



# Guidance on Senate Bill 33 and Its Impacts on the Ohio Community Reinvestment Area Program

Updated March 30, 2023

**Senate Bill (“SB”) 33** was signed by Governor DeWine on January 3, 2023, with an effective date of April 4, 2023. SB 33 included permanent changes to the Ohio **Community Reinvestment Area (CRA)** program, which are outlined in this document.

These program changes will apply to the following:

1. Community Reinvestment Areas that are created by legislation passed on or after April 4, 2023.
2. Community Reinvestment Areas that are amended by legislation passed on or after April 4, 2023.
3. Community Reinvestment Area Agreements fully executed on or after April 4, 2023.

For CRAs (created or amended) by legislation passed prior to April 4, 2023, or CRA Agreements fully executed prior to April 4, 2023, the previous program statute and requirements apply. These created and amended CRAs must submit the Petition for Area Certification to Development, including all necessary attachments. The CRA Agreements fully executed prior to April 4, 2023, must submit the agreement, supporting documentation, and \$750 fee to the Department of Development (“Development”) within fifteen days after the agreement is entered into.

## Changes

The outline below highlights the programmatic changes that will be implemented as a result of Senate Bill 33:

### CRA Establishment

1. SB 33 extends townships that have adopted limited home rule governments the authority to designate CRAs within its unincorporated territory. Rules on how to form a limited home rule government can be found in ORC 504.01.
  - a. A county may designate a CRA in any unincorporated territory within the county, including territory within a limited home rule township. However, under SB 33, a county may not create a CRA in any territory that is already part of a CRA designated by a limited home rule township and vice versa.
2. SB 33 no longer requires that the Director of Development approve the creation or amendment of a CRA proposed by a local authority.
  - a. Local authorities must still:
    - i. Conduct a housing survey of the area in which they are proposing a CRA,
    - ii. Adopt a resolution finding that the area contains housing facilities or structures of historical significance **and** that new construction or repair of existing housing is discouraged (ORC Sections 3735.65, 3735.66).
    - iii. The local authority must then submit the resolution authorizing the area and a map of the proposed CRA to Development.
  - b. Under SB 33, local authorities are required to send the following to Development for all new and amended CRAs:

- i. Resolution enabling/amending the CRA
    - ii. Map of the area
  - c. To create or amend a CRA, local authorities are still required to conduct the following, but these are not required to be submitted to Development:
    - i. Housing survey
    - ii. Newspaper publication of the resolution
    - iii. Housing Officer designation
- 3. Local authorities are not allowed to grant tax exemptions until the Director of Development assigns a “unique designation” for area identification. This process will replace the previous CRA petition/approval process conducted by Development. A new Designation Request document will be created to replace the Petition Certification and will be made available on the program’s webpage at <https://development.ohio.gov/business/state-incentives/ohio-community-reinvestment-area>
- 4. Any zoning changes made in the area after designation are no longer required to be forwarded to the Director of Development.

#### School Board Approval Thresholds

- 5. School board approval is no longer required for any agreement that has a minimum tax collection of 25% (this was previously 50%). Permission is still not required if the board adopts a resolution waiving its rights to approve such exemptions.
  - a. Put another way, a CRA commercial or industrial project does not require school board approval unless the project proposes to exempt more than 75% of the project’s value.

#### Community Reinvestment Area Agreements

- 6. Development must adopt rules prescribing the form of a model agreement that a local authority may use as a model agreement. Once Development prescribes this model agreement, its contents may be amended only through the rulemaking process.
  - a. While Development can include any terms it considers necessary, the following must be included in the model agreement:
    - i. A description of the exempted property and the property’s owner.
    - ii. The exemption percentage and the period for which the exemption is granted.
    - iii. A requirement that the owner pay any unexempted property taxes and that the agreement be rescinded if the owner does not.
    - iv. A requirement that the owner, at the time the agreement is executed, not owe any delinquent property or state taxes.
    - v. A prohibition on transferring the agreement to a new owner without the local authority’s approval.
    - vi. A requirement that the owner provide the property tax incentive review council (TIRC) with any information it requires to evaluate the applicant’s agreement compliance.
    - vii. A description of the circumstances under which an agreement may be revoked by the local authority for noncompliance and the manner for recovering already-received benefits.
    - viii. A requirement that the owner provide an estimate of the number of jobs that will be created and retained due to the project, as well as the payroll attributable to those jobs.
  - b. Development will be working to create these rules through the Joint Committee on Agency Rule Review (JCARR) process.

### Intra-state Relocation Requirements

7. If a company that has a CRA agreement discontinues operations and relocates to a new location within the state, no new CRA agreement can be entered into for three years (previously, this was five years).

### Annual Report Information

8. SB 33 modifies what information is included in the annual report submitted to Development by March 31 every year. These reports contain information describing CRAs and any agreements from the previous calendar year. Under SB 33, the following information must be submitted:
  - a. The total number of CRAs designated by the local authority and the total population of each area according to the most recent data available.
  - b. The total number of agreements within each area.
  - c. The number of agreements approved and executed during the calendar year for which the report is submitted.
  - d. The total number of agreements in effect on the 31<sup>st</sup> day of December of the preceding calendar year.
  - e. The number of agreements that expired during the calendar year for which the report is submitted.
    - i. For each agreement that expired during the calendar year for which the report is submitted, the local authority shall include the amount of taxes exempted under the agreement.
  - f. The number of agreements scheduled to expire during the calendar year in which the report is submitted.
  - g. The number of agreements that are not in compliance. For every non-compliant agreement, local authorities must show the value of the exempted real property and a comparison of the estimated and actual amount of the created and retained employment and payroll numbers.
9. Local authorities will submit a copy of any agreement approved and executed or amended during the calendar year at the same time as the annual report for that calendar year. Prior law required local authorities to forward a copy of agreements to Development within 15 days of adoption.

### Program Fees

10. SB 33 eliminates the following fees that were previously charged to owners of commercial and industrial projects covered by CRA agreements:
  - a. An annual fee of up to the lesser of \$2,500 or 1% of the exempted tax to the local authority to administer and enforce the terms of the agreement.
  - b. A one-time application fee in an amount set by Development to apply toward its cost to administer the CRA program and other tax incentives (previously set at \$750).

### Income Tax Thresholds for Revenue Sharing

11. Required income tax sharing threshold has been increased from \$1 million to \$2 million for commercial and industrial CRA projects. The \$1 million threshold still applies for non-CRA property tax abatements.
  - a. Development will adjust the payroll threshold in September of each year, based on the gross domestic product (GDP) deflator.
  - b. This adjustment, if any is to be made, will be certified to all municipalities by December 1 of each year.

### Development Information Requirements

12. Development is required to publish a list of all CRAs, including their geographical boundaries. This list shall also include a copy of the authorizing legislation and any agreements entered into for commercial or industrial projects. This list shall be updated on an annual basis, after the annual reports have been submitted to Development.