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Opportunity Zones 2.0: A Critical Role for State Housing Agencies

As the U.S. grapples with a multi layered housing crisis, the need for states to act strategically and mobilize public, private and civic resources has never been higher. In the near term, that includes shaping the next round of Opportunity Zones. Yes, Opportunity Zones.

Opportunity Zones, or OZs, emerged as a little-known, bipartisan provision of the Tax Cuts and Jobs Act of 2017. Focused on attracting private investment to distressed communities, the incentive allows people or corporations to defer taxes on capital gains if they park those gains in qualified Opportunity Funds that target their investments to state-designated Opportunity Zones. If investors keep their initial investment in Fund for 10 years, any additional gains from Fund investments are also exempt from taxes on the capital appreciation.

Now, almost a decade later, we stand at the threshold of OZ 2.0. The One Big Beautiful Bill Act made Opportunity Zones a permanent feature of the tax code. New Opportunity Zones will be designated by governors later this year and take effect January 1, 2027. Many states are likely to give economic development agencies primary responsibility for determining which eligible census tracts are designated as zones. Our recommendation is that governors give state housing agencies a strong role in the designation of zones to ensure that OZs realize their full potential in addressing the housing crisis.

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What OZ 1.0 Taught Us

Opportunity Zones mobilized approximately $100 billion in private capital toward designated low-income communities. Roughly 75%

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went to real estate, with multifamily residential dominating. According to Novogradac, less than 2% of equity went to operating businesses. The U.S. Treasury Office of Tax Analysis found that about two-thirds of designated tracts saw meaningful reported investment through 2022.

As of early 2024, the Economic Innovation Group (EIG) found that 20% of multifamily units under construction in America were in Opportunity Zones. EIG's latest research finds that OZs increased new housing construction by 70% in designated areas, generating more than 416,000 new residential addresses. In cities where local leaders actively engaged—Birmingham, Alabama being perhaps the most cited example, along with parts of Erie, Detroit, and others—Opportunity Zone capital catalyzed genuine community transformation.

The first round delivered four critical lessons that should shape everything we do in OZ 2.0.

- **Designation selection mattered enormously.** The compressed 2018 timeline led to some tract selections that never had a realistic chance of attracting capital: zones without infrastructure, market fundamentals, or development readiness. Other designations captured tracts that were already gentrifying, handing critics their most potent ammunition. Both problems stem from the same root: not enough time and not enough data to be strategic. The 2026 designation process must be different.
- **Local capacity is the bottleneck.** A federal tax incentive creates the opportunity; local capacity determines whether it's seized. The communities in OZ 1.0 that thrived were the ones that took ownership of their OZ opportunity—packaging sites, articulating development priorities, stacking incentives, and proactively marketing to investors. Alabama's statewide coordinated approach brought together public, private, and philanthropic partners early in the process and attracted significant investment as a result. That model—active, strategic, place-driven—should be the standard for OZ 2.0, not the exception. Every community with a new designation

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should be building an investment strategy, not waiting for capital to find them.

- **Education and outreach were insufficient.** The program's benefits were understood early by investors and CRE professionals in many urban and suburban areas. Small towns, rural communities and operating businesses faced more challenges—not by design, but by the natural diffusion pattern of complex financial information. OZ 2.0 needs a deliberate, sustained education campaign that goes beyond the usual suspects.
- **Transparency was missing.** Without robust reporting requirements, it was impossible to definitively measure community impact. Critics filled the data vacuum with anecdotes about luxury hotels and self-storage facilities. Supporters couldn't counter with comprehensive data showing the full picture. Both sides argued from incomplete information. OZ 2.0's new reporting mandates, described below, will change this—and that's good for everyone.

What's Different About OZ 2.0

The legislation making Opportunity Zones a permanent feature of the tax code absorbed lessons from the first round. The incentive structure has been upgraded. The market conditions, while still challenging, are better understood. And the ecosystem of practitioners, investors, and community leaders who will drive this next chapter is more experienced, more diverse, and better prepared than it was in 2018.

A few features of OZ 2.0 are worth highlighting:

- **Permanence changes everything.** Opportunity Zones are now a permanent feature of the tax code with decennial redesignation. This single change, more than any other, transforms the investment calculus. No more sunset anxiety. No more "will they extend it?" No more racing to deploy capital before an arbitrary deadline. Investors, fund managers, and communities can plan with long-term certainty for the first time. The signal from Congress is unambiguous: this

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program is here to stay. That kind of certainty unlocks patient, strategic capital that short-term programs never could.

- **The rolling five-year deferral is cleaner and more predictable.** OZ 1.0's fixed deferral deadline—December 31, 2026—created calendar pressure that drove some hasty deals and discouraged later-stage investment. Under OZ 2.0, the deferral clock starts when you invest, not on a fixed date. An investment made in 2029 gets the same five-year deferral structure as one made in 2027. This removes the urgency premium and allows deals to be underwritten on their merits rather than on a legislative timetable.
- **Better data should produce better designations—with caveats.** The 2020–2024 American Community Survey data, released in early 2026, reflects current economic reality—not decade-old census figures. States can identify which communities are genuinely distressed today. That said, ACS estimates come with very steep margins of error, particularly for smaller geographies like census tracts, and governors and their teams should interpret tract-level income data with appropriate caution rather than treating it as precision measurement. Tighter income thresholds—70% of area median, down from 80%—and the elimination of the contiguous tract loophole mean that designations will be more precisely targeted to the communities that need capital most. The 2026 designation process has the potential to be more strategic than 2018, if states act timely and with evidence.
- **Transparency is now mandatory.** OZ 2.0 mandates disclosure of investment types, locations, employment data, residential unit counts, and project details—with real financial penalties for non-compliance. For the first time, the public will have access to comprehensive data on where OZ dollars are going and what they're producing. This directly addresses the transparency criticism that dogged OZ 1.0 and gives communities, policymakers, and researchers the tools to hold the program accountable. Sunlight, as they say, is the best disinfectant.

