

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 123

Representatives Fraizer, Cross

Cosponsors: Representatives Carfagna, Riedel



A BILL

To amend sections 3735.66, 3735.671, 3735.672, 1
3735.68, 5709.631, and 5709.82 and to repeal 2
section 3735.673 of the Revised Code to modify 3
the law governing community reinvestment areas 4
and the terms under which property may be 5
exempted in such areas. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3735.66, 3735.671, 3735.672, 7
3735.68, 5709.631, and 5709.82 of the Revised Code be amended to 8
read as follows: 9

Sec. 3735.66. The legislative authorities of municipal 10
corporations and counties may survey the housing within their 11
jurisdictions and, after the survey, may adopt resolutions 12
describing the boundaries of community reinvestment areas which 13
contain the conditions required for the finding under division 14
(B) of section 3735.65 of the Revised Code. The findings 15
resulting from the survey shall be incorporated in the 16
resolution describing the boundaries of an area. The legislative 17
authority may stipulate in the resolution that only new 18

structures or remodeling classified as to use as commercial, 19
industrial, or residential, or some combination thereof, and 20
otherwise satisfying the requirements of section 3735.67 of the 21
Revised Code are eligible for exemption from taxation under that 22
section. If the resolution does not include such a stipulation, 23
all new structures and remodeling satisfying the requirements of 24
section 3735.67 of the Revised Code are eligible for exemption 25
from taxation regardless of classification. Whether or not the 26
resolution includes such a stipulation, the classification of 27
the structures or remodeling eligible for exemption in the area 28
shall at all times be consistent with zoning restrictions 29
applicable to the area. For the purposes of sections 3735.65 to 30
3735.70 of the Revised Code, whether a structure or remodeling 31
composed of multiple units is classified as commercial or 32
residential shall be determined by resolution or ordinance of 33
the legislative authority or, in the absence of such a 34
determination, by the classification of the use of the structure 35
or remodeling under the applicable zoning regulations. 36

If construction or remodeling classified as residential is 37
eligible for exemption from taxation, the resolution shall 38
specify a percentage, not to exceed one hundred per cent, of the 39
assessed valuation of such property to be exempted. The 40
percentage specified shall apply to all residential construction 41
or remodeling for which exemption is granted. 42

Upon the adoption of the resolution, the legislative 43
authority shall send, by certified mail, one copy of the 44
resolution and a map of the community reinvestment area in 45
sufficient detail to denote the specific boundaries of the area, 46
to the director of development services. 47

The resolution adopted pursuant to this section shall be 48

published in a newspaper of general circulation in the municipal 49
corporation, if the resolution is adopted by the legislative 50
authority of a municipal corporation, or in a newspaper of 51
general circulation in the county, if the resolution is adopted 52
by the legislative authority of the county, once a week for two 53
consecutive weeks or as provided in section 7.16 of the Revised 54
Code, immediately following its adoption. 55

Each legislative authority adopting a resolution pursuant 56
to this section shall designate a housing officer. ~~In addition,~~ 57
~~each such legislative authority, not later than sixty days after~~ 58
~~the adoption of the resolution, shall petition the director of~~ 59
~~development services for the director to confirm the findings~~ 60
~~described in the resolution. The petition shall be accompanied~~ 61
~~by a copy of the resolution and by a map of the community~~ 62
~~reinvestment area in sufficient detail to denote the specific~~ 63
~~boundaries of the area and to indicate zoning restrictions~~ 64
~~applicable to the area. The director shall determine whether the~~ 65
~~findings contained in the resolution are valid, and whether the~~ 66
~~classification of structures or remodeling eligible for~~ 67
~~exemption under the resolution is consistent with zoning~~ 68
~~restrictions applicable to the area as indicated on the map.~~ 69
~~Within thirty days of receiving the petition, the director shall~~ 70
~~forward the director's determination to the legislative~~ 71
~~authority.~~ The legislative authority or housing officer shall 72
not grant any exemption from taxation under section 3735.67 of 73
the Revised Code until the director ~~forwards the director's~~ 74
~~determination to the legislative authority. The director shall~~ 75
~~assign~~ assigns to each community reinvestment area a unique 76
designation by which the area shall be identified for purposes 77
of sections 3735.65 to 3735.70 of the Revised Code. 78

~~If zoning restrictions in any part of a community~~ 79

~~reinvestment area are changed at any time after the legislative-~~ 80
~~authority petitions the director under this section, the-~~ 81
~~legislative authority shall notify the director and shall submit-~~ 82
~~a map of the area indicating the new zoning restrictions in the-~~ 83
~~area.~~ 84

Sec. 3735.671. (A) If construction or remodeling of 85
commercial or industrial property is to be exempted from 86
taxation pursuant to section 3735.67 of the Revised Code, the 87
legislative authority and the owner of the property, prior to 88
the commencement of construction or remodeling, shall enter into 89
a written agreement, binding on both parties for a period of 90
time that does not end prior to the end of the period of the 91
exemption, that includes all of the information and statements 92
prescribed by the model agreement adopted by the director of 93
development services under division (B) of this section. 94
Agreements may include terms not prescribed by this section or 95
that model agreement, but such terms shall in no way derogate 96
from the information and any statements prescribed by ~~this-~~ 97
~~section~~that agreement. 98

