



Ohio General Assembly considering significant CRA law change during lame duck session

December 4, 2020

A new proposal in the Ohio legislature would render commercial and industrial Community Reinvestment Area (CRA) projects akin to “pre-1994” treatment. Ohio’s CRA program was initially created as a housing program in the late 1960s but quickly became a frequently used tool for addressing disinvestment in commercial and industrial settings. In 1994, after recognizing that the program was frequently being used to abate property taxes in commercial and industrial projects, the Ohio General Assembly made major revisions to the state’s CRA Program. As a result, the statutory provisions governing those CRAs designated before July 1, 1994, differ considerably from those governing CRAs designated after July 1, 1994. The most significant differences between the regulation of pre- and post-1994 CRAs have to do with (1) requirement of a negotiated tax abatement agreement in commercial and industrial projects executed prior to construction commencing; and (2) the notice provided to, and involvement of, impacted school districts and abating their respective millage. Additionally, post-1994 CRAs are required to receive the director of Ohio Development Services Agency’s (ODSA) determination prior to granting real property tax abatements to property owners.

Ohio’s new legislative proposal, H.B. 704, would amend the CRA Program in four significant ways. First, the bill would remove the requirement for a property owner and the relevant municipal corporation or county to enter into an agreement setting forth job and investment commitments in order to receive the CRA tax abatement. Second, H.B. 704 would end the requirement that municipal corporations or counties petition the ODSA to certify the creation of new CRAs. Third, the bill would amend the statutory threshold for required school district approval of abatements. Currently, school district approval is required if the schools would receive payments of less than 50 percent of the amount they would have received in taxes if there was no CRA

abatement, whereas under the latest version of H.B. 704 viewed by Bricker, such approval would be required when the schools receive payments of less than 25 percent of the amount of taxes they would have received but for the CRA abatement. Finally, H.B. 704 would alter the annual reporting requirements and remove the fee paid to ODSA for CRA agreements. Ultimately, these changes would have the practical effect of bringing Ohio's regulation of CRAs more in line with pre-1994 treatment.

Authors



Jeffrey D. Harris

Of Counsel

Columbus
614.227.4860
jharris@bricker.com



Robert F. McCarthy

Partner

Columbus
614.227.2308
rmccarthy@bricker.com