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## DEPARTMENT OF DEVELOPMENT

### Residential economic development district (REDD) grants

- Creates a grant program for counties, townships, and municipal corporations located within 20 miles of a major economic development project.
- Allows a county, township, or municipal corporation to apply for a grant independently, or in collaboration with a housing developer, port authority, council of government, regional planning commission, or other subdivision.
- Specifies the purposes for which grant funds must be used.
- Requires applicants to adopt pro-housing policies and approve a major workforce housing project consisting of at least 100 units.
- Requires the DEV Director to evaluate and score applications based on metrics outlined by the bill, including by giving preference to applicants that adopt more pro-housing policies in terms of both number and impact.
- Requires the DEV Director to adopt rules to implement and administer the program and to finalize and publish initial application procedures and scoring metrics no later than December 31, 2025.

### Residential development revolving loan program

- Creates the Residential Development Revolving Loan Program (RDRLP).
- Specifies that loans made by the program are only available to local governments that have a population of 75,000 or less and that issued fewer new construction permits for single-family homes than the average number of such permits issued in counties in Ohio.
- Specifies that borrowed funds are only for projects involving the development, repair, or upgrade of water, sewer, road, electric, or gas infrastructure necessary to service dwellings meeting certain statutory requirements.
- Limits the loan amount to the lesser of 50% of the cost of the infrastructure developments, repairs, or upgrades or \$30,000 per single-family residential dwelling to be served by that infrastructure.
- Requires political subdivisions receiving loans under the program to waive certain building, zoning, and planning requirements for the residential development project served by the project.
- Prohibits DEV from using more than \$500,000 annually of the money deposited to the Residential Development Revolving Loan Fund for administrative expenses.
- Exempts RDRLP projects from the Prevailing Wage Law.

- Requires political subdivisions receiving loans to exempt improvements constructed from loan proceeds from property taxes, collect payments in lieu of taxes, and use those payments to pay off the loan.
- Appropriates \$90 million to the RDRLP in FY 2026, and allows for any unused funds to be carried over into FY 2027.

### **Brownfield Remediation Program**

- Alters the parameters for the types of projects that are eligible for funding under the Brownfield Remediation Program and the procedures for issuing grants under the program.

### **State private activity bond ceiling and fund**

- Grants the Department of Development (DEV) authority to allocate Ohio's volume ceiling on state private activity bonds established under federal income tax law.

### **Tourism attractions and professional sports facilities funding**

#### **Roadwork Development Fund**

- Expands the purposes of the existing Roadwork Development Fund to include funding the following:
  - Construction, reconstruction, maintenance, or repair of public roads that provide or improve access to professional sports facilities;
  - Associated improvements necessary for access to tourism attractions and professional sports facilities; and
  - Improvements associated with the retail and residential components that are a part of a tourism attraction or professional sports facility.

#### **Facilities Establishment Fund**

- Expands the purposes of the existing Facilities Establishment Fund to include funding persons that are engaged in developing tourism attractions and professional sports facilities.

### **DEV funds**

- Eliminates the Mortgage Insurance Fund and the corresponding authority of the DEV Director to insure mortgage payments on behalf of a person, partnership, corporation, or community improvement corporation using money from the fund.
- Eliminates the Mortgage Guarantee Fund.
- Eliminates the DEV Director's Purchase Fund.
- Eliminates sinking fund requirements for certain funds received by the DEV Director.

## **Affirmative action programs in public contracting**

- Eliminates a requirement for all contractors from whom the state or a political subdivision makes purchases to have a written affirmative action program for the employment and utilization of economically disadvantaged persons.
- Eliminates a prohibition against DEV disbursing capital money appropriated for any project unless the project provides for an affirmative action program for the employment and utilization of persons who are disadvantaged due to their culture, race, ethnicity, or other similar reasons.
- Repeals a requirement that a person receive a certificate of compliance with affirmative action programs before bidding on a public improvement construction contract or a transportation construction contract awarded by the Director of Transportation.
- Prohibits most public authorities, for subcontracts of construction managers at risk, integrated project contractors, and design-build firms, from eliminating a bidder as unqualified on the basis that the bidder has not complied with an affirmative action program, or a diversity, equity, and inclusion program.

