



Ohio Revised Code

Section 5709.78 Exemption for increase in property value due to county public infrastructure improvement.

Effective: April 6, 2017

Legislation: Senate Bill 257 - 131st General Assembly

(A) A board of county commissioners may, by resolution, declare improvements to certain parcels of real property located in the unincorporated territory of the county to be a public purpose. Except with the approval under division (C) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation, for a period of not more than ten years. The resolution shall specify the percentage of the improvement to be exempted and the life of the exemption.

A resolution adopted under this division shall designate the specific public infrastructure improvements made, to be made, or in the process of being made by the county that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. The service payments provided for in section 5709.79 of the Revised Code shall be used to finance the public infrastructure improvements designated in the resolution, or as provided in section 5709.80 of the Revised Code.

(B)(1) A board of county commissioners may adopt a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (B)(2) of this section, exempt from taxation as provided in this section, but no board of county commissioners of a county that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the county that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the county for the preceding tax year. The district shall be located within the unincorporated territory of the county and shall not include any territory that is included within a district created under division (C) of section 5709.73 of the Revised Code. The resolution shall delineate the boundary of the proposed district



and specifically identify each parcel within the district. A proposed district may not include any parcel that is or has been exempted from taxation under division (A) of this section or that is or has been within another district created under this division. A resolution may create more than one such district, and more than one resolution may be adopted under division (B)(1) of this section.

(2) (a) Not later than thirty days prior to adopting a resolution under division (B)(1) of this section, if the county intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board of county commissioners shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution. The board also shall provide the notice by first class mail to the clerk of each township in which the proposed incentive district will be located. The notice shall include a map of the proposed incentive district on which the board of county commissioners shall have delineated an overlay. The notice shall inform property owners of the owner's right to exclude the owner's property from the incentive district if both of the following conditions are met:

(i) The owner's entire parcel of property will not be located within the overlay.

(ii) The owner has submitted a statement to the board of township trustees of the township in which the parcel is located indicating the owner's intent to seek a tax exemption for improvements to the owner's parcel under division (B) or (C) of section 5709.73 of the Revised Code within the next five years.

When both of the preceding conditions are met, the owner may exclude the owner's property from the incentive district by submitting a written response in accordance with division (B)(2) (b) of this section. The notice also shall include information detailing the required contents of the response, the address to which the response may be mailed, and the deadline for submitting the response.

(b) Any owner of real property located within the boundaries of an incentive district proposed under division (B) (1) of this section who meets the conditions specified in divisions (B)(2)(a)(i) and (ii) of this section may exclude the property from the proposed incentive district by submitting a written



response to the board not later than forty-five days after the postmark date on the notice required under division (B)(2)(a) of this section. The response shall include a copy of the statement submitted under division (B)(2)(a)(ii) of this section. The response shall be sent by first class mail or delivered in person at a public hearing held by the board under division (B)(2)(a) of this section. The response shall conform to any content requirements that may be established by the board and included in the notice provided under division (B)(2)(a) of this section. In the response, property owners may identify a parcel by street address, by the manner in which it is identified in the resolution, or by other means allowing the identity of the parcel to be ascertained.

(c) Before adopting a resolution under division (B)(1) of this section, the board shall amend the resolution to exclude any parcel for which a written response has been submitted under division (B)(2)(b) of this section. A county shall not apply for exemptions from taxation under section 5709.911 of the Revised Code for any such parcel, and service payments may not be required from the owner of the parcel. Improvements to a parcel excluded from an incentive district under this division may be exempted from taxation under division (A) of this section pursuant to a resolution adopted under that division or under any other section of the Revised Code under which the parcel qualifies.

(3)(a) A resolution adopted under division (B)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (B)(3)(b) of this section that places real property in use for commercial or industrial purposes.

A resolution adopted under division (B)(1) of this section on or after March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.79 of the Revised Code and received by the county under the resolution shall be used for police or fire equipment.

(b) A resolution adopted under division (B)(1) of this section may authorize the use of service



payments provided for in section 5709.79 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (D) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (C) of this section.

