

SUBSTITUTE FOR
SENATE BILL NO. 700

A bill to amend 2018 PA 57, entitled
"Recodified tax increment financing act,"
by amending section 201 (MCL 125.4201).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 201. As used in this part:

2 (a) "Advance" means a transfer of funds made by a municipality
3 to an authority or to another person on behalf of the authority in
4 anticipation of repayment by the authority. Evidence of the intent
5 to repay an advance ~~may include,~~ **includes**, but is not limited to,
6 an executed agreement to repay, provisions contained in a tax
7 increment financing plan approved ~~prior to~~ **before** the advance, or a
8 resolution of the authority or the municipality.

9 (b) "Assessed value" means 1 of the following:

1 (i) For valuations made before January 1, 1995, the state
2 equalized valuation as determined under the general property tax
3 act, 1893 PA 206, MCL 211.1 to 211.155.

4 (ii) For valuations made after December 31, 1994, the taxable
5 value as determined under section 27a of the general property tax
6 act, 1893 PA 206, MCL 211.27a.

7 (c) "Authority" means a downtown development authority created
8 ~~pursuant to~~ **under** this part.

9 (d) "Board" means the governing body of an authority.

10 (e) "Business district" means an area in the downtown of a
11 municipality zoned and used principally for business.

12 (f) "Captured assessed value" means the amount in any 1 year
13 by which the current assessed value of the project area, including
14 the assessed value of property for which specific local taxes are
15 paid in lieu of property taxes as determined in subdivision (aa),
16 exceeds the initial assessed value. The state tax commission shall
17 prescribe the method for calculating captured assessed value.

18 (g) "Catalyst development project" means a project that is
19 located in a municipality with a population greater than 600,000,
20 is designated by the authority as a catalyst development project,
21 and is expected to result in ~~at least~~ **not less than** \$300,000,000.00
22 of capital investment. There ~~shall~~ **must not** be ~~no~~ more than 1
23 catalyst development project designated within each authority.

24 (h) "Chief executive officer" means the mayor or city manager
25 of a city, the president or village manager of a village, or the
26 supervisor of a township or, if designated by the township board
27 for purposes of this part, the township superintendent or township
28 manager of a township.

29 (i) "Development area" means that area to which a development

1 plan is applicable.

2 (j) "Development plan" means that information and those
3 requirements for a development plan set forth in section 217.

4 (k) "Development program" means the implementation of the
5 development plan.

6 (l) "Downtown district" means that part of an area in a
7 business district that is specifically designated by ordinance of
8 the governing body of the municipality ~~pursuant to~~ **under** this part.

9 **Both of the following apply regarding a downtown district:**

10 (i) A downtown district may include ~~1 or more~~ **than 1** separate
11 and distinct geographic areas in a business district as determined
12 by the municipality if **1 of the following requirements is met:**

13 (A) **The** municipality enters into an agreement with a qualified
14 township under section 203(7). ~~or if the~~

15 (B) **The** municipality is a city that surrounds another city and
16 that other city lies between the 2 separate and distinct geographic
17 areas.

18 (C) **The municipality is located on both the mainland and 1 or**
19 **more islands, and a body of water lies between the 2 separate and**
20 **distinct geographic areas.**

21 (ii) If the downtown district contains more than 1 separate and
22 distinct geographic area in the downtown district, the separate and
23 distinct geographic areas ~~shall be~~ **are** considered 1 downtown
24 district.

25 (m) "Eligible advance" means an advance made before August 19,
26 1993.

27 (n) "Eligible obligation" means an obligation issued or
28 incurred by an authority or by a municipality on behalf of an
29 authority before August 19, 1993 and its subsequent refunding by a

1 qualified refunding obligation. Eligible obligation includes an
2 authority's written agreement entered into before August 19, 1993
3 to pay an obligation issued after August 18, 1993 and before
4 December 31, 1996 by another entity on behalf of the authority.