(1) Except as otherwise provided in division (A) (2) or (3) 99
of this section, an agreement entered into under this section 100
shall not be approved by the legislative authority unless the 101
board of education of the city, local, or exempted village 102
school district within the territory of which the property is or 103
will be located approves the agreement. For the purpose of 104
obtaining such approval, the legislative authority shall certify 105
a copy of the agreement to the board of education not later than 106
forty-five days prior to approving the agreement, excluding 107
Saturday, Sunday, and a legal holiday as defined in section 1.14 108
of the Revised Code. The board of education, by resolution 109
adopted by a majority of the board, shall approve or disapprove 110

the agreement and certify a copy of the resolution—to the 111
legislative authority not later than fourteen days prior to the 112
date stipulated by the legislative authority as the date upon 113
which approval of the agreement is to be formally considered by 114
the legislative authority. The board of education may include in 115
the resolution conditions under which the board would approve 116
the agreement. The legislative authority may approve an 117
agreement at any time after the board of education certifies its 118
resolution approving the agreement to the legislative authority, 119
or, if the board approves the agreement conditionally, at any 120
time after the conditions are agreed to by the board and the 121
legislative authority. 122

(2) Approval of an agreement by the board of education is 123
not required under division (A) (1) of this section if, for each 124
tax year the real property is exempted from taxation, the sum of 125
the following quantities, as estimated at or prior to the time 126
the agreement is formally approved by the legislative authority, 127
equals or exceeds ~~fifty~~twenty-five per cent of the amount of 128
taxes, as estimated at or prior to that time, that would have 129
been charged and payable that year upon the real property had 130
that property not been exempted from taxation: 131

(a) The amount of taxes charged and payable on any portion 132
of the assessed valuation of the new structure or of the 133
increased assessed valuation of an existing structure after 134
remodeling began that will not be exempted from taxation under 135
the agreement; 136

(b) The amount of taxes charged and payable on tangible 137
personal property located on the premises of the new structure 138
or of the structure to be remodeled under the agreement, whether 139
payable by the owner of the structure or by a related member, as 140

defined in section 5733.042 of the Revised Code without regard 141
to division (B) of that section. 142

(c) The amount of any cash payment by the owner of the new 143
structure or structure to be remodeled to the school district, 144
the dollar value, as mutually agreed to by the owner and the 145
board of education, of any property or services provided by the 146
owner of the property to the school district, whether by gift, 147
loan, or otherwise, and any payment by the legislative authority 148
to the school district pursuant to section 5709.82 of the 149
Revised Code. 150

The estimates of quantities used for purposes of division 151
(A) (2) of this section shall be estimated by the legislative 152
authority. The legislative authority shall certify to the board 153
of education that the estimates have been made in good faith. 154
Departures of the actual quantities from the estimates 155
subsequent to approval of the agreement by the board of 156
education do not invalidate the agreement. 157

(3) If a board of education has adopted a resolution 158
waiving its right to approve agreements and the resolution 159
remains in effect, approval of an agreement by the board is not 160
required under ~~this division~~ (A) (1) of this section. If a board 161
of education has adopted a resolution allowing a legislative 162
authority to deliver the notice required under this division 163
fewer than forty-five business days prior to the legislative 164
authority's execution of the agreement, the legislative 165
authority shall deliver the notice to the board not later than 166
the number of days prior to such execution as prescribed by the 167
board in its resolution. If a board of education adopts a 168
resolution waiving its right to approve agreements or shortening 169
the notification period, the board shall certify a copy of the 170

resolution to the legislative authority. If the board of 171
education rescinds such a resolution, it shall certify notice of 172
the rescission to the legislative authority. 173

~~(B) Each agreement shall include the following 174
information: 175~~

~~(1) The names of all parties to the agreement; 176~~

~~(2) A description of the remodeling or construction, 177
whether or not to be exempted from taxation, including existing 178
or new structure size and cost thereof; the value of machinery, 179
equipment, furniture, and fixtures, including an itemization of 180
the value of machinery, equipment, furniture, and fixtures used 181
at another location in this state prior to the agreement and 182
relocated or to be relocated from that location to the property, 183
and the value of machinery, equipment, furniture, and fixtures 184
at the facility prior to the execution of the agreement; the 185
value of inventory at the property, including an itemization of 186
the value of inventory held at another location in this state 187
prior to the agreement and relocated or to be relocated from 188
that location to the property, and the value of inventory held 189
at the property prior to the execution of the agreement; 190~~

~~(3) The scheduled starting and completion dates of 191
remodeling or construction of real property or of investments 192
made in machinery, equipment, furniture, fixtures, and 193
inventory; 194~~

~~(4) Estimates of the number of employee positions to be 195
created each year of the agreement and of the number of employee 196
positions retained by the owner due to the remodeling or 197
construction, itemized as to the number of full-time, part-time, 198
permanent, and temporary positions; 199~~

~~(5) Estimates of the dollar amount of payroll attributable to the positions set forth in division (B)(4) of this section, similarly itemized;~~ 200
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~~(6) The number of employee positions, if any, at the property and at any other location in this state at the time the agreement is executed, itemized as to the number of full-time, part-time, permanent, and temporary positions.~~ 203
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~~(C) Each agreement shall set forth the following information and incorporate the following statements:~~ 207
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~~(1) A description of real property to be exempted from taxation under the agreement, the percentage of the assessed valuation of the real property exempted from taxation, and the period for which the exemption is granted, accompanied by the statement: "The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation. No exemption shall commence after _____ (insert date) nor extend beyond _____ (insert date)."~~ 209
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~~(2) " _____ (insert name of owner) shall pay such real property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If _____ (insert name of owner) fails to pay such taxes or file such returns and reports, exemptions from taxation granted under this agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter."~~ 218
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~~(3) " _____ (insert name of owner) hereby certifies that at the time this agreement is executed, _____ (insert~~ 227
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~~name of owner) does not owe any delinquent real or tangible- 229
personal property taxes to any taxing authority of the State of 230
Ohio, and does not owe delinquent taxes for which _____ 231
(insert name of owner) is liable under Chapter 5733., 5735., 232
5739., 5741., 5743., 5747., or 5753. of the Ohio Revised Code, 233
or, if such delinquent taxes are owed, _____ (insert name 234
of owner) currently is paying the delinquent taxes pursuant to 235
an undertaking enforceable by the State of Ohio or an agent or 236
instrumentality thereof, has filed a petition in bankruptcy- 237
under 11 U.S.C.A. 101, et seq., or such a petition has been 238
filed against _____ (insert name of owner). For the 239
purposes of this certification, delinquent taxes are taxes that 240
remain unpaid on the latest day prescribed for payment without 241
penalty under the chapter of the Revised Code governing payment 242
of those taxes." 243~~

