



www.lsc.ohio.gov

# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

## Synopsis of House Committee Amendments

(This synopsis does not address amendments that may have been adopted on the House Floor.)

### S.B. 39 of the 133<sup>rd</sup> General Assembly

#### House Economic and Workforce Development Committee

Joe McDaniels, Attorney

### Transformational mixed use development (TMUD) tax credit

#### Administration

- Requires the Tax Credit Authority (TCA), rather than the Director of Development Services, to administer the credit application process, monitor progress of approved TMUD projects, issue tax credit certificates, and publish information about each TMUD.
- Adds the following to the list of topics that must be addressed by rules of the Director of Development Services (who retains rulemaking duties even though the credit is otherwise administered by the TCA):
  - Application deadlines (if any);
  - Procedure for ranking applications;
  - Timing and frequency by which projects are certified; and
  - Procedure for computing the increase in tax collections for a TMUD project.
- Prescribes deadlines related to the administration of the credit:
  - Requires the Director to adopt rules within 120 days of the effective date of the TMUD provisions;
  - Requires the TCA to begin accepting applications within 30 days after the rules are adopted; and
  - Requires the TCA to certify the first TMUD projects within 45 days after it begins accepting applications.

#### Caps and sunset

- Limits the total amount of tax credits awarded by the TCA to \$100 million for each of FY 2020 to FY 2023, and disallows the issuance of credits thereafter.

- Limits the tax credit for any one TMUD project to \$40 million.
- Reserves \$20 million each fiscal year for projects not located within ten miles of a city with a population greater than 100,000 (“major city”).

### **Project eligibility criteria**

- Establishes less stringent eligibility criteria for TMUD projects not located within ten miles of a major city by waiving the \$50 minimum investment requirement and reducing the minimum building specifications to:
  - One new or previously vacant building that is two or more stories high;
  - One new or previously vacant building that is 75,000 or more square feet; or
  - Two or more new buildings that are located on the same parcel or contiguous parcels and, collectively, are 75,000 or more square feet.
- Waives the building height or square footage requirements for TMUD projects located within ten miles of a major city if a building on the project site will be the location of jobs accounting for \$4 million in annual payroll.
- Allows, for TMUD projects located within ten miles of a major city, connected buildings to qualify even if the buildings are not new.

### **Application and ranking**

- Requires credit applications to indicate whether the project is located within ten miles of a major city.
- Expressly allows the TCA to interview the applicant as part of the tax credit approval process.
- If the cumulative amount of tax credits requested by applicants exceeds the amount that the TCA is authorized to approve, requires the TCA to rank qualified applications based on which proposed projects present the best combination of economic value and transformational economic impact.
- Requires the TCA to consider these factors in ranking applications:
  - The projected increase in tax collections as a percentage of the total amount of estimated tax credits that would be preliminarily approved for the project;
  - The economic impact of the project on the development site and the surrounding area;
  - The impact of the project in terms of architecture, accessibility to pedestrians, retail entertainment and dining sales, job creation, property values, and connectivity; and
  - The speediness of the schedule for completing the project and obtaining the economic and community benefits.
- Creates a separate ranking process for projects within ten miles of a major city and those outside that radius.

## Progress report

- Requires the property owner (rather than the credit applicant) to submit all reports required by the bill to the TCA (rather than the Director of Development Services).
- Modifies the 12-month reporting requirement so that the property owner must submit “documentation sufficient to demonstrate that construction has begun” (rather than “significant evidence of reviewable progress”) and an updated schedule for the progression and completion of the project.
- Requires the TCA to rescind certification of the project if the property owner does not comply with the 12-month reporting requirement or if construction has not yet begun at that time. The Senate-passed bill allowed, but did not require, the Director to rescind certification of such projects.
- Eliminates the 18-month reporting requirement which, under the Senate-passed bill, consisted of evidence that financing for the project has been secured and closed.

## Credit amount

- Bases the amount of the credit and when it is awarded on the property owner’s development costs or the insurance company’s capital contribution to the TMUD project and the increase in state and local tax collections at the project site and the surrounding area.
  - A credit equal to 5% of development costs or, in the case of an insurance company that contributed capital to the project, 5% of the insurance company’s capital contribution is issued upon completion of the project.
  - The remainder of the credit – up to an additional 5% – is awarded if, when, and to the extent that the increase in tax collections exceeds 5% of development costs. The applicant may receive some or all of the remaining credit amount on the date the project is completed and they may reapply for any portion of the credit that has yet to be awarded on the first, second, third, fourth, and fifth anniversaries of that date.
  - If the full 10% credit has not been awarded following the fifth anniversary of the date the project is completed, the remainder is forfeited.
- Establishes an alternative procedure by which the property owner may request that the full credit amount – equal to 10% of development costs or, in the case of an insurance company that contributed capital to the project, 10% of the insurance company’s capital contribution – be awarded immediately upon completion of the project. Requires the TCA to grant such a request if it determines with reasonable certainty that the increase in tax collections will exceed 10% of development costs within one year after the project is complete.
- Disallows the cumulative amount of tax credits awarded for the same project from exceeding (1) 10% of the development costs incurred by the property owner, or (2) the sum of all estimated credit amounts approved by the TCA in connection with the project.

## **Increase in tax collections**

- Requires that the increase in tax collections be computed by the TCA, in consultation with the Tax Commissioner and the tax administrators of any municipal corporations that levy an income tax on the project site and the surrounding area.
- Extends the time during which the increase in tax collections is accrued to include the date the TMUD project is certified until the fifth anniversary of the date the project is completed. Under the Senate-passed bill, the tax revenue generated before the project's completion did not count toward the increase in tax collections.
- Specifies that, if more than one applicant is approved for a credit in connection with the same TMUD project, the increase in tax collections is divided proportionally, based on the relationship each applicant's capital contribution or share of the development costs bears to the total amount of development costs attributed to the project.

## **Commercial real estate broker liens**

- Extends the time allowed and expands the delivery options for the following:
  - A broker providing a copy of a lien affidavit to an owner and prospective transferee to perfect a lien;
  - An owner serving written notice of demand on a broker to enforce a lien;
  - A broker providing an owner with a copy of the lien release or satisfaction.
- Requires, as opposed to permits, a court to assess costs and attorney's fees on nonprevailing parties in a suit to enforce a lien.
- Expands the costs a court is required to assess when a broker prevails in a suit to enforce a lien.