(C)(1) Improvements with respect to a parcel may be exempted from taxation under division (A) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (B) of this section, for up to ten years or, with the approval of the board of education of each city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to the approval of a board of education under this division, the board of county commissioners shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice regarding improvements with respect to a parcel under division (A) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of county commissioners intends to adopt the resolution. The notice regarding improvements to parcels within



an incentive district under division (B) of this section shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the board of county commissioners intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the board of county commissioners and the board of education negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation.

(2) The board of education shall certify its resolution to the board of county commissioners not later than fourteen days prior to the date the board of county commissioners intends to adopt its resolution as indicated in the notice. If the board of education and the board of county commissioners negotiate a mutually acceptable compensation agreement, the resolution of the board of county commissioners may declare the improvements a public purpose for the number of years specified in that resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of county commissioners fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board of education fails to certify a resolution to the board of county commissioners within the time prescribed by this section, the board of county commissioners thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of county commissioners may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of county commissioners, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation



agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the board of county commissioners. If a mutually acceptable compensation agreement is negotiated between the board of county commissioners and the board of education, including agreements for payments in lieu of taxes under section 5709.79 of the Revised Code, the board of county commissioners shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

(3) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of such exemptions by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under division (C) of this section fewer than forty-five business days prior to approval of the resolution by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(D)(1) If a proposed resolution under division (B)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of county commissioners shall deliver to the board of township trustees of any township within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board intends to adopt the resolution.

(2) The board of township trustees, by resolution adopted by a majority of the board, may object to



the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of township trustees objects, the board of township trustees may negotiate a mutually acceptable compensation agreement with the board of county commissioners. In no case shall the compensation provided to the board of township trustees exceed the property taxes forgone due to the exemption. If the board of township trustees objects, and the board of township trustees and the board of county commissioners fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (B)(1) of this section shall provide to the board of township trustees compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the township or, if the board of township trustee's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the township on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of township trustees shall certify its resolution to the board of county commissioners not later than thirty days after receipt of the notice.

(3) If the board of township trustees does not object or fails to certify a resolution objecting to an exemption within thirty days after receipt of the notice, the board of county commissioners may adopt its resolution, and no compensation shall be provided to the board of township trustees. If the board of township trustees certifies its resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees. If the board of township trustees certifies a resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of county commissioners in the proposed resolution to provide compensation to the board of township trustees of fifty per cent of the taxes that would be payable to the township in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(E) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of



the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to a resolution creating an incentive district under division (B)(1) of this section that is adopted on or after January 1, 2006, shall be distributed to the appropriate taxing authority as required under division (D) of section 5709.79 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (B) of this section:

- (1) A tax levied under division (L) of section 5705.19 or section 5705.191 or 5705.222 of the Revised Code for community developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;
- (2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;
- (3) A tax levied under section 5705.22 of the Revised Code for county hospitals;
- (4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or facilities;
- (5) A tax levied under section 5705.23 of the Revised Code for library purposes;
- (6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;
- (7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;
- (8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;
- (9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and



recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(F) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. In lieu of stating a specific year, the resolution may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the resolution. With respect to the exemption of improvements to parcels under division (A) of this section, the resolution may allow for the exemption to commence in different tax years on a parcel-by-parcel basis, with a separate exemption term specified for each parcel.

Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the county can no longer require annual service payments in lieu of taxes under section 5709.79 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the resolution, if the board of commissioners and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement, and the board of education has approved the term of the exemption under division



(C)(1) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. Exemptions shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(G) If the board of county commissioners is not required by this section to notify the board of education of the board of county commissioners' intent to declare improvements to be a public purpose, the board of county commissioners shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that declaration, unless the board of education has adopted a resolution under that section waiving its right to receive such a notice.

(H) The county, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development services a copy of the resolution. On or before the thirty-first day of March of each year, the county shall submit a status report to the director of development services. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that an exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.80 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with such expenditures; and a quantitative summary of changes in employment and private investment resulting from each project.

(I) Nothing in this section shall be construed to prohibit a board of county commissioners from declaring to be a public purpose improvements with respect to more than one parcel.

(J) If a parcel is located in a new community district in which the new community authority imposes a community development charge on the basis of rentals received from leases of real property as described in division (L)(2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

The Legislative Service Commission presents the text of this section as a composite of the section as amended by multiple acts of the General Assembly. This presentation recognizes the principle stated in R.C. 1.52(B)



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that amendments are to be harmonized if reasonably capable of simultaneous operation.