~~(4) " _____ (insert name of municipal corporation or 244
county) shall perform such acts as are reasonably necessary or 245
appropriate to effect, claim, reserve, and maintain exemptions 246
from taxation granted under this agreement including, without 247
limitation, joining in the execution of all documentation and 248
providing any necessary certificates required in connection with 249
such exemptions." 250~~

~~(5) "If for any reason _____ (insert name of 251
municipal corporation or county) revokes the designation of the 252
area, entitlements granted under this agreement shall continue 253
for the number of years specified under this agreement, unless 254
_____ (insert name of owner) materially fails to fulfill 255
its obligations under this agreement and _____ 256
(insert name of municipal corporation or county) terminates or 257
modifies the exemptions from taxation pursuant to this 258
agreement." 259~~

~~(6) "If _____ (insert name of owner) materially fails to fulfill its obligations under this agreement, or if _____ (insert name of municipal corporation or county) determines that the certification as to delinquent taxes required by this agreement is fraudulent, _____ (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement."~~ 260-266

~~(7) "_____ (insert name of owner) shall provide to the proper tax incentive review council any information reasonably required by the council to evaluate the applicant's compliance with the agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised Code if requested by the council."~~ 267-272

~~(8) "This agreement is not transferable or assignable without the express, written approval of _____ (insert name of municipal corporation or county)."~~ 273-275

~~(9) "Exemptions from taxation granted under this agreement shall be revoked if it is determined that _____ (insert name of owner), any successor to that person, or any related member (as those terms are defined in division (E) of section 3735.671 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under division (E) of section 3735.671 or section 5709.62 or 5709.63 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections."~~ 276-284

~~(10) "_____ (insert name of owner) and _____ (insert name of municipal corporation or county) acknowledge that this agreement must be approved by formal action of the legislative authority of _____ (insert name of municipal corporation or county) as a condition for the agreement to take~~ 285-289

~~effect. This agreement takes effect upon such approval." 290~~

~~The statement described in division (C) (6) of this section 291
may include the following statement, appended at the end of the 292
statement: ", and may require the repayment of the amount of 293
taxes that would have been payable had the property not been 294
exempted from taxation under this agreement." If the agreement 295
includes a statement requiring repayment of exempted taxes, it 296
also may authorize the legislative authority to secure repayment 297
of such taxes by a lien on the exempted property in the amount 298
required to be repaid. Such a lien shall attach, and may be 299
perfected, collected, and enforced, in the same manner as a 300
mortgage lien on real property, and shall otherwise have the 301
same force and effect as a mortgage lien on real property. 302~~

~~(D) Except as otherwise provided in this division, an 303
agreement entered into under this section shall require that the 304
owner pay an annual fee equal to the greater of one per cent of 305
the amount of taxes exempted under the agreement or five hundred 306
dollars; provided, however, that if the value of the incentives 307
exceeds two hundred fifty thousand dollars, the fee shall not 308
exceed two thousand five hundred dollars. The fee shall be 309
payable to the legislative authority once per year for each year 310
the agreement is effective on the days and in the form specified 311
in the agreement. Fees paid shall be deposited in a special fund 312
created for such purpose by the legislative authority and shall 313
be used by the legislative authority exclusively for the purpose 314
of complying with section 3735.672 of the Revised Code and by 315
the tax incentive review council created under section 5709.85- 316
of the Revised Code exclusively for the purposes of performing 317
the duties prescribed under that section. The legislative 318
authority may waive or reduce the amount of the fee, but such 319
waiver or reduction does not affect the obligations of the 320~~

~~legislative authority or the tax incentive review council to~~ 321
~~comply with section 3735.672 or 5709.85 of the Revised Code.~~ 322

~~(E) The director of development services shall adopt rules~~ 323
~~in accordance with Chapter 119. of the Revised Code prescribing~~ 324
~~the form of a model agreement that a legislative authority shall~~ 325
~~use as the basis for an agreement to be executed under this~~ 326
~~section. The model agreement may include any term necessary for~~ 327
~~the administration and enforcement of such agreements by the~~ 328
~~director and legislative authority, but must include all of the~~ 329
~~following:~~ 330

~~(1) A space to include the description of real property to~~ 331
~~be exempted from taxation under the agreement and to identify~~ 332
~~the property's owners;~~ 333

~~(2) A space to denote the percentage of the assessed~~ 334
~~valuation of real property exempted from taxation and the period~~ 335
~~for which the exemption is granted;~~ 336

~~(3) A statement requiring the owner to pay real property~~ 337
~~taxes not exempted under the agreement, as required by law, and~~ 338
~~requiring rescission of the agreement if the owner fails to pay~~ 339
~~those taxes beginning in and after the year any such taxes are~~ 340
~~charged;~~ 341

~~(4) A statement that the owner certifies, at the time the~~ 342
~~agreement is executed, that the owner does not owe any~~ 343
~~delinquent property taxes or taxes for which the owner is liable~~ 344
~~under Chapter 5735., 5739., 5741., 5743., 5747., or 5753. of the~~ 345
~~Revised Code, or, if such delinquent taxes are owed, that the~~ 346
~~owner is paying the delinquent taxes pursuant to an undertaking~~ 347
~~enforceable by the state or an agent or instrumentality thereof,~~ 348
~~has filed a petition in bankruptcy, or has had a bankruptcy~~ 349

petition filed against the owner; 350

(5) A statement requiring the owner to provide to the 351
property tax incentive review council any information reasonably 352
required by the council to evaluate the applicant's compliance 353
with the agreement; 354