## **Welcome Home Ohio (WHO) Program**

- Decreases the minimum square footage for homes that receive Welcome Home Ohio (WHO) grants or tax credits from 1,000 to 800 square feet.
- Allows WHO funds to be used to acquire or rehabilitate manufactured homes but not mobile homes.
- Allows WHO funds to be used to acquire or rehabilitate residential units in a mixed-use development but requires the funds to be used for the residential units, common areas used by the occupants of the residential units, or improvements that serve the residential units.
- Increases the amount of the WHO tax credit from one-third of the construction and rehabilitation costs to 90% of such costs.
- Requires applicants for WHO tax credits to provide buyers with an interest free loan and to hold the note and mortgage until maturity for any home that is the subject of an application.
- Extends the WHO tax credit through the end of FY 2027 and allows up to \$20 million in tax credits to be awarded in the biennium.
- Allows DEV to award WHO grants to certain qualified nonprofit developers that are incorporated in Ohio for the purpose of improving the physical, economic, or social environment by addressing critical problems like housing.
- Increases, from \$30,000 to \$100,000, the maximum amount of a WHO grant to rehabilitate or construct a home.

- Applies the same \$100,000 cap to WHO grants for the acquisition of a home, which are not limited by current law.
- Increases the income eligibility threshold for buyers of WHO-funded homes from 80% to 120% of the median income of the county in which the home is located.
- Increases the amount for which WHO-funded homes may be sold from \$180,000 to \$220,000.
- Reduces from five years to three years the amount of time the buyer of a WHO-funded home must agree to occupy the home as a primary residence and not rent it to anyone else.
- Reduces from 20 years to 15 years the amount of time the buyer of a WHO grant-funded home must agree to not sell the home to anyone whose income exceeds the WHO eligibility thresholds.
- Changes the yearly reduction in penalties for a buyer's failure to keep a home for which a tax credit was awarded as a primary residence for three years (reduced from five in the bill) or to not sell the home to anyone with a nonqualifying income for 20 years from  $\frac{1}{5}$  of the initial penalty amount per year requirements are met to  $\frac{1}{20}$ .
- Transfers liability for the penalty imposed for a buyer's failure to maintain residence in a home for which a tax credit was awarded or sale to a nonqualified person from the home's purchaser to the developer.
- Specifies that the deed restriction concerning subsequent sales of a WHO grant-funded home is a covenant running with the land and is enforceable against subsequent buyers.
- For WHO Program tax credit homes, replaces the deed restriction with a requirement that the developer have an executed restrictive covenant for each home it applies for a tax credit on encompassing the applicable requirements, to be recorded on a credit award.
- Allows DEV to waive penalties for failure to follow restrictions imposed in connection with a WHO Program tax credit for hardship or if the purchaser sells the home back to the eligible developer.
- Allows an eligible developer that has received a WHO Program tax credit to repurchase the home and resell it to another qualified buyer if certain requirements are met.
- Transfer responsibility to verify to DEV a purchaser's continued residence in a home that was the basis of a WHO Program tax credit from the purchaser to the developer.
- Allows a grant or tax credit recipient to include in the deed restriction a right of first refusal to repurchase the property in order to ensure that subsequent buyers meet the income eligibility requirements.
- Allows up to \$2,000 of each WHO grant to be used to fund the financial literacy counseling that grant recipients are required, under continuing law, to provide to purchasers of the property.

- Reduces the minimum duration of the counseling from one year to six months, and, for tax credits, requires it to be completed before an application is submitted.
- Requires the counseling to include basic home maintenance and financial literacy components, and to be conducted by a person who is licensed, certified, or authorized to provide such counseling services.
- Requires a grant recipient to reinvest any profits derived from the sale of a WHO-funded home in the land bank's land reutilization program or the developer's housing program.

## **Residential economic development district (REDD) grants**

(R.C. 122.636)

### **Overview**

The bill creates a grant program for counties, townships, and municipal corporations that are fully or partially located within a residential economic development district (REDD). A REDD consists of all parcels within a 20-mile radius of a "major economic development project," defined in the bill as a project that is reasonably expected to improve the economic well-being of the surrounding area and that either consists of at least \$700 million in private investment or is expected to create at least 700 new permanent jobs. The bill specifies that the grant program is intended to encourage major workforce housing projects in areas of the state that otherwise would not attract such development and to increase home ownership among Ohioans.

