

Legal Connections



LEGAL EXPERTISE FOR THE BUSINESS COMMUNITY

DECEMBER 15 - 21, 2023

When looking for additional guidance on economic development for your small business, our lawyers can help: www.cbalaw.org/directory

Jill Snitcher, Esq.
Executive Director
jill@cbalaw.org



START YOUR ENGINES: OHIO'S LEGISLATURE DRAMATICALLY EXPANDS THE BREADTH OF TWO LOCAL ECONOMIC DEVELOPMENT PROGRAMS

With Google's \$3.7 billion investment, Amazon Web Services' expected \$7.8 billion investment, Honda and LG Electronics' nearly \$4.4 billion investment, and Intel's expected \$20 billion investment in Ohio (just to name a few), Ohio and its local communities find themselves at a once-in-a-generation economic inflection point. As outside investment flows into Ohio, the 135th General Assembly (GA) made clear its intention to turbocharge the economic development engines that help spawn major investments in Ohio. Amended Substitute House Bill 33 (HB 33), commonly known as Ohio's Budget Bill, dramatically expanded both the breadth of, and access to, two specific types local economic development programs - Community Reinvestment Areas (CRA) and Tax Increment Financing (TIF). As a result, both of these incredibly powerful economic incentives are potentially available to more projects, and more project sites, than at any other time in Ohio's history.

To ready our state for continued economic growth and investment, all of Ohio's political subdivisions should be prepared to leverage these expanded programs and prepare their communities to capitalize on the opportunities now available. To help, we've put together a brief description of Ohio's CRA and TIF programs along with a summary of the legal changes that were made to those programs pursuant to Amended Sub. Senate Bill 33 (effective April 3, 2023) and HB 33 (effective October 3, 2023).

CRA Basics (On Your Marks...)

The GA has historically granted Ohio



ADAM SEELEY TYLER J. BRIDGE JOHN FLIS

counties and municipalities the authority to "abate" (remove) real property taxes that are attributable to new construction or remodeling improvements within certain areas of its jurisdiction if the area is exhibiting a decrease in investment.

Under law effective July 22, 1994, the GA bi-furcated local CRA programs into "Pre-1994" and "Post-1994" programs. Substantially different legal requirements underly each type of CRA program, and they are both still in effect—it's possible your community could have an active Pre-1994 CRA in its list of ordinances:

Pre-1994

- No formal State approval required to authorize an abatement.
- Local governments may only award complete abatements.
- No requirement that a written agreement be executed between the owner and local government.
- No requirement that affected school districts provide prior approval.

Post-1994

- Formal State approval required to authorize.

- Local governments may award any abatement not exceeding (100%).
- A written agreement must be executed between the owner and local government.
- Affected school districts must provide prior approval of abatements exceeding a specific threshold.

2023 CRA Changes:

- *Limited Home-Rule* Townships now have the power to designate their unincorporated areas as CRAs, such authority was previously available to only municipalities, and counties.
- For Post-1994 CRAs, school district approval is now required for abatements that exceed 75%, previously it was 50%.
- Post-1994 CRAs previously had a new payroll threshold (\$1 million/year, subject to statutory offsets) at which communities that levy income taxes must share the increase in payroll taxes generated by a CRA with affected local school districts. Now, that payroll threshold has increased to \$2 million/year.
- Local governments no longer need to spend time and resources petitioning the State to designate an area as a CRA. Now, local governments must merely send a copy of the enabling legislation and a map of the CRA's boundaries by certified mail to the Ohio Department of Development (ODOD).

- While all local governments are still required to submit annual reports regarding each CRA within their jurisdiction to the ODOD by March 31st, the underlying reporting obligations have been greatly reduced to place fewer reporting requirements on a local government's staff.

The TIF Basics (Get Set...)

Whereas a CRA abates real property taxes, a TIF diverts real property taxes. TIFs allow counties, municipalities, and townships to exempt real property taxes that would otherwise be due with respect to improvements to real property, and replace them with service payments in lieu of taxes ("PILOTs") in amounts equal to the exempted taxes. Rather than abating the real property taxes, a TIF operates as a property tax diversion mechanism in order to finance public infrastructure costs.

Just like real property taxes, PILOTs are collected by the county treasurer. Instead of being distributed by the auditor to whatever agency or local government levied the tax, the PILOTs are distributed instead to the local jurisdiction that authorized the TIF to be deposited into a specific fund that was created by the local government when it approved the TIF (the "TIF Fund"). From the TIF Fund, PILOTs may pay costs of public infrastructure directly benefitting the TIF parcels (which may include reimbursements to developers fronting such costs or as a pledge to secure bond issuances, among other financing structures).

Go to www.cbalaw.org to read the rest of the article in the Fall 2023 Issue of Columbus Bar Lawyers Quarterly. ■

THE CBA IS A ONE-STOP SHOP FOR ALL THINGS NOTARY, INCLUDING EDUCATION, TESTING, BACKGROUND CHECKS, AND SUPPLIES. LEARN MORE AT CBALAW.ORG

LEGAL DIRECTORY COLUMBUS BAR ASSOCIATION



The Columbus Bar Directory is central Ohio's premier resource for navigating the local legal community. Find lawyers, law firms, expert witnesses, mediators, attorney support providers, courts and more. Already know what type of lawyer you need? You can search for attorneys by practice area, admission to practice in other states, foreign language abilities and more. Go to www.cbalaw.org/Directory to begin your search.