5 (o) "Fire alarm system" means a system designed to detect and
6 annunciate the presence of fire, or by-products of fire. Fire alarm
7 system includes smoke detectors.

8 (p) "Fiscal year" means the fiscal year of the authority.

9 (q) "Governing body of a municipality" means the elected body
10 of a municipality having legislative powers.

11 (r) "Initial assessed value" means the assessed value, as
12 equalized, of all the taxable property within the boundaries of the
13 development area ~~at the time when~~ the ordinance establishing the
14 tax increment financing plan is approved, as shown by the most
15 recent assessment roll of the municipality for which equalization
16 has been completed ~~at the time when~~ the resolution is adopted.
17 Property exempt from taxation ~~at the time of the determination of~~
18 **when** the initial assessed value ~~shall is determined must~~ be
19 included as zero. For the purpose of determining initial assessed
20 value, property for which a specific local tax is paid in lieu of a
21 property tax ~~shall is~~ not ~~be~~ considered to be property that is
22 exempt from taxation. The initial assessed value of property for
23 which a specific local tax was paid in lieu of a property tax ~~shall~~
24 **must** be determined as provided in subdivision (aa). ~~In the case of~~
25 **If** a municipality having a population of less than 35,000 ~~that~~
26 established an authority ~~prior to before~~ 1985, created a district
27 or districts, and approved a development plan or tax increment
28 financing plan or ~~amendments amendment~~ to a plan, ~~and which plan~~
29 ~~or tax increment financing plan or amendments to a plan, and which~~

1 ~~plan~~**that** expired by its terms December 31, 1991, the initial
 2 assessed value for the purpose of any plan or plan amendment
 3 adopted as an extension of the expired plan ~~shall~~**must** be
 4 determined as if the plan had not expired December 31, 1991. For a
 5 development area designated before 1997 in which a renaissance zone
 6 has subsequently been designated ~~pursuant to~~**under** the Michigan
 7 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, the
 8 initial assessed value of the development area otherwise determined
 9 under this subdivision ~~shall~~**must** be reduced by the amount by which
 10 the current assessed value of the development area was reduced in
 11 1997 due to the exemption of property under section 7ff of the
 12 general property tax act, 1893 PA 206, MCL 211.7ff, but ~~in no case~~
 13 ~~shall~~ the initial assessed value **must not** be less than zero.

14 (s) "Municipality" means a city, village, or township.

15 (t) "Obligation" means a written promise to pay, whether
 16 evidenced by a contract, agreement, lease, sublease, bond, or note,
 17 or a requirement to pay imposed by law. An obligation does not
 18 include a payment required solely because of default ~~upon~~**on** an
 19 obligation, employee salaries, or consideration paid for the use of
 20 municipal offices. An obligation does not include those bonds that
 21 have been economically defeased by refunding bonds issued under
 22 this part. Obligation includes, but is not limited to, the
 23 following:

24 (i) A requirement to pay proceeds derived from ad valorem
 25 property taxes or taxes levied in lieu of ad valorem property
 26 taxes.

27 (ii) A management contract or a contract for professional
 28 services.

29 (iii) A payment required on a contract, agreement, bond, or note

1 if the requirement to make or assume the payment arose before
2 August 19, 1993.

3 (iv) A requirement to pay or reimburse a person for the cost of
4 insurance for, or to maintain, property subject to a lease, land
5 contract, purchase agreement, or other agreement.

6 (v) A letter of credit, paying agent, transfer agent, bond
7 registrar, or trustee fee associated with a contract, agreement,
8 bond, or note.