### **Application**

The bill requires DEV to implement and administer the grant program. A subdivision applying for a REDD grant must include documentation or other evidence that proves that the subdivision has, or has imminent plans to, adopt and implement pro-housing development policies and approve a "major workforce housing project" consisting of at least 100 units. A subdivision may apply for a grant in collaboration with another subdivision or with a housing developer, port authority, council of government, or regional planning commission.

### **Pro-housing development policies**

The bill provides the following nonexhaustive list of pro-housing development policies:

- Having a process in place to increase the rate at which permits for housing developments are reviewed;
- Having a pre-approval process in place for an expedited review of permits for a diverse range of housing developers;
- Subsidizing or decreasing costs related to water or sewer connections and extensions for major workforce housing projects;
- Acquiring and readying sites that are ready to be financed and built upon by developers;
- Reducing or eliminating impact, inspection, and plan review fees for housing developers;

- Adopting a zoning plan that includes promoting higher density, small lot size, and minimum setback requirements;
- Developing a comprehensive plan that promotes diverse residential development options;
- Having no or minimal parking requirements for developments that include residential units;
- Conducting a traffic study, improving water or sewer infrastructure, improving roads, or permitting both rigid and flexible pavement types;
- Developing partnerships to expand the provision of sewer and water services to new areas;
- Promoting the use of nontraditional building structures such as modular or manufactured homes.

## **Review**

The bill requires DEV to review applications and award grants on a rolling basis, giving preference to applicants that adopt more pro-housing development policies, in terms of both quantity and impact. The bill requires the DEV Director to evaluate applications and determine the amount of each grant award based on scoring metrics that include the following:

- Density, with more points awarded to projects that have more units per acre, starting at two units per acre;
- Lot size, with more points awarded to projects that have smaller lot sizes, starting with an average of 7,500 square feet;
- Side yard setbacks, with more points awarded to projects that have smaller setback requirements, starting with six feet;
- Open space requirements, with more points awarded to projects that have lesser open space requirements, starting with 25% of gross acreage;
- Inspection, plan, impact, or water and sewer tap fee reductions, with more points awarded for lower or no fees;
- Use of water pipe type, with more points awarded for allowing polyvinyl chloride as opposed to ductile iron;
- Use of rigid and flexible pavement types, with more points awarded for allowing both;
- Traffic studies and thoroughfare plans, with more points awarded for applicants that seek to use funds for those purposes and have demonstrated success in completing such studies or plans for a major workforce housing project;
- Sanitary sewer or water extensions, with more points awarded for applicants that seek to use funds for those purposes as related to the major workforce housing project.

The bill requires the DEV Director to adopt rules addressing application procedures, scoring metrics, grant distribution, and state model zoning plans that include density, lot size, and setback preferences. The rules must be finalized and published to DEV's website no later than December 31, 2025.

### **Award**

A REDD grant must be used to provide capital for housing development through grants or loans, acquire and ready sites for development, provide financial assistance for housing-related infrastructure projects, address additional service or public safety needs due to increases in population, or for other purposes deemed appropriate by the DEV Director. If, at the time the grant application is submitted, the subdivision has not yet adopted the pro-housing policies or approved the major workforce housing project described in the application, DEV must confirm that the subdivision follows through with those plans before disbursing grant funds.

### **Residential Development Revolving Loan Program**

(R.C. 122.98, 122.981, 176.05, 4115.04, and 5709.89; Sections 259.10, 259.30, and 512.10)

The bill creates the Residential Development Revolving Loan Program (RDRLP), with the stated intent of increasing the availability of single-family homes in rural areas.

#### **Eligible borrowers**

An eligible borrower for RDRLP loan is a county, or a township or municipal corporation that is fully or partially located in a county, that has a population not exceeding 75,000, and that authorized less than the average number of building permits for privately owned housing units as compared to other Ohio counties.

#### **Use of proceeds**

The bill requires eligible borrowers to use the proceeds of an RDRLP loan exclusively to develop, repair, or upgrade water, sewer, transportation, electric, or gas infrastructure needed for the construction of single-family, residential dwellings that are part of a residential development project. An eligible borrower is prohibited from using any portion of the proceeds for routine infrastructure maintenance or for developments, repairs, or upgrades that exceed the projected requirements of the residential development project.

