

## Community Reinvestment Area (CRA) Program

Ohio Revised Code Sections 3735.65 to 3735.70

### What is CRA?

Ohio's CRA program is a locally administered real property tax exemption that reduces real property taxes, for a period of time, on the value of new improvements resulting from remodeling or new construction.

### How does CRA work?

It's important to note the difference between a CRA bounded area, and the real property tax exemptions offered within that area.

Counties, municipal corporations, and limited home rule townships may designate bounded areas within their jurisdictions in which housing or historic structures are located and real property investments have been discouraged (the area should have objective evidence of disinvestment).

These political subdivisions can provide tax exemptions within those areas to specific properties used for residential<sup>1</sup>, commercial, and industrial remodeling or new construction projects. Note CRA exemptions apply only to vertical improvements; exemptions neither apply to increases in land value nor the amount of real property taxes due prior to the improvement project.

- With respect to commercial and industrial projects, political subdivisions must enter into written agreements with property owners before commencing remodeling or construction. Exemptions of up to 100%, for up to 15 years, can be offered through negotiation; local school district approval is required for exemptions that exceeds 75%.
- With respect to residential projects, property owners simply apply for the exemption after the remodeling or construction project is complete; the political subdivisions' enabling legislation sets forth the exemption benefit level and term; local school district approval is not required, even for exemptions that exceed 75%.

### How is CRA important in housing development contexts?

Property owners may save substantial taxes with respect to remodeling existing structures; CRA alleviates the "tax penalty" for their investment to improve a home. Landlords and multi-family developers may pass real property tax savings on to housing tenants, thus reducing rents during the CRA exemption period.

### How much savings are available from a CRA exemption?

Total savings will depend upon the value of the real property investment, the effective tax rate, and the CRA exemption's rate and term. But we can use an example to illustrate its impact:

**Assume:** 10-year, 100% CRA exemption approved by the political subdivision on the value of new single-family homes within a bounded area, with a newly constructed house appraised at \$250,000 (which means it is assessed at \$82,500). The political subdivision taxes residential real estate at an "effective rate" of 55 mills applied against the assessed valuation.

**Effect:** The CRA exemption would yield a savings of approximately \$4,500 per year, or \$45,000 across the 10-year term.

### Special considerations

School districts (and other taxing districts such as local libraries) are the primary beneficiaries of real property taxes and therefore are sensitive to property tax exemptions, particularly if a new development brings with it net, new children to educate. A thoughtful balance between housing needs and school needs is encouraged; transparent communication and a collaborative mindset can make a huge difference in these situations.

These CRA exemptions can be combined with other development programs such as tax increment financing and/or new community authorities. The layering (or "pancaking") of incentive programs can effectively bridge financing gaps and push projects across the finish line.

<sup>1</sup> Importantly, political subdivisions have the option under their CRA exemptions of designating multi-family housing projects (e.g., apartment complexes) as either commercial or residential.



## Tax Increment Financing (TIF)

Ohio Revised Code Sections 5709.40 et seq., 5709.73 et seq., and 5709.77 et seq.

### What is TIF?

Counties, municipal corporations, and townships can **redirect** real property taxes collected from real property improvements (new construction, renovations, site improvements, and mere incremental increases in property values) to cover the costs of public infrastructure improvements. Importantly, TIF does not create new tax burdens.

### How does TIF work?

In an age-old dilemma, developers and local governments confront increased costs associated with providing public infrastructure (e.g., roads, water, sewer) to new developments but a lack of eager parties willing and able to pay for it.

Using TIF, political subdivisions may designate parcels whose improvement values are exempted from real taxes. But in the very same legislation, political subdivisions impose on the parcels' owners a legal obligation to pay annual service payments in lieu of taxes (i.e., "PILOTs") that are calculated as the same amount of the real property taxes that are exempted.<sup>1</sup> In this one-two punch, the political subdivision effectively redirects the taxes to an escrow fund to pay for the desired public infrastructure.

Political subdivisions are authorized to provide up to 75% tax exemptions, for periods up to 10 years, without local school district approval; with school district approval, TIFs may provide up to 100% exemptions for up to 30 years.

### How is TIF important in housing development contexts?

Although most often used for economic development projects – that is, commercial and industrial development – political subdivisions can use TIF exempt to residential development.<sup>2</sup> We turn to those types of TIF structures.

- "Parcel TIFs" generally **cannot** be used in residential projects.<sup>3</sup>
- "Urban Redevelopment TIFs" offered by municipalities and townships generally **cannot** be used in residential projects.<sup>4</sup>
- "Incentive District TIFs" offered by counties, municipalities, and townships **can** be used in residential projects, including single-family housing.<sup>5</sup>

Political subdivisions and developers can use TIF to cover some or all of the costs of public infrastructure improvements through PILOTs, without raising taxes.

### How much of a project's public infrastructure costs can TIF PILOTs cover?

The amount of funds redirected to a TIF fund (i.e., escrow fund) will depend upon the value of the real property investment, growing property valuation across time, the effective tax rate, and the TIF exemption's rate and term. But we can use an example to illustrate its impact:

**Assume:** 10-year, 100% TIF exemption approved by the political subdivision on the value of a newly constructed multi-family project appraised at \$2 million (which means it is assessed at \$660,000). The political subdivision taxes commercial real estate at an "effective rate" of 85 mills applied against the assessed valuation.