9 (u) "On behalf of an authority", in relation to an eligible
10 advance made by a municipality, or an eligible obligation or other
11 protected obligation issued or incurred by a municipality, means in
12 anticipation that an authority would transfer tax increment
13 revenues or reimburse the municipality from tax increment revenues
14 in an amount sufficient to fully make payment required by the
15 eligible advance made by the municipality, or eligible obligation
16 or other protected obligation issued or incurred by the
17 municipality, if the anticipation of the transfer or receipt of tax
18 increment revenues from the authority is pursuant to or evidenced
19 by 1 or more of the following:

20 (i) A reimbursement agreement between the municipality and an
21 authority it established.

22 (ii) A requirement imposed by law that the authority transfer
23 tax increment revenues to the municipality.

24 (iii) A resolution of the authority agreeing to make payments to
25 the incorporating unit.

26 (iv) Provisions in a tax increment financing plan describing
27 the project for which the obligation was incurred.

28 (v) "Operations" means office maintenance, including salaries
29 and expenses of employees, office supplies, consultation fees,

1 design costs, and other expenses incurred in the daily management
2 of the authority and planning of its activities.

3 (w) "Other protected obligation" means **any of the following:**

4 (i) A qualified refunding obligation issued to refund an
5 obligation described in subparagraph (ii), (iii), or (iv), an
6 obligation that is not a qualified refunding obligation that is
7 issued to refund an eligible obligation, or a qualified refunding
8 obligation issued to refund an obligation described in this
9 subparagraph.

10 (ii) An obligation issued or incurred by an authority or by a
11 municipality on behalf of an authority after August 19, 1993, but
12 before December 31, 1994, to finance a project described in a tax
13 increment finance plan approved by the municipality in accordance
14 with this part before December 31, 1993, for which a contract for
15 final design is entered into by or on behalf of the municipality or
16 authority before March 1, 1994 or for which a written agreement
17 with a developer, titled preferred development agreement, was
18 entered into by or on behalf of the municipality or authority in
19 July 1993.

20 (iii) An obligation incurred by an authority or municipality
21 after August 19, 1993, to reimburse a party to a development
22 agreement entered into by a municipality or authority before August
23 19, 1993, for a project described in a tax increment financing plan
24 approved in accordance with this part before August 19, 1993, and
25 undertaken and installed by that party in accordance with the
26 development agreement.

27 (iv) An obligation incurred by the authority evidenced by or to
28 finance a contract to purchase real property within a development
29 area or a contract to develop that property within the development

1 area, or both, if all of the following requirements are met:

2 (A) The authority purchased the real property in 1993.

3 (B) Before June 30, 1995, the authority enters a contract for
4 the development of the real property located within the development
5 area.

6 (C) In 1993, the authority or municipality on behalf of the
7 authority received approval for a grant from both of the following:

8 (I) The department of natural resources for site reclamation
9 of the real property.

10 (II) The department of consumer and industry services for
11 development of the real property.

12 (v) An ongoing management or professional services contract
13 with the governing body of a county ~~which~~**that** was entered into
14 before March 1, 1994 and ~~which~~**that** was preceded by a series of
15 limited term management or professional services contracts with the
16 governing body of the county, the last of which was entered into
17 before August 19, 1993.

18 (vi) A loan from a municipality to an authority if the loan was
19 approved by the legislative body of the municipality on April 18,
20 1994.

21 (vii) Funds expended to match a grant received by a
22 municipality on behalf of an authority for sidewalk improvements
23 from the Michigan department of transportation if the legislative
24 body of the municipality approved the grant application on April 5,
25 1993 and the grant was received by the municipality in June 1993.

26 (viii) For taxes captured in 1994, an obligation described in
27 this subparagraph issued or incurred to finance a project. An
28 obligation is considered issued or incurred to finance a project
29 described in this subparagraph only if all of the following are

1 met:

2 (A) The obligation requires raising capital for the project or
3 paying for the project, whether or not a borrowing is involved.

4 (B) The obligation was part of a development plan and the tax
5 increment financing plan was approved by a municipality on May 6,
6 1991.

7 (C) The obligation is in the form of a written memorandum of
8 understanding between a municipality and a public utility dated
9 October 27, 1994.