(6) A statement that the agreement is not transferable or 355
assignable without the approval of the local authority; 356

(7) A statement describing the circumstances under which 357
an agreement may be revoked by the local authority for 358
noncompliance and the manner by which already-received benefits 359
may be recovered. 360

Once the director adopts rules prescribing a model 361
agreement under this division, the model agreement may not be 362
changed unless the director adopts, amends, or rescinds those 363
rules in accordance with Chapter 119. of the Revised Code. 364

(C) If any person that is party to an agreement granting 365
an exemption from taxation discontinues operations at the 366
structure to which that exemption applies prior to the 367
expiration of the term of the agreement, that person, any 368
successor to that person, and any related member shall not enter 369
into an agreement under this section or section 5709.62, 370
5709.63, or 5709.632 of the Revised Code, and no legislative 371
authority shall enter into such an agreement with such a person, 372
successor, or related member, prior to the expiration of ~~five~~ 373
two years after the person's discontinuation of operations. As 374
used in this division, "successor" means a person to which the 375
assets or equity of another person has been transferred, which 376
transfer resulted in the full or partial nonrecognition of gain 377
or loss, or resulted in a carryover basis, both as determined by 378

rule adopted by the tax commissioner. "Related member" has the 379
same meaning as defined in section 5733.042 of the Revised Code 380
without regard to division (B) of that section. 381

The director of development services shall review all 382
agreements submitted to the director ~~under division (F) of this~~ 383
~~section under section 3735.672 of the Revised Code~~ for the 384
purpose of enforcing this division. If the director determines 385
there has been a violation of this division, the director shall 386
notify the legislative authority of such violation, and the 387
legislative authority immediately shall revoke the exemption 388
granted under the agreement. 389

~~(F) When an agreement is entered into under this section,~~ 390
~~the legislative authority authorizing the agreement shall~~ 391
~~forward a copy of the agreement to the director of development~~ 392
~~services within fifteen days after the agreement is entered~~ 393
~~into.~~ 394

Sec. 3735.672. (A) On or before the thirty-first day of 395
March each year, a legislative authority that has entered into 396
an agreement with a party under section 3735.671 of the Revised 397
Code shall submit to the director of development services ~~and~~ 398
~~the board of education of each school district of which a~~ 399
~~municipal corporation or township to which such an agreement~~ 400
~~applies is a part~~ a report on all such agreements in effect 401
during the preceding calendar year. The report shall include the 402
following ~~information:~~ 403

(1) The ~~designation, assigned by the director of~~ 404
~~development services, of each~~ total number of community 405
reinvestment ~~area~~ areas within the municipal corporation or 406
county, and the total population of each area according to the 407
most recent data available; 408

(2) The ~~total number of agreements and the number of full-~~ 409
~~time employees subject to those agreements within each area,~~ 410
~~each according to the most recent data available and identified~~ 411
~~and categorized by the appropriate standard industrial code, and~~ 412
~~the rate of unemployment in the municipal corporation or county~~ 413
~~in which the area is located for each year since the area was~~ 414
~~certified;~~ 415

(3) The number of agreements approved and executed during 416
the calendar year for which the report is submitted, the total 417
number of agreements in effect on the thirty-first day of 418
December of the preceding calendar year, the number of 419
agreements that expired during the calendar year for which the 420
report is submitted, and the number of agreements scheduled to 421
expire during the calendar year in which the report is 422
submitted. For each agreement that expired during the calendar 423
year for which the report is submitted, the legislative 424
authority shall include the amount of taxes exempted under the 425
agreement. 426

(4) ~~The number of agreements receiving compliance reviews~~ 427
~~by the tax incentive review council in the municipal corporation~~ 428
~~or county during the calendar year for which the report is~~ 429
~~submitted, including all of the following information:~~ 430

~~(a) The number of agreements the terms of which the party~~ 431
~~has complied with, indicating separately for each such agreement~~ 432
~~the value of the real property exempted pursuant to the~~ 433
~~agreement and a comparison of the stipulated and actual~~ 434
~~schedules for hiring new employees, for retaining existing~~ 435
~~employees, and for the amount of payroll of the party~~ 436
~~attributable to these employees;~~ 437

~~(b) The number of agreements the terms of which a party~~ 438

has failed to comply with, indicating separately for each such 439
agreement the value of the real ~~and personal~~ property exempted 440
pursuant to the agreement and, as may be applicable to the 441
agreement's terms, a comparison of the stipulated and actual 442
schedules for hiring new employees, for retaining existing 443
employees, and for the amount of payroll of the enterprise 444
attributable to these employees; 445

~~(c) The number of agreements about which the tax incentive 446
review council made recommendations to the legislative 447
authority, and the number of such recommendations that have not 448
been followed; 449~~

~~(d) The number of agreements rescinded during the calendar 450
year for which the report is submitted. 451~~

~~(5) The number of parties subject to agreements that 452
expanded within each area, including the number of new employees 453
hired and existing employees retained by that party, and the 454
number of new parties subject to agreements that established 455
within each area, including the number of new employees hired by 456
each party; 457~~

~~(6) For each agreement in effect during any part of the 458
preceding year, the number of employees employed by the party at 459
the property that is the subject of the agreement immediately 460
prior to formal approval of the agreement, the number of 461
employees employed by the party at that property on the thirty 462
first day of December of the preceding year, the payroll of the 463
party for the preceding year, the amount of taxes paid on real 464
property that was exempted under the agreement, and the amount 465
of such taxes that were not paid because of the exemption Any 466
changes to zoning restrictions in any part of a community 467
reinvestment area, including a map of the area indicating the 468~~

new zoning restrictions in the area; 469

(6) A copy of any agreement approved and executed or 470
amended during the calendar year for which the report is 471
submitted. 472