#### **Residential development project**

The bill also includes requirements for the residential development project served by the infrastructure developments, repairs, or upgrades. DEV is prohibited from approving a loan application unless the eligible borrower demonstrates that the project meets all of the following:

- Is fully located in a county that meets the population and building permit criteria described above;
- Has a net density of at least four single-family, residential dwellings per acre;
- Is zoned exclusively for single-family, residential use;

- Does not currently, and will not upon its completion, include low-income housing that receives a federal low-income housing tax credit.

### **Loan amount**

The amount of an RDRLP loan must not exceed the lesser of either of the following:

- 50% of the total cost of the infrastructure developments, repairs, or upgrades;
- \$30,000 per single-family, residential dwelling included in the residential development project served by the developments, repairs, or upgrades.

### **Application requirements**

The bill requires an eligible borrower to include all of the following in the loan application:

- A description of the infrastructure developments, repairs, or upgrades to be funded by the loan and an estimate of the total cost to complete those developments, repairs, or upgrades;
- The loan amount requested by the eligible borrower;
- Documentation sufficient to prove that the eligible borrower, residential development project, and the infrastructure developments, repairs, or upgrades meet the requirements prescribed by the bill;
- Certification that the eligible borrower agrees to comply with all provisions of the bill.

### **Administration**

The bill requires DEV to administer the RDRLP and to begin accepting applications for loans no later than January 1, 2026. DEV must accept applications and make loans on a rolling basis whenever funding is available. The bill authorizes DEV to establish a schedule of fees and charges to be paid by applicants and loan recipients as necessary to offset the cost of administering the RDRLP.

### **Conditions for borrowers**

- The bill requires eligible borrowers, as a condition of accepting an RDRLP loan, to exempt the residential development project served by the infrastructure developments, repairs, or upgrades, from any building or road standards that are more stringent than those prescribed by state law. Furthermore, the eligible borrower must exempt the development project from any ordinances, resolutions, rules, or restrictions concerning minimum square footage for residential dwellings, off-street parking, or the existence, size, or placement of a garage.

Within 45 days after receiving an RDRLP loan, the eligible borrower must complete any required traffic reviews or studies for the residential development. In addition, the borrower must provide a quarterly report to the DEV Director on the status of the work funded by the loan and repay the principal and interest of the loan in accordance with terms specified by DEV.

## Scoring metrics

The bill requires DEV to develop and utilize scoring metrics in prioritizing applications, determining whether to approve low-interest loans, and determining the amount of such loans. The metrics must meet all of the following requirements:

- Give higher priority to projects in locations with greater housing need and lack of private housing investment;
- Consider the potential economic impact of the project and the regional distributive balance of the loans;
- Not consider whether the project is located in an economically distressed area, including by weighting preference based on the poverty rate in the jurisdiction or census tract in which the project is located.

## Prevailing Wage Law

The bill exempts from both the residential and commercial prevailing wage laws a project to develop, repair, or upgrade infrastructure needed for the construction of single-family, residential dwellings in rural Ohio areas using funds provided under the RDRLP. These laws require a public authority, as defined in the laws, to ensure that workers on a public improvement project using public funds are paid the “prevailing rate of wages” as determined under each law. The commercial prevailing wage law applies if the project’s estimated cost exceeds threshold amounts and the residential prevailing wage law applies to public housing projects.

## Payments in lieu of taxes

The bill requires an eligible borrower to exempt improvements constructed from loan proceeds from property tax. Property owners would then make payments in lieu of taxes to the eligible borrower equal to the forgone taxes. The eligible borrower would then be required to use those payments to pay off the RDRLP loan. The payments and exemption end after the loan is paid off.

## RDRLP Fund

The bill creates the Residential Development Revolving Loan Fund for the purpose of funding the program. The fund is to consist of appropriations made by the General Assembly, moneys received as repayment for loans under the program, fees collected under the program, and any other money transferred to the fund. All investment earnings of the fund are to be credited to the fund. DEV is required to use money in the fund exclusively to make low-interest loans under the program and to offset the expenditures incurred by DEV in administering the program. The aggregate amount of money used to offset the Department’s expenditures in any fiscal year must not exceed \$500,000. DEV is required to credit all principal, interest, and fees paid under the program by eligible borrowers to the fund.