10 (D) The authority or municipality captured school taxes during
11 1994.

12 (ix) An obligation incurred after July 31, 2012 by an
13 authority, municipality, or other governmental unit to pay for
14 costs associated with a catalyst development project.

15 (x) "Public facility" means a street, plaza, pedestrian mall,
16 and any improvements to a street, plaza, or pedestrian mall
17 including street furniture and beautification, park, parking
18 facility, recreational facility, right-of-way, structure, waterway,
19 bridge, lake, pond, canal, utility line or pipe, building, and
20 access routes to any of ~~the foregoing,~~ **these places**, designed and
21 dedicated to use by the public generally, or used by a public
22 agency. Public facility includes an improvement to a facility used
23 by the public or a public facility as those terms are defined in
24 section 1 of 1966 PA 1, MCL 125.1351, which improvement is made to
25 comply with the barrier free design requirements of the state
26 construction code promulgated under the Stille-DeRossett-Hale
27 single state construction code act, 1972 PA 230, MCL 125.1501 to
28 125.1531. Public facility also includes the acquisition,
29 construction, improvement, and operation of a building owned or

1 leased by the authority to be used as a retail business incubator.

2 (y) "Qualified refunding obligation" means an obligation
3 issued or incurred by an authority or by a municipality on behalf
4 of an authority to refund an obligation if 1 or more of the
5 following apply:

6 (i) The obligation is issued to refund a qualified refunding
7 obligation issued in November 1997 and any subsequent refundings of
8 that obligation issued before January 1, 2010 or the obligation is
9 issued to refund a qualified refunding obligation issued on May 15,
10 1997 and any subsequent refundings of that obligation issued before
11 January 1, 2010 in an authority in which 1 parcel or group of
12 parcels under common ownership represents 50% or more of the
13 taxable value captured within the tax increment finance district
14 and that will ultimately provide for ~~at least~~ **not less than** a 40%
15 reduction in the taxable value of the property as part of a
16 negotiated settlement as a result of an appeal filed with the state
17 tax tribunal. Qualified refunding obligations issued under this
18 subparagraph are not subject to the requirements of section 611 of
19 the revised municipal finance act, 2001 PA 34, MCL 141.2611, if
20 issued before January 1, 2010. The duration of the development
21 program described in the tax increment financing plan relating to
22 the qualified refunding obligations issued under this subparagraph
23 is ~~hereby~~ extended to 1 year after the final date of maturity of
24 the qualified refunding obligations.

25 (ii) The refunding obligation meets both of the following:

26 (A) The net present value of the principal and interest to be
27 paid on the refunding obligation, including the cost of issuance,
28 will be less than the net present value of the principal and
29 interest to be paid on the obligation being refunded, as calculated

1 using a method approved by the department of treasury.

2 (B) The net present value of the sum of the tax increment
3 revenues described in subdivision (cc) (ii) and the distributions
4 under section 213b to repay the refunding obligation will not be
5 greater than the net present value of the sum of the tax increment
6 revenues described in subdivision (cc) (ii) and the distributions
7 under section 213b to repay the obligation being refunded, as
8 calculated using a method approved by the department of treasury.

9 (iii) The obligation is issued to refund an other protected
10 obligation issued as a capital appreciation bond delivered to the
11 Michigan municipal bond authority on December 21, 1994 and any
12 subsequent refundings of that obligation issued before January 1,
13 2012. Qualified refunding obligations issued under this
14 subparagraph are not subject to the requirements of section 305(2),
15 (3), (5), and (6), ~~section 501~~, ~~section 503~~, or ~~section 611~~ of the
16 revised municipal finance act, 2001 PA 34, MCL 141.2305, 141.2501,
17 141.2503, and 141.2611, if issued before January 1, 2012. The
18 duration of the development program described in the tax increment
19 financing plan relating to the qualified refunding obligations
20 issued under this subparagraph is extended to 1 year after the
21 final date of maturity of the qualified refunding obligations. The
22 obligation may be payable through the year 2025 at an interest rate
23 not exceeding the maximum rate permitted by law, notwithstanding
24 the bond maturity dates contained in the notice of intent to issue
25 bonds published by the municipality. An obligation issued under
26 this subparagraph is a qualified refunding obligation only to the
27 extent that revenues described in subdivision (cc) (ii) and
28 distributions under section 213b to repay the qualified refunding
29 obligation do not exceed \$750,000.00.