(B) Upon the failure of a municipal corporation or county 473
to comply with division (A) of this section: 474

(1) Beginning on the first day of April of the calendar 475
year in which the municipal corporation or county fails to 476
comply with that division, the municipal corporation or county 477
shall not enter into any agreements under section 3735.671 of 478
the Revised Code until the municipal corporation or county has 479
complied with division (A) of this section. 480

(2) On the first day of each ensuing calendar month until 481
the municipal corporation or county complies with that division, 482
the director of development services shall either order the 483
proper county auditor to deduct from the next succeeding payment 484
of taxes to the municipal corporation or county under section 485
321.31, 321.32, 321.33, or 321.34 of the Revised Code an amount 486
equal to five hundred dollars for each calendar month the 487
municipal corporation or county fails to comply with that 488
division, or order the county auditor to deduct such an amount 489
from the next succeeding payment to the municipal corporation or 490
county from the undivided local government fund under section 491
5747.51 of the Revised Code. At the time such a payment is made, 492
the county auditor shall comply with the director's order by 493
issuing a warrant, drawn on the fund from which such money would 494
have been paid, to the director of development services, who 495
shall deposit the warrant into the ~~state community reinvestment~~ 496
~~area program administration tax incentives operating fund~~ 497
created in ~~division (C) of this by~~ section 122.174 of the 498

Revised Code. 499

~~(C) The director, by rule, shall establish the state's application fee for applications submitted to a municipal corporation or county to enter into an agreement under section 3735.671 of the Revised Code. In establishing the amount of the fee, the director shall consider the state's cost of administering the community reinvestment area program, including the cost of reviewing the reports required under division (A) of this section. The director may change the amount of the fee at such times and in such increments as the director considers necessary. Any municipal corporation or county that receives an application shall collect the application fee and remit the fee for deposit in the state treasury to the credit of the tax incentives operating fund created in section 122.174 of the Revised Code.~~ 500
The development services agency shall publish on its web site a list of all community reinvestment areas within the state, with an accompanying display of their geographical boundaries within each county or municipal corporation. The list shall also include, for each community reinvestment area, a copy of the resolution governing that area and any agreement entered into under section 3735.671 of the Revised Code for any commercial or industrial property within the area. This list shall be updated annually. 501
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Sec. 3735.68. The housing officer shall make annual inspections of the properties within the community reinvestment area upon which are located structures or remodeling for which an exemption has been granted under section 3735.67 of the Revised Code. If the housing officer finds that the property has not been properly maintained or repaired due to the neglect of the owner, the housing officer may revoke the exemption at any time after the first year of exemption. If the owner of 522
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commercial or industrial property exempted from taxation under 530
section 3735.67 of the Revised Code has materially failed to 531
fulfill its obligations under the written agreement entered into 532
under section 3735.671 of the Revised Code, or if the owner is 533
determined to have violated division ~~(E)~~(C) of that section, 534
the legislative authority, subject to the terms of the 535
agreement, may revoke the exemption at any time after the first 536
year of exemption. The housing officer or legislative authority 537
shall notify the county auditor and the owner of the property 538
that the tax exemption no longer applies. If the housing officer 539
or legislative authority revokes a tax exemption, the housing 540
officer shall send a report of the revocation to the community 541
reinvestment area housing council and to the tax incentive 542
review council established pursuant to section 3735.69 or 543
5709.85 of the Revised Code, containing a statement of the 544
findings as to the maintenance and repair of the property, 545
failure to fulfill obligations under the written agreement, or 546
violation of division ~~(E)~~(C) of section 3735.671 of the Revised 547
Code, and the reason for revoking the exemption. 548

If the agreement entered into under section 3735.671 of 549
the Revised Code so provides, the legislative authority of a 550
municipal corporation or county may require the owner of 551
property whose exemption has been revoked to reimburse the 552
taxing authorities within whose taxing jurisdiction the exempted 553
property is located for the amount of real property taxes that 554
would have been payable to those authorities had the property 555
not been exempted from taxation. 556

Sec. 5709.631. Each agreement entered into under sections 557
5709.62, 5709.63, and 5709.632 of the Revised Code on or after 558
April 1, 1994, shall be in writing and shall include all of the 559
information and statements prescribed by this section. 560

Agreements may include terms not prescribed by this section, but 561
such terms shall in no way derogate from the information and 562
statements prescribed by this section. 563

(A) Each agreement shall include the following 564
information: 565

(1) The names of all parties to the agreement; 566

(2) A description of the investments to be made by the 567
applicant enterprise or by another party at the facility whether 568
or not the investments are exempted from taxation, including 569
existing or new building size and cost thereof; the value of 570
machinery, equipment, furniture, and fixtures, including an 571
itemization of the value of machinery, equipment, furniture, and 572
fixtures used at another location in this state prior to the 573
agreement and relocated or to be relocated from that location to 574
the facility and the value of machinery, equipment, furniture, 575
and fixtures at the facility prior to the execution of the 576
agreement that will not be exempted from taxation; the value of 577
inventory at the facility, including an itemization of the value 578
of inventory held at another location in this state prior to the 579
agreement and relocated or to be relocated from that location to 580
the facility, and the value of inventory held at the facility 581
prior to the execution of the agreement that will not be 582
exempted from taxation; 583

(3) The scheduled starting and completion dates of 584
investments made in building, machinery, equipment, furniture, 585
fixtures, and inventory; 586

(4) Estimates of the number of employee positions to be 587
created each year of the agreement and of the number of employee 588
positions retained by the applicant enterprise due to the 589

project, itemized as to the number of full-time, part-time, 590
permanent, and temporary positions; 591

(5) Estimates of the dollar amount of payroll attributable 592
to the positions set forth in division (A)(4) of this section, 593
similarly itemized; 594