The bill appropriates \$90 million to the fund in FY 2026. Any unexpended balance of the appropriation may be carried over into FY 2027.

## **Brownfield Remediation Program**

(R.C. 122.6511)

### **Background**

Current law establishes the Brownfield Remediation Program, under which the Director of Development awards grants for remediation and priority investment area eligible projects at brownfields. Under current law, a brownfield is an abandoned, idled, or under-used industrial, commercial, or institutional property where expansion or redevelopment is complicated by known or potential releases of hazardous substances or petroleum. Remediation involves an action to contain, remove, or dispose of hazardous substances or petroleum at a brownfield. Remediation includes the acquisition of a brownfield, demolition performed at a brownfield, and the installation or upgrade of the minimum amount of infrastructure that is necessary to make a brownfield operational for economic development activity. A priority investment area eligible project is a project necessary or conducive for generating, transporting, storing, or transmitting electricity at the site of a brownfield or former coal mine. In determining eligibility for a priority investment area eligible project, the Director must prioritize areas of Ohio negatively impacted by the decline of the coal industry.

Under the program, a lead entity for a county must submit grant applications to the Director for projects in that county. A lead entity includes local government entities such as a county, municipal corporation, or local land bank and organizations for profit. For each fiscal year, money appropriated for the program is first reserved for each of Ohio's 88 counties, with each county receiving \$1 million. Any additional money appropriated that is not reserved (or any money not used by a county) is available for grants to projects located anywhere in Ohio. Grants from those funds must be awarded to qualifying projects on a first-come, first-serve basis.

### **Alterations to the program**

The bill alters the program by doing all of the following:

1. For purposes of distributing money appropriated for grants that are reserved for each county under the program for FY 2026, allowing a lead entity to use that money for any brownfield remediation purpose;

2. For purposes of distributing money appropriated for grants under the program, other than for FY 2026, doing all of the following:

- a. Eliminating the requirement that money not reserved for each county under continuing law be available for grants located anywhere in the state on a first-come, first-served basis;

- b. Instead, requiring the following:

- i. Any funds appropriated and that are not reserved for a county (or that are not utilized by a county) to be awarded on a case-by-case basis, to be utilized in different regions of Ohio as overseen by the Director, and to be evaluated by the Director in terms of the economic merit of the project to the county, surrounding counties, and state; and

- ii. All funds appropriated to be used for planned economic development projects.

3. Defining “planned economic development project” to mean a project, which may include a priority investment area eligible project, to be developed at a brownfield where an organization for profit demonstrates site control, a plan for the development of the brownfield, and documented support for the planned economic development project of the municipal corporation or township in which the brownfield is located;

4. Altering the definition of “remediation” to include demolition and infrastructure development costs associated with a planned economic development project when a lead entity is an organization for profit, the organization for profit did not cause the environmental contamination at the brownfield, and the planned economic development project at the brownfield exists at the time of submission of the application for a grant;

5. Defining “demolition and infrastructure development costs” as demolition costs and costs associated with constructing, upgrading, or extending infrastructure necessary to make a brownfield operational for a planned economic development project, including any other investment in the brownfield; and

6. Defining “site control” as holding fee simple title or a leasehold interest in a brownfield or being in contract to acquire a brownfield.

## **State private activity bond ceiling and fund**

(R.C. 122.97)

The bill grants DEV the authority to allocate Ohio’s volume ceiling on the aggregate amount of state private activity bonds issued as provided under federal law. Private activity bonds are issued by or on behalf of a state or local government for the purpose of providing special financial benefits for qualified projects. If the bonds meet specific criteria the interest earned may be tax-exempt. Federal law establishes the ceiling applicable for each state and grants states authority to allocate the ceiling among issuing authorities in the state.<sup>47</sup>

## **Tourism attractions and professional sports facilities funding**

### **Roadwork Development Fund**

(R.C. 122.14)

The bill expands the purposes of the existing Roadwork Development Fund (RDF) to include both of the following:

- Funding construction, reconstruction, maintenance, or repair of public roads that provide or improve access to professional sports facilities; and
- Funding associated improvements that are necessary for access to tourism attractions and professional sports facilities.

