



OHIO LEGISLATIVE SERVICE COMMISSION

Terry Steele

Fiscal Note & Local Impact Statement

Bill: S.B. 257 of the 131st G.A.

Date: December 8, 2016

Status: As Enacted

Sponsor: Sens. Seitz and Skindell

Local Impact Statement Procedure Required: No

Contents: Creates a presumption of validity of recorded real property instruments and permits qualifying property owners to opt out of a proposed tax increment financing incentive district

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

- The bill creates a rebuttable presumption that a real property instrument is valid, enforceable, and effective in all respects. The bill also reduces the cure time for such documents from 21 to four years. This could reduce the number of challenges to such recordations.
- For a proposed tax increment financing (TIF) district, the notice that must be sent to all owners of real property in the proposed district is to include a map of the proposed district with an "overlay" defined in the bill as square or rectangular and not more than 300 acres.
- The bill specifies that an owner of real property located within a proposed TIF district whose entire parcel is not within the overlay may exclude the property from the district by submitting a written response that conforms to any content requirements included in the notice.
- Property owners who opt out of a TIF district may pay taxes instead of service payments, or alternatively may participate in parcel or project TIFs instead of the TIF district.

Detailed Fiscal Analysis

Real property instruments

The bill creates a rebuttable presumption that a real property instrument, such as a deed, mortgage, power of attorney, or memorandum of trust, conveys, encumbers, or otherwise affects the interest of the person who signed the instrument and that it is valid, enforceable, and effective in all respects when it is delivered to and accepted by a county recorder. The bill also reduces from 21 to four the number of years after which a defect in a recorded real property instrument is deemed cured and effective in all respects. The bill further specifies that these provisions do not apply to mineral interest documents associated with Oil and Gas Law. Overall, the provisions of the bill would not appear to affect the number of filings or recordations made by a county recorder. However, by reducing the cure time for these recorded instruments, there could be a reduction in the number of legal challenges to these instruments.

TIF incentive districts

H.B. 12 amends the requirement in current law that political subdivisions – municipal corporations, townships, or counties – proposing tax increment financing (TIF) incentive districts must provide notice to the owner of each parcel within the proposed incentive districts, before adopting the TIF ordinance or resolution. The bill adds that the notice is to include a map of the proposed district with an overlay. It further states that an owner of real property located in a proposed TIF district, whose entire parcel is not within the overlay, may exclude the property from the district by submitting a written response that conforms to any content requirements included in the notice.

The overlay as defined in the bill is an area that is square or rectangular with the longer sides not more than twice the length of the shorter sides, which the legislative authority proposing the district would delineate on a map of the proposed district. Under continuing law, unchanged by the bill, the district must be not more than 300 acres in size and enclosed by a continuous boundary.

Property owners who opt out of a proposed TIF district would pay taxes rather than service payments on the value of any improvements to their properties. Alternatively, improvements to a parcel excluded from a TIF district under the procedure in the bill could be exempted from taxation, with service payments required instead, as part of a parcel or project TIF.

Generally, owners of property in a TIF district make service payments in lieu of, and equal in amount to, taxes that would otherwise be due on a portion of the value of improvements to that property for a specified period of years. The service payments are used to finance public infrastructure improvements in the district by the local government that granted the tax exemption. The taxes due on the portion of the value

not exempted from taxation, and distributed to the various units of local government that levy taxes in the tax district where the parcel is located, are unaffected by the TIF.

Current law provides for two types of TIFs, parcel or project TIFs and TIF districts. The parcel or project TIFs include specified parcels. The TIF districts include all parcels within a specified area. The changes made by the bill would apply only to TIF districts.

By allowing property owners whose entire parcels are not in the overlay to opt out of the district, the bill may result in additional tax payments to units of local government, equal in amount to the service payments that would otherwise be received. Alternatively, it may result in service payments for parcel or project TIFs that would otherwise be made as part of TIF districts. The amounts resulting from these changes appear uncertain.

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