapter 5 and section 5404a of this title, or to approve or deny a housing
12 infrastructure project pursuant to 24 V.S.A. chapter 53, subchapter 7 is an
13 administrative decision that is not subject to the contested case hearing
14 requirements under 3 V.S.A. chapter 25 and is not subject to judicial review.

15 Sec. 3. EFFECTIVE DATE

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