The bill then authorizes tourism attractions and professional sports facilities to use the money received from DEV from the RDF to make improvements that are associated with the

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<sup>47</sup> 26 U.S.C. 141 and 146(d) and (e).

retail and residential components within their surrounding development. The RDF consists of investment earnings of the Security Deposit Fund and revenue transferred from the Highway Operating Fund. Each of these sources is limited in how its money can be used by Article XII, Section 5a of the Ohio Constitution, thus the RDF has the same limitation.

That limitation, in relevant part, states that the money derived from fees and taxes (including motor fuel taxes) associated with motor vehicle registration, operation, or use must be used only for the costs for construction, reconstruction, maintenance, and repair of public highways and bridges and the costs associated with administration and enforcement of traffic laws. The RDF's current purposes meet that constitutional limitation, and the expansion of the fund to include similar activities on public roads and associated improvements for professional sports facilities appears to be consistent with that limitation.

However, if challenged, a court might examine whether the constitutional limitations on the RDF permit the bill's authorization for tourism attractions and professional sports facilities to use RDF money towards retail and residential components within their development, without any specification that it only be for public roads.

### **Facilities Establishment Fund**

(R.C. 166.01, 166.02, 166.12, and 166.17)

The bill expands the purposes of the existing Facilities Establishment Fund (FEF). Under current law, the FEF finances loans to persons engaged in "industry, commerce, distribution, or research" to encourage such persons to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, furnish, or otherwise develop various eligible projects. The eligible projects relate to innovation, research, and development in various capacities.

The bill adds persons engaged in the development of tourism attractions or professional sports facilities as entities eligible for loans from the FEF and through the Department of Development programs financed through that fund. Additionally, it adds the development of tourism attractions or professional sports facilities as types of eligible projects to receive the funding, regardless of what entity is sponsoring their development.

### **DEV funds**

(R.C. 122.451, 122.55, 122.56, 122.561, and 122.57, repealed; and R.C. 122.41, 122.42, 122.47, 122.49, 122.53, 122.571, 122.59, 165.04, 166.03, 166.08, 169.01, and 169.05 (conforming changes))

The bill eliminates the following funds:

- The Mortgage Insurance Fund, and the corresponding authority of the DEV Director to insure mortgage payments on behalf of a person, partnership, corporation, or community improvement corporation using money from the fund.
- The Mortgage Guarantee Fund, used for a variety of guaranty programs.
- The DEV Director's Purchase Fund, used for purchasing or improving certain properties.

The bill also eliminates sinking fund requirements for certain funds received by the DEV Director: payments of principal of and interest on the loans made by the Director, all rentals received under leases made by the Director, and all proceeds of the sale or other disposition of property held by the Director.

## **Affirmative action programs in public contracting**

(R.C. 9.47, repealed; R.C. 125.11, 153.502, and 153.59; conforming changes in R.C. 153.08 and 5525.03)

The bill eliminates the following provisions related to affirmative action programs in public contracting:

- A requirement for all contractors from whom the state or a political subdivision makes purchases to have a written affirmative action program for the employment and utilization of economically disadvantaged persons.
- A prohibition against DEV disbursing capital money appropriated for any project unless the project provides for an affirmative action program for the employment and utilization of persons who are disadvantaged due to their culture, race, ethnicity, or other similar reasons.
- A requirement that a person receive a certificate of compliance with affirmative action programs before bidding on a public improvement construction contract or a transportation construction contract awarded by the Director of Transportation.

Subject to the exceptions listed below, with respect to subcontracts of construction managers at risk, integrated project contractors, and design-build firms, the bill prohibits a public authority from eliminating a bidder as unqualified on the basis that the bidder has not complied with an affirmative action program or a diversity, equity, and inclusion program. The prohibition does not apply to either of the following:

- County policies to assist minority business enterprises in competitively bid contracts;
- Any set-aside programs for minority business enterprises or EDGE business enterprises.

Under continuing law, a “minority business enterprise” means a business that is owned and controlled by U.S. citizens who reside in Ohio and are members of one of the following economically disadvantaged groups: Blacks or African Americans, American Indians, Hispanics or Latinos, and Asians.<sup>48</sup> An “EDGE business enterprise” is a business certified by the DEV Director as being owned by one or more individuals who are economically and socially disadvantaged based on wealth, business size, and other characteristics, including color, ethnicity, gender, disability, or some other disadvantage not common to other small business owners.<sup>49</sup>

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<sup>48</sup> R.C. 122.71, not in the bill.

