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Authors:

[Thaddeus M. Boggs](#)

[Emma H. Mulvaney](#)

Community Reinvestment Area Act

Major Overhaul for Ohio

Signed into law by Governor Mike DeWine on January 2, Ohio Senate Bill 33 (SB 33) delivers significant changes to the Community Reinvestment Act. These changes can be organized into the following categories: (1) Facilitation of the creation and implementation of Community Reinvestment Areas (CRA) (2) Benefits to project owners; (3) New allocation of tax revenue and potential impact to school districts; and (4) Increased access to CRA information. This law will be effective on April 2.

What is a CRA?

A CRA is an economic development program first introduced in Ohio over 50 years ago and governed by Ohio Revised Code Sections 3735.65 to 3735.70 (the “Act”). A CRA is a bounded area that has been designated through an ordinance (municipality) or resolution (county or limited home rule township, under the new law) as “one in which housing facilities or structures of historical significance are located and new housing construction and repair of existing facilities or structures are discouraged.” (R.C. 3735.65(B)).

Once designated, the CRA allows the granting of real property tax exemptions of up to 100% on *residential, commercial, or industrial* projects within the bounded area for the building of new structures or the remodeling of existing structures. Depending on the nature of the project, tax exemptions granted under the CRA program can extend up to 15 years (or 30 years in the case of a qualifying Megaproject). (R.C. 3735.67(D)(1)). For commercial or industrial projects in CRAs created after 1994, the property owner and the legislative authority for the subdivision granting the exemption must enter an agreement specifying terms of the exemption (R.C. 3735.671).

Effect of SB 33

Facilitation of the Creation and Implementation of CRAs

Inclusion of Limited Home Rule Townships. Previously, CRAs were able to be created and utilized only by municipalities and counties. SB 33 revises the language of the Act to include limited home rule townships as a political subdivision with authority to create a CRA. (R.C. 3735.65(F)).

Elimination of Requirement for State Certification. The current process for establishing a CRA involves a petition to the Ohio Department of Development (ODOD) for the certification of the area. (R.C. 3735.66). Under SB 33, this requirement is eliminated, and instead, the political subdivision will be required to send a copy of the resolution and the map of the CRA to the ODOD upon adoption. While the ODOD would no longer be involved in the determination of the validity of the CRA, the ODOD would still need to provide a unique designation for each CRA prior to the political subdivision's ability to grant any tax exemption.

Model Agreement. Under Section 3735.671(A) of the Act, proposed commercial and industrial projects for tax exemption within a CRA require a written agreement between the project owner and the legislative authority of the municipality or county. SB 33 requires the ODOD to adopt a model agreement in conformity with the requirements as outlined in Section 3735.671.

Increased Threshold for Municipal Income Tax Sharing. Under R.C. 5709.82(C) and (D), municipalities were required to provide school districts compensation if the exemption granted under a CRA would create \$1 million or more in increased payroll due to new employees in the commercial or industrial project. Under SB 33, income tax sharing is only required for \$2 million or more in increased payroll (as adjusted for inflation each year). The \$1 million threshold will continue for other tax incentive programs, including tax increment financing and enterprise zones.

Reduction of Annual Report Requirements. Under Section 3735.672 of the Act, the municipality or county is required to send an annual report to the ODOD and the board of education of each

school district. Under SB 33, the municipality or the county is only required to send the annual report to the ODO. Additionally, the required content of the annual report is reduced, including the elimination of the requirement to provide employment data, tax incentive review council action data, the number of rescinded agreements, and additional previously required information.

Benefits to Project Owners

Increased Exemption Threshold. Under Section 3735.671(A)(1) of the Act, approval is required by the school district's board of education in which the project property is located within the territory. However, former law only requires school district approval if the exemption exceeds 50% of the value of new or remodeled structures. (R.C. 3735.671(A)(2)). SB 33 further limits this approval requirement only if the exemption exceeds 75% of the value of new or remodeled structure(s).

Elimination of Annual Fee. Section 3735.671(D) of the Act, commercial and industrial project owners are required to send a CRA fee to the state annually. Under SB 33, this annual fee would be eliminated.

Reduction of Waiting Period Following Discontinuation. Under Section 3735.671(E) of the Act, for a period of five years following the discontinuation of operations or the expiration of the term of the agreement, the parties to the CRA agreement may not enter into another agreement under the CRA program or an enterprise zone agreement under R.C. Section 5709.62, 5709.63, or 5709.632. SB 33 reduces this period from five to three years.

New Allocation of Tax Revenue and Potential Impact to School Districts

SB 33 increases the approval threshold by an affected school district's board of education to exemptions which exceed 75% of the value of new or remodeled structures. This could lead to higher tax exemptions on real property for CRA projects, potentially resulting in more forgone revenue for school districts and other political subdivisions.

As previously discussed, SB 33 increased the required threshold for income tax sharing to \$2 million or more in increased municipal income tax revenue, which would benefit municipalities, but reduce additional revenues available to school districts.

Increased Access to CRA Information

Under SB 33, the ODOD is required to publish and update annually on its website a list of all Ohio CRAs, including for each CRA: (a) boundaries on a map, (b) authorizing resolutions, and (c) applicable agreements for any commercial or industrial properties.

For more information, please contact any attorney with Frost Brown Todd's [Government Services](#) or [Public Finance](#) practice groups.

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