(6) The number of employee positions, if any, at the 595
project site and at any other location in the state at the time 596
the agreement is executed, itemized as to the number of full- 597
time, part-time, permanent, and temporary positions. 598

(B) Each agreement shall set forth the following 599
information and incorporate the following statements: 600

(1) A description of real property to be exempted from 601
taxation under the agreement, the percentage of the assessed 602
valuation of the real property exempted from taxation, and the 603
period for which the exemption is granted, accompanied by the 604
statement: "The exemption commences the first year for which the 605
real property would first be taxable were that property not 606
exempted from taxation. No exemption shall commence after 607
_____ (insert date) nor extend beyond _____ (insert 608
date)." The tax commissioner shall adopt rules prescribing the 609
form the description of such property shall assume to ensure 610
that the property to be exempted from taxation under the 611
agreement is distinguishable from property that is not to be 612
exempted under that agreement. 613

(2) A description of tangible personal property to be 614
exempted from taxation under the agreement, the percentage of 615
the assessed value of the tangible personal property exempted 616
from taxation, and the period for which the exemption is 617
granted, accompanied by the statement: "The minimum investment 618

for tangible personal property to qualify for the exemption is 619
\$_____ (insert dollar amount) to purchase machinery and 620
equipment first used in business at the facility as a result of 621
the project, \$_____ (insert dollar amount) for furniture 622
and fixtures and other noninventory personal property first used 623
in business at the facility as a result of the project, and 624
\$_____ (insert dollar amount) for new inventory. The 625
maximum investment for tangible personal property to qualify for 626
the exemption is \$_____ (insert dollar amount) to purchase 627
machinery and equipment first used in business at the facility 628
as a result of the project, \$_____ (insert dollar amount) 629
for furniture and fixtures and other noninventory personal 630
property first used in business at the facility as a result of 631
the project, and \$_____ (insert dollar amount) for new 632
inventory. The exemption commences the first year for which the 633
tangible personal property would first be taxable were that 634
property not exempted from taxation. No exemption shall commence 635
after tax return year _____ (insert year) nor extend beyond 636
tax return year _____ (insert year). In no instance shall 637
any tangible personal property be exempted from taxation for 638
more than ten return years unless, under division (D) (2) of 639
section 5709.62 or under division (C) (1) (b) of section 5709.63 640
of the Revised Code, the board of education approves exemption 641
for a number of years in excess of ten, in which case the 642
tangible personal property may be exempted from taxation for 643
that number of years, not to exceed fifteen return years." No 644
exemption shall be allowed for any type of tangible personal 645
property if the total investment is less than the minimum dollar 646
amount specified for that type of property. If, for a type of 647
tangible personal property, there are no minimum or maximum 648
investment dollar amounts specified in the statement or the 649
dollar amounts are designated in the statement as not 650

applicable, the exemption shall apply to the total cost of that 651
type of tangible personal property first used in business at the 652
facility as a result of the project. The tax commissioner shall 653
adopt rules prescribing the form the description of such 654
property shall assume to ensure that the property to be exempted 655
from taxation under the agreement is distinguishable from 656
property that is not to be exempted under that agreement. 657

(3) "_____ (insert name of enterprise) shall pay such 658
real and tangible personal property taxes as are not exempted 659
under this agreement and are charged against such property and 660
shall file all tax reports and returns as required by law. If 661
_____ (insert name of enterprise) fails to pay such taxes 662
or file such returns and reports, all incentives granted under 663
this agreement are rescinded beginning with the year for which 664
such taxes are charged or such reports or returns are required 665
to be filed and thereafter." 666

(4) "_____ (insert name of enterprise) hereby 667
certifies that at the time this agreement is executed, 668
_____ (insert name of enterprise) does not owe any 669
delinquent real or tangible personal property taxes to any 670
taxing authority of the State of Ohio, and does not owe 671
delinquent taxes for which _____ (insert name of 672
enterprise) is liable under Chapter 5727., 5733., 5735., 5739., 673
5741., 5743., 5747., or 5753. of the Revised Code, or, if such 674
delinquent taxes are owed, _____ (insert name of 675
enterprise) currently is paying the delinquent taxes pursuant to 676
a delinquent tax contract enforceable by the State of Ohio or an 677
agent or instrumentality thereof, has filed a petition in 678
bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition 679
has been filed against _____ (insert name of enterprise). 680
For the purposes of the certification, delinquent taxes are 681

taxes that remain unpaid on the latest day prescribed for 682
payment without penalty under the chapter of the Revised Code 683
governing payment of those taxes." 684

(5) " _____ (insert name of municipal corporation or 685
county) shall perform such acts as are reasonably necessary or 686
appropriate to effect, claim, reserve, and maintain exemptions 687
from taxation granted under this agreement including, without 688
limitation, joining in the execution of all documentation and 689
providing any necessary certificates required in connection with 690
such exemptions." 691

(6) "If for any reason the enterprise zone designation 692
expires, the Director of the Ohio Department of Development 693
revokes certification of the zone, or _____ (insert name of 694
municipal corporation or county) revokes the designation of the 695
zone, entitlements granted under this agreement shall continue 696
for the number of years specified under this agreement, unless 697
_____ (insert name of enterprise) materially fails to 698
fulfill its obligations under this agreement and _____ 699
(insert name of municipal corporation or county) terminates or 700
modifies the exemptions from taxation granted under this 701
agreement." 702

(7) "If _____ (insert name of enterprise) materially 703
fails to fulfill its obligations under this agreement, other 704
than with respect to the number of employee positions estimated 705
to be created or retained under this agreement, or if _____ 706
(insert name of municipal corporation or county) determines that 707
the certification as to delinquent taxes required by this 708
agreement is fraudulent, _____ (insert name of municipal 709
corporation or county) may terminate or modify the exemptions 710
from taxation granted under this agreement." 711