**Effect:** The TIF would yield PILOTs in the amount of approximately \$56,000 per year, or \$560,000 across the 10-year term (provided the impacted schools were not made whole).

### Special considerations

School districts (and other taxing district such as local libraries) are the primary beneficiaries of real property taxes and therefore are sensitive to property tax exemptions, particularly if a new development brings with it net, new children to educate. A thoughtful balance between housing needs and school needs is encouraged; transparent communication and a collaborative mindset can make a huge difference in these situations.

These TIF exemptions can be combined with other development programs such as Community Reinvestment Area and/or new community authorities. The layering (or "pancaking") of incentive programs can effectively bridge financing gaps and push projects across the finish line.

<sup>1</sup> County treasurers collect PILOTs in the same manner as real property taxes. The PILOTs are deposited into the political subdivision's TIF Fund (think escrow fund) to pay the costs of public infrastructure improvements benefitting the real property (including, but not limited to, streets, water, sewer, electric and gas extensions, and debt service on bonds sold to provide immediate, up-front cash proceeds for such projects.

<sup>2</sup> See Ohio Revised Code Sections ("R.C.") 5709.78(A), 5709.40(B), and 5709.73(B).

<sup>3</sup> See R.C. 5709.41.

<sup>4</sup> See ORC 5709.78(B), 5709.40(C), and 5709.73(C).

<sup>5</sup> Under Ohio TIF law, multi-family projects consisting of four or more rental units are "commercial" whereas single-family, two-family, three-family, and condominium residential units are considered "residential."



## **New Community Authority (NCA)**

Ohio Revised Code Sections 349.01 through 349.16

### **What is a NCA?**

A NCA is a stand-alone entity with its own board of trustees that operates to construct and maintain community facilities, and pays for such assets by collecting revenue from community development charges. Such charges may be levied in the same manner as real property taxes, or as gross receipts, or even income taxes. And community facilities paid for by such charges include public infrastructure improvements (note the similarity here to TIF), parks and recreational trails, community centers, design amenities, parking garages, and debt service on bonds sold to provide immediate, up-front cash proceeds for such projects.

### **How do NCAs work?**

NCAs can own property and sell debt to build community facilities (i.e., public infrastructure). These entities are developer-driven, with petitions to form NCAs filed with the local political subdivision at the time of planning development. The use of NCAs in mixed use development is common. The key to a successful NCA is for developers, businesses, and residents to see sufficient value of being part of the NCA – and its public amenities – such that they're willing to pay the community development charges across an extended period of time.

To form a NCA, a developer (which the statute defines to include a political subdivision) files a petition with a municipality, certain kinds of townships, or the board of county commissioners. The developer's petition must include a plan for development, and all the acreage included in the petition must be owned by the petitioner or under option, subject to purchase agreement, or a very long-term lease.

Once established, the NCA is governed by a board of trustees whose seats are appointed by the developer and the political subdivision; the board make-up is set forth in the statute.<sup>1</sup>

### **How are NCAs important in housing development contexts?**

By their very definition, NCAs are entities formed to enhance the development of new residential communities, characterized by well-balanced and diversified land use patterns, and which include land development and their attendant community facilities.<sup>2</sup>

Political subdivisions, if they are the property owners, may themselves petition to create NCAs. In this way, local government doesn't have to wait for development to arrive; political subdivisions may utilize NCA as a proactive tool to set conditions for desired future development.

### **Special Considerations**

NCAs do not have the power to operate or provide police or fire services, regulate zoning or operate water or sewer utilities (unless those utilities are otherwise unavailable). But NCAs can enforce deed restrictions (i.e., covenants running with the land) governing the type of development that can and cannot occur within the NCA.

To have sufficient revenue from enough community development charges to be effective, NCAs are most likely useful for higher-end, mixed use developments; think large-scale residential neighborhood developments.

An NCA can be combined with other development programs such as Community Reinvestment Area and/or tax increment financing. When paired with CRA, one can view the NCA as "monetizing" that CRA tax abatement, because a charge still is being collected, even though the taxes are abated. This layering (or "pancaking") of incentive programs can effectively bridge financing gaps and push projects across the finish line.

<sup>1</sup> See R.C. 349.04.

<sup>2</sup> See R.C. 349.01(B).

## Tax Expenditures in Support of Housing Development

### Welcome Home Ohio

Ohio Revised Code Sections 122.631 – 122.633

In the most recent state budget, the Ohio General Assembly made available \$75 million, largely to land banks, to offset the costs of acquiring and rehabbing or constructing single-family residential units.<sup>1</sup> Funding flows via \$25 million in grant funds exclusively to land banks for site acquisition, with another \$25 million for rehab and construction. Another \$25 million in tax credits are available to a variety of applicants as an alternate funding source for rehab and construction.

The single-family housing units each must be at least 1,000 sq ft. Buyers of units cannot make more than 80% of the county median income and participating properties cannot be sold for more than \$180,000.