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What's At Stake: The Opportunity Zone Designation Process

As in 2018, governors and the chief executives of U.S. territories are responsible for nominating up to one-quarter of their state's eligible low-income census tracts for OZ designation. To be eligible, a tract must have a median family income (MFI) less than 70% of state/metro MFI; or a poverty rate greater than or equal to 20% and an MFI less than or equal to 125% of state/metro MFI.

EIG's report, *Opportunity Zones 2.0: Guidance for Governors and Mayors*, provides an excellent synopsis of the designation process:

The national OZ 2.0 designation process will kick off on July 1, 2026. Governors will have 90 calendar days from then to transmit their lists of nominated OZ census tracts to the Secretary of the Treasury by September 29, 2026. Governors may request an additional 30-day extension to October 29, 2026.

The Treasury Secretary has 30 days to certify each state's nominations after receipt, and certified OZ designations will take effect on January 1, 2027, allowing eligible investments to flow under the new OZ provisions enacted by the OBBBA at that time. Once made, designations will remain in effect for a decade, determining where qualifying OZ investments flow until December 31, 2036.

To date, very few states have provided clear guidance about who will lead the designation process and how the process will be conducted. Texas is an exception. There, it has been announced that the Texas Economic Development & Tourism Office (EDT) within the Office of the Governor will lead the efforts to develop a data-driven selection process for Opportunity Zone 2.0. To do so, EDT will ask economic development organizations (EDOs) and county judges to submit eligible tracts in their communities for consideration based on the following criteria: statutory compliance, local support, project viability and geographic balance.

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Our Recommendation: Give Housing A Seat at the Table

The Texas approach is likely to be repeated across the country. Given its origins, Opportunity Zones are largely seen as an economic development tax incentive, which means that economic development agencies will take the lead on critical zone designations.

From our perspective, it is fundamental that state housing agencies (and, through them, housing practitioners), be given a strong role in recommending and designating Zones.

First, the housing crisis has deepened considerably since 2017. America's shortage is measured in millions of units. The fact that 20% of multifamily units under construction were in OZs as of early 2024 demonstrates the program's potential as a housing tool. OZ 2.0 should build on this track record deliberately—and communities that prioritize housing in their OZ strategies will attract capital from impact-oriented investors who see the dual return of community need and market demand.

Second, Opportunity Zones have the potential to serve neglected segments of the housing market. OZ capital, strategically de-risked with philanthropic capital and stacked with public subsidies like Low-Income Housing Tax Credits, Community Development Block Grants, HOME funds, and state housing programs, can serve as a powerful engine for workforce and affordable housing production.

Third, the expertise of the housing community can inform the selection of Zones. Housing production, while reported in the aggregate, takes place in specific places. It is this locational dimension that determines not only whether units get built but whether residents are given access to employment, educational and service opportunities and whether broader neighborhoods and jurisdictions benefit. A place-based focus is essential to signaling the kinds of housing developments that should be financed in particular areas.

Inclusion of housing agencies could provide timely information on a range of housing typologies that are desperately needed in the

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market:

Since the pandemic, many central business districts in cities and suburban counties have excess office space, which could be converted for residential purposes. Birmingham AL and Erie, PA both supported projects that diversified the offering of core downtowns in the post pandemic environment.

Many core areas within cities and counties have underutilized parcels which could be unlocked for mixed use and residential purposes. The Post District in Salt Lake City and the Weston Urban developments in downtown San Antonio are examples of OZ 1.0 mixed-used development which maximized the fiscal impact of putting underutilized properties back on the tax rolls.

Many communities throughout states have former federally subsidized housing that is experiencing rising insurance and utility costs and are physically deteriorating. Choosing Zones that concentrate this housing typology could, with further concessionary and philanthropic capital, help recapitalize a portion of the housing inventory and preserve its affordability for the long haul.

Many rural areas, within or outside of metropolitan areas, are now home to large manufacturing facilities which are located far from residential communities, extending daily worker commutes and diminishing the attraction of new industrial jobs.

Fourth, the housing crisis is now inextricably intertwined with economic development. Regions seeking economic dynamism need to pair jobs with workforce housing. Likewise, some of the most significant economic development challenges—like the hollowing out of some business districts after COVID and work-from-home—can be reversed by incorporating housing.

Finally, the involvement of state housing agencies formally in the designation process makes it more likely that they will be involved in project design, finance and delivery. The facts show that Opportunity Zones 1.0 produced a lot of housing. Resolving the nation's housing crisis requires a volume of transactions for sure but also the development of tight ecosystems of owners, developers, lenders and investors who can match projects with needed capital.

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As state housing agencies engage, they can build on helpful efforts underway to sharpen the designation of Zones. For example, Accelerator for America, with support from the Robert Wood Johnson Foundation, will soon be releasing guidance for local leaders on how to assess the eligible census tracts and identify those with the greatest potential to attract OZ capital for projects that address community priorities.

Key Takeaway

The escalating and multidimensional nature of the nation's housing crisis is already stimulating a range of state and local innovations. Maximizing the potential of Opportunity Zones to boost housing production, in strategically located places, could be a fertile area of progress in years to come. A good place to start is the active involvement of state housing agencies in the designation of zones themselves.

For more information or assistance with the OZ 2.0 application process, please contact the author or any attorney in FBT Gibbons' Public Finance practice group.

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