<sup>49</sup> R.C. 122.922, not in the bill.

## Welcome Home Ohio (WHO) Program

(R.C. 122.631, 122.632, and 122.633)

The Welcome Home Ohio (WHO) Program allows DEV to award grants and tax credits for the purchase, construction, or rehabilitation of qualifying residential property. The bill makes numerous changes to the WHO Program, including by increasing the tax credit amount, extending grant eligibility to certain nonprofit developers, adjusting the standards for types of properties that may be purchased and rehabilitated, and changing conditions for ownership of a WHO-funded home.

### Qualifying residential property

Under current law, “qualifying residential property” is defined as a single-family residence with at least 1,000 square feet of habitable space. The term includes a single unit in a multi-unit property as long as the property has no more than ten total units. The definition explicitly excludes a “manufactured home,” which is a building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with certain specified federal construction and safety standards.<sup>50</sup>

The bill reduces the minimum square footage of qualifying residential property from 1,000 square feet to 800 square feet. It also allows WHO funds to be used to acquire, construct, or rehabilitate residential units in mixed-use developments and manufactured homes. However, the bill prohibits the use of WHO funds on a “mobile home,” which is a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than 35 body feet in length or, when erected on site, is 320 or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home.<sup>51</sup>

If grant funds are awarded to construct or rehabilitate a mixed-use building, the bill generally requires those funds to be used in areas of the building that are designated for residential use. However, the funds may be used in common areas so long as they are used by the occupants of the residential units and for improvements that serve both the residential units and other portions of the project. The bill requires the DEV Director to adopt rules to determine the value of qualifying residential property that is the basis of a WHO Program grant application and located in a mixed-use building compared to the total value of the building.

### Tax credit

The WHO Program allows DEV to award nonrefundable tax credits against the income tax and financial institutions tax (FIT) to land banks and eligible developers for the rehabilitation or construction of qualifying residential property. An “eligible developer” is one of several enumerated nonprofit entities, provided a primary activity of the entity is the development and preservation of affordable housing or a community improvement corporation or community urban redevelopment corporation.

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<sup>50</sup> R.C. 3781.06, not in the bill.

<sup>51</sup> R.C. 4501.01, not in the bill.

Under current law, the tax credit equals \$90,000 per qualifying residential property or one-third of the cost of construction or rehabilitation, whichever is less. The bill increases the amount of the credit from one-third of construction or rehabilitation costs to 90% of such costs. The bill retains the \$90,000 cap for each residential property. Current law allows DEV to issue up to \$25 million in tax credits in both FY 2024 and FY 2025 and then sunsets the credit. The bill extends the credit through the end of FY 2027, and allows \$20 million in tax credits to be issued over the course of the biennium.

### **Qualified nonprofit developers**

Current law limits eligibility for WHO grants to “electing subdivisions” and “county land reutilization corporations,” which are collectively referred to in this analysis as “land banks.” A land bank is a political subdivision or a special-purpose nonprofit entity designated by a county that acquires foreclosed properties and either sells them or dedicates them to public use.

The bill also allows certain nonprofit corporations, referred to as “qualified nonprofit developers,” to receive WHO grants. As a baseline for eligibility, a qualified nonprofit developer must be incorporated in Ohio and engaged in community development activities primarily within an identified geographic area of operation in Ohio. Furthermore, the primary purpose of a qualified nonprofit developer must be to improve the physical, economic, or social environment by addressing critical problems in its geographic area of operation, including housing.

### **Maximum grant amount**

Under continuing law, the amount of a WHO grant to acquire, construct, or rehabilitate qualifying residential property is determined by DEV based on the amount of available funding. Current law caps the amount of the construction or rehabilitation grant at \$30,000 per qualifying residential property. The bill increases the cap to \$100,000 per qualifying residential property. Furthermore, it applies the same \$100,000 cap to the acquisition grants, which are not capped by current law.

Continuing law allows a land bank, and the bill allows a qualified nonprofit developer, to receive both an acquisition grant and a construction or rehabilitation grant for the same qualifying residential property. Therefore, under the bill, DEV may approve up to \$200,000 in grants for the same qualifying residential property.