1 (iv) The obligation is issued to refund a qualified refunding
2 obligation issued on February 13, 2008, and any subsequent
3 refundings of that obligation, issued before December 31, 2018.
4 Qualified refunding obligations issued under this subparagraph are
5 not subject to the requirements of section 305(2), (3), (5), and
6 (6), 501, 503, or 611 of the revised municipal finance act, 2001 PA
7 34, MCL 141.2305, 141.2501, 141.2503, and 141.2611. The duration of
8 the development program described in the tax increment financing
9 plan relating to the qualified refunding obligations issued under
10 this subparagraph is extended to 1 year after the final date of
11 maturity of the qualified refunding obligations. Revenues described
12 in subdivision (cc) (ii) and distributions made under section 213b in
13 excess of the amount needed for current year debt service on an
14 obligation issued under this subparagraph may be paid to the
15 authority to the extent necessary to pay future years' debt service
16 on the obligation as determined by the board.

17 (z) "Qualified township" means a township that meets all of
18 the following requirements:

19 (i) Was not eligible to create an authority ~~prior to~~ **before**
20 January 3, 2005.

21 (ii) Adjoins a municipality that previously created an
22 authority.

23 (iii) Along with the adjoining municipality that previously
24 created an authority, is a member of the same joint planning
25 commission under the joint municipal planning act, 2003 PA 226, MCL
26 125.131 to 125.143.

27 (aa) "Specific local tax" means a tax levied under 1974 PA
28 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978
29 PA 255, MCL 207.651 to 207.668, the technology park development

1 act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL
2 211.181 to 211.182. The initial assessed value or current assessed
3 value of property subject to a specific local tax ~~shall be~~ **is** the
4 quotient of the specific local tax paid divided by the ad valorem
5 millage rate. However, after 1993, the state tax commission shall
6 prescribe the method for calculating the initial assessed value and
7 current assessed value of property for which a specific local tax
8 was paid in lieu of a property tax.

9 (bb) "State fiscal year" means the annual period commencing
10 October 1 of each year.

11 (cc) "Tax increment revenues" means the amount of ad valorem
12 property taxes and specific local taxes attributable to the
13 application of the levy of all taxing jurisdictions ~~upon~~ **on** the
14 captured assessed value of real and personal property in the
15 development area, subject to the following requirements:

16 (i) Tax increment revenues include ad valorem property taxes
17 and specific local taxes attributable to the application of the
18 levy of all taxing jurisdictions other than ~~the~~ **this** state pursuant
19 ~~to~~ **under** the state education tax act, 1993 PA 331, MCL 211.901 to
20 211.906, and local or intermediate school districts ~~upon~~ **on** the
21 captured assessed value of real and personal property in the
22 development area for any purpose authorized by this part.

23 (ii) Tax increment revenues include ad valorem property taxes
24 and specific local taxes attributable to the application of the
25 levy of ~~the~~ **this** state ~~pursuant to~~ **under** the state education tax
26 act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate
27 school districts ~~upon~~ **on** the captured assessed value of real and
28 personal property in the development area in an amount equal to the
29 amount necessary, without regard to subparagraph (i), to repay

1 eligible advances, eligible obligations, and other protected
2 obligations.

