Expansion of Tax Increment Financing for Ohio Townships

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House Bill 501 (HB 501), which became effective April 6, 2023, amended Ohio Revised Code Section 5709.41 to permit Ohio townships to implement what are commonly known as "41 TIFs" or "Redevelopment TIFs." Redevelopment TIFs are a specialized form of tax increment financing (TIF) that provide for expanded eligibility of permitted uses of TIF funds generated under certain circumstances. While such Redevelopment TIFs have previously been available to, and utilized by, Ohio municipalities, now townships may also take advantage of these specialized TIFs.

What Makes a Redevelopment TIF Unique?

In a traditional TIF, funds generated through the diversion of real estate taxes may only be utilized for "public infrastructure improvements," as defined in Ohio Revised Code Section 5709.40. Generally, such improvements consist of public roads, water and sewer lines, sidewalks, the provision of utilities, public parks, and other similar public improvements. Redevelopment TIFs allow the funding of redevelopment activities outside of the limited scope of public infrastructure improvements.

Importantly, Ohio Revised Code Section 5709.41 contains limitations on Redevelopment TIFs. First, the land must be within the chain of title of the township, meaning that the township must have owned the land prior to the adoption of the resolution establishing the Redevelopment TIF. Second, the land must then be leased or sold to a third party who will be responsible for implementing the desired redevelopment project. Finally, the township must declare that the redevelopment of the land is a "public purpose" and exempts the improvements to be made from taxation. Service payments equal to a certain percentage of the otherwise exempt real estate taxes are then made by the third party to the township. These service payments can then be applied to support funding of the redevelopment project.

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What Does This Mean for Townships?

HB 501 has provided Ohio townships with a powerful tool in the form of Redevelopment TIFs. Accordingly, townships can now specifically incentivize third parties to partake in desired redevelopment by offering the benefits of a Redevelopment TIF for certain projects. This ability to dictate development via incentive programs provides townships with greater control over the private development that occurs within their jurisdiction, helping to ensure that the actions of private parties align with the goals and priorities of the township. It also provides townships with an unprecedented level of input and control over development within the township, helping to ensure that the interests of the public are protected.

For more information on how to take advantage of these specialized TIFs, please contact the authors of this article or any attorney with Frost Brown Todd's Public Finance practice.

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