### **Price and income thresholds**

Under current law, WHO-funded homes must be sold for \$180,000 or less. The buyer must be an individual, or individuals, with annual income that is no more than 80% of the median income for the county where the home is located. The bill increases the maximum sale price to \$220,000 and the maximum income for buyers to 120% of the median income of the county where the home is located.

### **Agreement to occupy the home**

Continuing law requires buyers of WHO-funded homes to agree to maintain ownership of the home as a primary residence and not rent the home to anyone else. Currently that agreement is for five years. If the buyer violates that agreement, they are required to pay a penalty of \$90,000 (the maximum grant or tax credit amount) reduced by \$18,000 ( $\frac{1}{5}$  of that amount) for

each year the buyer occupied the home as a primary residence. The bill reduces the term of the agreement from five years to three years. Furthermore, for the grant program, it specifies that the penalty is the amount of the grant attributable to the home, which might be less than the maximum grant amount, reduced by  $\frac{1}{3}$  for each year the buyer occupied the home as a primary residence. In essence, for the grant program, the bill accelerates the rate at which the penalty decreases commensurate with the reduction in time that the agreement applies.

The bill changes the penalty reduction for WHO Program tax credits to a  $\frac{1}{20}$  reduction for each year the purchaser occupied the home consistent with the program's requirements. It also transfers responsibility for the penalty from the home purchaser, as under current law, to the eligible developer. With, again, respect to WHO Program tax credits only, the bill allows DEV to waive penalties if requirements are not met due to homeowner hardship. It also allows penalties to be avoided if the eligible developer reacquires a home and sells it to another qualified buyer, provided several conditions are met, and transfers responsibility for residence verification from the purchaser to the developer.

### **Note and mortgage**

For the WHO Program tax credit only, the bill adds a requirement that the eligible developer provide interest free financing for any home for which a tax credit is sought. It also requires the developer to hold the note and mortgage until maturity.

### **Deed restriction and restrictive covenant**

Current law requires a land bank or developer, when conveying a WHO-funded home to a buyer, to include a deed restriction that prohibits subsequent sales to a person who does not meet the income eligibility requirements. Currently, the deed restriction lasts for 20 years following the initial sale of the home. The DEV Director has authority and standing to sue and enforce the deed restriction.

For WHO Program grants, the bill reduces the time that the deed restriction applies from 20 years to 15 years. Furthermore, it allows the land bank or developer to include a right of first refusal in the deed restriction to repurchase the home for the purpose of ensuring that it is ultimately sold to a buyer who meets the income eligibility requirement. The bill specifies that the deed restriction is a covenant running with the land and is fully binding upon subsequent buyers of the home until it expires.

For WHO Program tax credits, the bill requires applicants to have an executed restrictive covenant for each home that is the subject of a tax credit application in lieu of this deed restriction. The covenant must be conditional and recorded only upon the award of a tax credit for the property. It is to have a 20-year restriction and prohibit the sale of the property to anyone but the eligible developer or a buyer with a qualifying income. DEV must be named as a third-party beneficiary of the covenant.

The covenant is not specifically authorized to contain a right of first refusal, but the bill allows tax credit applicants to convey property that is the subject of an application to include any terms not in conflict with WHO Program requirements. They may be contained in a purchase agreement, mortgage documents, or a deed and may include a right of first refusal.

## **Financial literacy counseling**

Under continuing law, land banks and developers that receive a WHO grant or tax credit must agree to provide financial literacy counseling to each buyer of a home that is purchased, rehabilitated, or constructed using WHO funds. Buyers of WHO-funded homes must agree to participate in the financial literacy counseling.

The bill allows up to \$2,000 in grant or tax credit funds to be used to pay for the financial literacy counseling. It requires the counseling to be comprised of a home ownership course with a curriculum that includes basic home maintenance and financial literacy. The course must be offered by a “qualifying counseling provider,” that is licensed, certified, or authorized to provide such counseling as one of its primary functions including, specifically, housing counselors certified by the federal Department of Housing and Urban Development (HUD). The bill reduces the minimum duration of the counseling from one year to six months, and, for WHO Program tax credits, requires that the counseling be completed by homebuyers before an application for a credit is submitted.

## **Reinvestment of profits**

The bill requires the recipient of a WHO grant to use all profits derived from the sale of the WHO-funded home for the land bank’s land reutilization program or the developer’s housing program.