(8) "_____ (insert name of enterprise) shall provide 712
to the proper tax incentive review council any information 713
reasonably required by the council to evaluate the enterprise's 714
compliance with the agreement, including returns or annual 715
reports filed pursuant to section 5711.02 or 5727.08 of the Ohio 716
Revised Code if requested by the council." 717

(9) "_____ (insert name of enterprise) and _____ 718
(insert name of municipal corporation or county) acknowledge 719
that this agreement must be approved by formal action of the 720
legislative authority of _____ (insert name of municipal 721
corporation or county) as a condition for the agreement to take 722
effect. This agreement takes effect upon such approval." 723

(10) "This agreement is not transferable or assignable 724
without the express, written approval of _____ (insert name 725
of municipal corporation or county)." 726

(11) "Exemptions from taxation granted under this 727
agreement shall be revoked if it is determined that 728
_____ (insert name of enterprise), any successor 729
enterprise, or any related member (as those terms are defined in 730
section 5709.61 of the Ohio Revised Code) has violated the 731
prohibition against entering into this agreement under division 732
~~(E)~~ (C) of section 3735.671 or section 5709.62, 5709.63, or 733
5709.632 of the Ohio Revised Code prior to the time prescribed 734
by that division or either of those sections." 735

(12) "In any three-year period during which this agreement 736
is in effect, if the actual number of employee positions created 737
or retained by (insert name of enterprise) is 738
not equal to or greater than seventy-five per cent of the number 739
of employee positions estimated to be created or retained under 740
this agreement during that three-year period, 741

(insert name of enterprise) shall repay the amount of taxes on 742
property that would have been payable had the property not been 743
exempted from taxation under this agreement during that three- 744
year period. In addition, the (insert name of 745
municipal corporation or county) may terminate or modify the 746
exemptions from taxation granted under this agreement." 747

The statement described in division (B)(7) of this section 748
may include the following statement, appended at the end of the 749
statement: "and may require the repayment of the amount of taxes 750
that would have been payable had the property not been exempted 751
from taxation under this agreement." If the agreement includes a 752
statement requiring repayment of exempted taxes, it also may 753
authorize the legislative authority to secure repayment of such 754
taxes by a lien on the exempted property in the amount required 755
to be repaid. Such a lien on exempted real property shall 756
attach, and may be perfected, collected, and enforced, in the 757
same manner as a mortgage lien on real property, and shall 758
otherwise have the same force and effect as a mortgage lien on 759
real property. Notwithstanding section 5719.01 of the Revised 760
Code, such a lien on exempted tangible personal property shall 761
attach, and may be perfected, collected, and enforced, in the 762
same manner as a security interest in goods under Chapter 1309. 763
of the Revised Code, and shall otherwise have the same force and 764
effect as such a security interest. 765

(C) If the director of development had to issue a waiver 766
under section 5709.633 of the Revised Code as a condition for 767
the agreement to be executed, the agreement shall include the 768
following statement: 769

"Continuation of this agreement is subject to the validity 770
of the circumstance upon which _____ (insert name of 771

enterprise) applied for, and the Director of the Ohio Department 772
of Development issued, the waiver pursuant to section 5709.633 773
of the Ohio Revised Code. If, after formal approval of this 774
agreement by _____ (insert name of municipal corporation or 775
county), the Director or _____ (insert name of municipal 776
corporation or county) discovers that such a circumstance did 777
not exist, _____ (insert name of enterprise) shall be 778
deemed to have materially failed to comply with this agreement." 779

If the director issued a waiver on the basis of the 780
circumstance described in division (B) (3) of section 5709.633 of 781
the Ohio Revised Code, the conditions enumerated in divisions 782
(B) (3) (a) (i) and (ii) or divisions (B) (3) (b) (i) and (ii) of that 783
section shall be incorporated in the information described in 784
divisions (A) (2), (3), and (4) of this section. 785

Sec. 5709.82. (A) As used in this section: 786

(1) "New employee" means both of the following: 787

(a) Persons employed in the construction of real property 788
exempted from taxation under the chapters or sections of the 789
Revised Code enumerated in division (B) of this section; 790

(b) Persons not described by division (A) (1) (a) of this 791
section who are first employed at the site of such property and 792
who within the two previous years have not been subject, prior 793
to being employed at that site, to income taxation by the 794
municipal corporation within whose territory the site is located 795
on income derived from employment for the person's current 796
employer. "New employee" does not include any person who 797
replaces a person who is not a new employee under division (A) 798
(1) of this section. 799

(2) "Infrastructure costs" means costs incurred by a 800

municipal corporation in a calendar year to acquire, construct, 801
reconstruct, improve, plan, or equip real or tangible personal 802
property that directly benefits or will directly benefit the 803
exempted property. If the municipal corporation finances the 804
acquisition, construction, reconstruction, improvement, 805
planning, or equipping of real or tangible personal property 806
that directly benefits the exempted property by issuing debt, 807
"infrastructure costs" means the annual debt charges incurred by 808
the municipal corporation from the issuance of such debt. Real 809
or tangible personal property directly benefits exempted 810
property only if the exempted property places or will place 811
direct, additional demand on the real or tangible personal 812
property for which such costs were or will be incurred. 813

(3) "Taxing unit" has the same meaning as in division (H) 814
of section 5705.01 of the Revised Code. 815