3 (iii) Tax increment revenues do not include any of the
4 following:

5 (A) Ad valorem property taxes attributable either to a portion
6 of the captured assessed value shared with taxing jurisdictions
7 within the jurisdictional area of the authority or to a portion of
8 value of property that may be excluded from captured assessed value
9 or specific local taxes attributable to ~~such~~**those** ad valorem
10 property taxes.

11 (B) Ad valorem property taxes excluded by the tax increment
12 financing plan of the authority from the determination of the
13 amount of tax increment revenues to be transmitted to the authority
14 or specific local taxes attributable to ~~such~~**those** ad valorem
15 property taxes.

16 (C) Ad valorem property taxes exempted from capture under
17 section 203(3) or specific local taxes attributable to ~~such~~**those**
18 ad valorem property taxes.

19 (D) Ad valorem property taxes levied under 1 or more of the
20 following or specific local taxes attributable to those ad valorem
21 property taxes:

22 (I) The zoological authorities act, 2008 PA 49, MCL 123.1161
23 to 123.1183.

24 (II) The art institute authorities act, 2010 PA 296, MCL
25 123.1201 to 123.1229.

26 (III) Except as otherwise provided in section 203(3), ad
27 valorem property taxes or specific local taxes attributable to
28 those ad valorem property taxes levied for a separate millage for
29 public library purposes approved by the electors after December 31,

1 2016.

2 (iv) The amount of tax increment revenues authorized to be
3 included under subparagraph (ii) or (v), and required to be
4 transmitted to the authority under section 214(1), from ad valorem
5 property taxes and specific local taxes attributable to the
6 application of the levy of the state education tax act, 1993 PA
7 331, MCL 211.901 to 211.906, a local school district or an
8 intermediate school district ~~upon~~**on** the captured assessed value of
9 real and personal property in a development area ~~shall~~**must** be
10 determined separately for the levy by ~~the~~**this** state, each school
11 district, and each intermediate school district as the product of
12 sub-subparagraphs (A) and (B):

13 (A) The percentage that the total ad valorem taxes and
14 specific local taxes available for distribution by law to ~~the~~**this**
15 state, **a** local school district, or **an** intermediate school district,
16 respectively, bears to the aggregate amount of ad valorem millage
17 taxes and specific taxes available for distribution by law to ~~the~~
18 **this** state, each local school district, and each intermediate
19 school district.

20 (B) The maximum amount of ad valorem property taxes and
21 specific local taxes considered tax increment revenues under
22 subparagraph (ii) or (v).

23 (v) Tax increment revenues include ad valorem property taxes
24 and specific local taxes, in an annual amount and for each year
25 approved by the state treasurer, attributable to the levy by this
26 state under the state education tax act, 1993 PA 331, MCL 211.901
27 to 211.906, and by local or intermediate school districts, ~~upon~~**on**
28 the captured assessed value of real and personal property in the
29 development area of an authority established in a city with a

1 population of 600,000 or more to pay for, or reimburse an advance
2 for, not more than \$8,000,000.00 for the demolition of buildings or
3 structures on public or privately owned property within a
4 development area that commences in 2005, or to pay the annual
5 principal of or interest on an obligation, the terms of which are
6 approved by the state treasurer, issued by an authority, or by a
7 city on behalf of an authority, to pay not more than \$8,000,000.00
8 of the costs to demolish buildings or structures on public or
9 privately owned property within a development area that commences
10 in 2005.

11 (vi) Tax increment revenues include ad valorem property taxes
12 and specific local taxes attributable to the levy by this state
13 under the state education tax act, 1993 PA 331, MCL ~~211.201-211.901~~
14 to 211.906, and by local or intermediate school districts ~~which~~
15 **that** were levied on or after July 1, 2010, ~~upon~~**on** the captured
16 assessed value of real and personal property in the development
17 area of an authority established in a city with a population of
18 600,000 or more to pay for, or reimburse an advance for, costs
19 associated with the land acquisition, preliminary site work, and
20 construction of a catalyst development project.