### Single Family Housing Tax Credit

In the most recent state budget, the Ohio General Assembly made available the Single-Family Housing Tax Credit through the Ohio Housing Finance Agency (OHFA).<sup>2</sup> The program requires public private partnerships to identify the location and scope of construction of new single-family homes in a community. OHFA's published rules allow fully detached single-family units or duplexes, triplexes, fourplexes, row houses, townhomes and multi-story condominiums.

Together, a community and developer apply for tax credits to help finance construction of the units, with maximum awards of \$50,000 per unit. Credits can be claimed during a 10-year period. Participating homes must be sold at the cost of construction, to Ohio homebuyers making no more than 120% of area median income. Housing costs cannot exceed 30% of the buyers' monthly income. OHFA has set aside \$14.1 million for rural Ohio.

### Port Authority Sales Tax Exemption

Under Ohio's port authority law, these entities are pollical subdivisions and therefore do not pay state sales and use taxes. To make a port authority an owner of a construction project means the purchase of construction materials becomes exempt from sales tax (port authority ownership is usually temporary and eventually transferred to a developer). This sales tax exemption, and sometimes a port authority's own tax-exempt bond financing, achieve multi-family-project cost savings; port authorities often expect housing unit affordability requirements.

---

<sup>1</sup> See Am. Sub. House Bill 33, 135th Ohio General Assembly.

<sup>2</sup> Id.



## State of Ohio Brownfield and Site Demolition Grant Programs

Ohio Revised Code Sections 122.6511 and 122.6512

### What are the State's Brownfield and Demolition Grants?

Commencing in State Fiscal Year 2022, the Ohio General Assembly appropriated \$350 million in grant funds to start-up a new program to remediate brownfield conditions (the **Brownfield Remediation Program**) and another \$150 million to start-up a parallel program for the demolition of commercial and residential buildings and adjacent, non-brownfield properties (the **Building Demolition and Site Revitalization Program**).

In the most recent state budget, the Ohio General Assembly renewed each program, appropriating an additional \$350 million to Ohio's Brownfield Remediation Program across State Fiscal Years 2024 (\$175 million) and 2025 (\$175 million), and an additional \$150 million during State Fiscal Year 2024 to the Building Demolition and Site Revitalization Program.

Importantly, each program has set-aside amounts for each of Ohio's 88 counties: \$1 million in Brownfield Remediation Program funds and \$500,000 in Building Demolition and Site Revitalization Funds. These county-reserved amounts will be held until July 4, 2024; a county failing to obligate its set-aside by that deadline will lose its reserve amount to a statewide pool awarded on a first-come, first-served basis.

### How do the grants work?

County land banks, or lead entities otherwise recommended by each county and approved by the Ohio Department of Development (ODOD), apply for the funds. Political subdivisions can partner with their lead applicants to receive funds using subrecipient agreements; known site end users should also sign subrecipient agreements. Lead entities can submit multiple applications.

**Brownfield remediation funds** are for industrial, commercial or institutional sites contaminated with hazardous or petroleum substances or sites believed to be contaminated. Entities having contributed to that contamination cannot apply for Brownfield Funds. Applicants must demonstrate they have legal access to sites in order to complete projects.

**Demolition funds** are intended for blighted, vacant or abandoned commercial and residential buildings on sites that are not brownfields.

---

See Am. Sub. House Bill 110, 134th Ohio General Assembly.

See Am. Sub. House Bill 33, 135th Ohio General Assembly.

*(continued on back)*



## At a glance:

	Brownfield Remediation	Building Demolition
<b>SFY 2024 Funding Available</b>	\$175 million (another \$175 budgeted for FY25)	\$150 million
<b>Per-county set-aside</b>	\$1 million	\$500,000
<b>Eligible expenses include:</b> (not the complete list)	<ul style="list-style-type: none"> <li>• Site remediation under VAP, BUSTR or RCRA</li> <li>• Engineering controls</li> <li>• Limited infrastructure</li> <li>• Certified professional fees</li> <li>• Up to 10% admin costs</li> </ul>	<ul style="list-style-type: none"> <li>• Environmental assessments</li> <li>• Asbestos surveys</li> <li>• Inspections</li> <li>• Up to 10% for site acquisition</li> <li>• Debris removal</li> <li>• Asbestos removal</li> <li>• Removal of underground utilities and storage tanks</li> <li>• Utility relocations</li> <li>• Site restoration &amp; "greening"</li> <li>• Admin costs</li> </ul>
<b>Required Local Match</b>	<ul style="list-style-type: none"> <li>• 0% match for \$1M county set-aside</li> <li>• Non-county set-aside projects: 25% match</li> </ul>	<ul style="list-style-type: none"> <li>• 0% for \$500,000 county set-aside</li> <li>• 25% match &gt; \$500,000 set-aside</li> </ul>
<b>Max award</b>	\$10 million	N/A

## Special Considerations

Brownfield sites remediated for future housing will need to meet higher clean-up standards under Ohio Voluntary Action Program (VAP) rules. Prevailing wages laws apply. Funds are disbursed on a reimbursement basis.