(B) (1) Except as otherwise provided under division (C) of 816
this section, the legislative authority of any political 817
subdivision that has acted under the authority of Chapter 725. 818
or 1728., sections 3735.65 to 3735.70, or section 5709.40, 819
5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 820
5709.84, or 5709.88 of the Revised Code to grant an exemption 821
from taxation for real or tangible personal property may 822
negotiate with the board of education of each city, local, 823
exempted village, or joint vocational school district or other 824
taxing unit within the territory of which the exempted property 825
is located, and enter into an agreement whereby the school 826
district or taxing unit is compensated for tax revenue foregone 827
by the school district or taxing unit as a result of the 828
exemption. Except as otherwise provided in division (B) (1) of 829
this section, if a political subdivision enters into more than 830
one agreement under this section with respect to a tax 831

exemption, the political subdivision shall provide to each 832
school district or taxing unit with which it contracts the same 833
percentage of tax revenue foregone by the school district or 834
taxing unit, which may be based on a good faith projection made 835
at the time the exemption is granted. Such percentage shall be 836
calculated on the basis of amounts paid by the political 837
subdivision and any amounts paid by an owner under division (B) 838
(2) of this section. A political subdivision may provide a 839
school district or other taxing unit with a smaller percentage 840
of foregone tax revenue than that provided to other school 841
districts or taxing units only if the school district or taxing 842
unit expressly consents in the agreement to receiving a smaller 843
percentage. If a subdivision has acted under the authority of 844
section 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 845
5709.73, or 5709.78 of the Revised Code and enters into a 846
compensation agreement with a city, local, or exempted village 847
school district, the subdivision shall provide compensation to 848
the joint vocational school district within the territory of 849
which the exempted property is located at the same rate and 850
under the same terms as received by the city, local, or exempted 851
village school district. 852

(2) An owner of property exempted from taxation under the 853
authority described in division (B)(1) of this section may, by 854
becoming a party to an agreement described in division (B)(1) of 855
this section or by entering into a separate agreement with a 856
school district or other taxing unit, agree to compensate the 857
school district or taxing unit by paying cash or by providing 858
property or services by gift, loan, or otherwise. If the owner's 859
property is exempted under the authority of section 5709.40, 860
5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 5709.73, or 861
5709.78 of the Revised Code and the owner enters into a 862

compensation agreement with a city, local, or exempted village 863
school district, the owner shall provide compensation to the 864
joint vocational school district within the territory of which 865
the owner's property is located at the same rate and under the 866
same terms as received by the city, local, or exempted village 867
school district. 868

(C) This division does not apply to the following: 869

(1) The legislative authority of a municipal corporation 870
that has acted under the authority of division (H) of section 871
715.70 or division (U) of section 715.72 of the Revised Code to 872
consent to the granting of an exemption from taxation for real 873
or tangible personal property in a joint economic development 874
district. 875

(2) The legislative authority of a municipal corporation 876
that has specified in an ordinance adopted under section 877
5709.40, 5709.41, or 5709.45 of the Revised Code that payments 878
in lieu of taxes provided for under section 5709.42 or 5709.46 879
of the Revised Code shall be paid to the city, local, or 880
exempted village school district in which the improvements are 881
located in the amount of taxes that would have been payable to 882
the school district if the improvements had not been exempted 883
from taxation, as directed in the ordinance. 884

If the legislative authority of any municipal corporation 885
has acted under the authority of Chapter 725. or 1728. or 886
section ~~3735.671,~~ 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 887
5709.632, or 5709.88, ~~or a housing officer under section 3735.67~~ 888
of the Revised Code, to grant or consent to the granting of an 889
exemption from taxation for real or tangible personal property 890
on or after July 1, 1994, the municipal corporation imposes a 891
tax on incomes, and the payroll of new employees resulting from 892

the exercise of that authority equals or exceeds one million 893
dollars in any tax year for which such property is exempted, the 894
legislative authority and the board of education of each city, 895
local, or exempted village school district within the territory 896
of which the exempted property is located shall attempt to 897
negotiate an agreement providing for compensation to the school 898
district for all or a portion of the tax revenue the school 899
district would have received had the property not been exempted 900
from taxation. The agreement may include as a party the owner of 901
the property exempted or to be exempted from taxation and may 902
include provisions obligating the owner to compensate the school 903
district by paying cash or providing property or services by 904
gift, loan, or otherwise. Such an obligation is enforceable by 905
the board of education of the school district pursuant to the 906
terms of the agreement. 907

If the legislative authority and board of education fail 908
to negotiate an agreement that is mutually acceptable within six 909
months of formal approval by the legislative authority of the 910
instrument granting the exemption, the legislative authority 911
shall compensate the school district in the amount and manner 912
prescribed by division (D) of this section. 913

(D) Annually, the legislative authority of a municipal 914
corporation subject to this division shall pay to the city, 915
local, or exempted village school district within the territory 916
of which the exempted property is located an amount equal to 917
fifty per cent of the difference between the amount of taxes 918
levied and collected by the municipal corporation on the incomes 919
of new employees in the calendar year ending on the day the 920
payment is required to be made, and the amount of any 921
infrastructure costs incurred in that calendar year. For 922
purposes of such computation, the amount of infrastructure costs 923

shall not exceed thirty-five per cent of the amount of those 924
taxes unless the board of education of the school district, by 925
resolution adopted by a majority of the board, approves an 926
amount in excess of that percentage. If the amount of those 927
taxes or infrastructure costs must be estimated at the time the 928
payment is made, payments in subsequent years shall be adjusted 929
to compensate for any departure of those estimates from the 930
actual amount of those taxes. 931

A municipal corporation required to make a payment under 932
this section shall make the payment from its general fund or a 933
special fund established for the purpose. The payment is payable 934
on the thirty-first day of December of the tax year for or in 935
which the exemption from taxation commences and on that day for 936
each subsequent tax year property is exempted and the 937
legislative authority and board fail to negotiate an acceptable 938
agreement under division (C) of this section. 939

Section 2. That existing sections 3735.66, 3735.671, 940
3735.672, 3735.68, 5709.631, and 5709.82 of the Revised Code are 941
hereby repealed. 942

Section 3. That section 3735.673 of the Revised Code is 943
hereby repealed. 944