

LOCAL COMMUNITY STABILIZATION AUTHORITY ACT (EXCERPT)
Act 86 of 2014

123.1357 Appropriation of funds; purposes; distribution to municipalities; distribution of local community stabilization share revenue; priority; payments, overpayments, and underpayments; insufficient funds; use of revenue; distribution; amounts.

Sec. 17.

(1) The legislature shall appropriate funds for all of the following purposes:

(a) For fiscal year 2014-2015 and fiscal year 2015-2016, to the authority, an amount equal to all debt loss for municipalities that are not a local school district, intermediate school district, or tax increment finance authority, an amount equal to all school debt loss for municipalities that are a local school district or intermediate school district, and an amount equal to all tax increment small taxpayer loss for municipalities that are a tax increment finance authority. Funds appropriated under this subdivision for fiscal year 2015-2016 may be used to pay a corrected tax increment small taxpayer exemption loss for 2014 if a tax increment finance authority submits before June 1, 2016 a correction to a report that was filed under section 16a before October 1, 2014.

(b) For fiscal years after 2013-2014, to the department, an amount equal to the necessary expenses incurred by the department in implementing this act.

(c) Beginning in fiscal year 2019-2020 and each fiscal year thereafter, an amount sufficient to allow the authority to continue exercising its powers, duties, functions, and responsibilities under section 11(1)(b), including, for fiscal year 2019-2020, an amount sufficient for the creation of a database.

(2) In fiscal year 2014-2015 and fiscal year 2015-2016, the authority shall distribute to municipalities those funds appropriated under subsection (1)(a). However, in fiscal year 2014-2015, if the authority is not able to make the distribution under this subsection, the department shall make the distribution under this subsection on behalf of the authority.

(3) For calendar years 2014 and 2015, the authority shall distribute local community stabilization share revenue to each city in an amount determined by multiplying the sum of the local community stabilization share revenue for the calendar years and the amounts calculated under section 14(3)(e) and (f) by a fraction, the numerator of which is that city's amount calculated under section 14(3)(d) and the denominator of which is the total amount calculated under section 14(3)(d), and subtracting from the result each city's amounts calculated under section 14(3)(e) and (f).

(4) Beginning for calendar year 2016, after any distributions under subsection (10), the authority shall distribute local community stabilization share revenue as follows in the following order of priority:

(a) The authority shall distribute to each municipality an amount equal to all of the following:

(i) 100% of that municipality's school debt loss in the current year as calculated under section 13(4) and 100% of its amount calculated under section 15.

(ii) 100% of that municipality's amount calculated under section 16.

(iii) 100% of that municipality's school operating loss not reimbursed by the school aid fund in the current year, calculated by multiplying the operating millage rate reported under section 13(4) or the operating millage rate calculated under section 13(5) for mills other than basic school operating mills, as that term is defined in section 2c of the use tax act, 1937 PA 94, MCL 205.92c, by the local school district's personal property exemption loss for the personal property subject to the respective millage.

(iv) 100% of the amount calculated in section 14(2). For calendar years 2016 and 2017 only, however, the amount distributed to a municipality under this subparagraph shall not exceed the amount calculated in section 14(1)(d). For all calendar years, all distributions under this subparagraph shall be used to fund essential services.

(v) For a municipality that is a tax increment finance authority, 100% of its amount calculated under section 16a(2), as confirmed or adjusted by the department. For calculations made under section 16a(2), as modified by section 16b(2), in calendar years 2016 and 2017 only, amounts claimed for increased captured value shall be included as claimed.

(vi) 100% of that municipality's amount calculated under section 14(4).

(vii) Beginning for calendar year 2019, for municipalities with state facilities under 1977 PA 289, MCL 141.951 to 141.956, 100% of the amount calculated under 1977 PA 289, MCL 141.951 to 141.956. The department of licensing and regulatory affairs shall certify to the department and the authority the amount to be paid to each municipality under this subparagraph.

(viii) Beginning for calendar year 2019, for municipalities that incur certain reasonable and allowable costs of required and allowable health services described in section 2475 of the public health code, 1978 PA 368, MCL 333.2475, \$10,000,000.00 of those costs not otherwise reimbursed pursuant to section 2475 of the public health code, 1978 PA 368, MCL 333.2475, or other appropriation. The department of health and human services shall certify to the department and the authority the amount to be paid to each municipality under this subparagraph.

(b) Beginning for calendar year 2021, after the distributions under subdivision (a), and subject to subparagraph (viii), the authority shall distribute an amount equal to 10% of the total qualified loss for the current calendar year to each municipality that is not a local school district, intermediate school district, tax increment finance authority, or a local authority that first levied a millage rate after 2013 in an amount determined as follows:

- (i) Calculate the total acquisition cost of all eligible personal property in the municipality.
- (ii) Multiply the result of the calculation in subparagraph (i) by each individual millage levied by the municipality as calculated under section 13(5) that is not used to calculate a distribution under subdivision (a)(i) to (iv).
- (iii) Divide the sum of the amounts calculated under subparagraph (ii) for all municipalities subject to the calculation by total qualified loss.
- (iv) Multiply the result of the calculation in subparagraph (iii) by the difference between the amount calculated under section 16a(2) for captured taxes for each individual millage levied by the municipality not including taxes attributable to increased captured value and the subtraction amounts calculated under section 14(2)(d), (2)(f), and (4)(d) for that millage.
- (v) Subtract from the amount calculated under subparagraph (ii) the amount calculated under subparagraph (iv) for the individual millage levied.
- (vi) Divide the result of the calculation in subparagraph (v) by the sum of the calculation under subparagraph (v) for all millages for all municipalities.
- (vii) Multiply the result of the calculation in subparagraph (vi) by the amount to be distributed under this subdivision.

(viii) For calendar year 2022, and each calendar year thereafter, the percentage amount described in this subdivision shall be increased an additional 10% each year, not to exceed 100%.

(c) For calendar years 2016 and 2017, after the distributions in subdivision (a), the authority shall distribute the remaining balance of the local community stabilization share fund for a calendar year to each municipality in an amount determined by multiplying the remaining balance by a fraction, the numerator of which is that municipality's qualified loss and the denominator of which is the total qualified loss. Beginning for calendar year 2018, after the distributions in subdivisions (a) and (b), the authority shall distribute local community stabilization share revenue under this subdivision to each municipality in an amount determined by multiplying total qualified loss minus the total amount distributed in subdivision (b) for a calendar year by a fraction, the numerator of which is that municipality's qualified loss and the denominator of which is the total qualified loss.

(d) After the distributions under subdivisions (a) to (c), beginning for calendar year 2018, the department shall adjust the amounts calculated under subdivisions (b) and (c) for a municipality that is a county, township, village, city, or community college district by the amount of any overpayment to that municipality under those subdivisions for that calendar year and the authority shall distribute the following:

(i) To a municipality, the amount of any underpayment calculated under subsection (5) for calendar years after 2016.

(ii) For calendar year 2018 only, a total of \$13,600,000.00 to municipalities with state facilities under 1977 PA 289, MCL 141.951 to 141.956. The department of licensing and regulatory affairs shall certify to the department the amount to be paid to each municipality under this subparagraph.

(e) Except as otherwise provided in this subdivision, after the distributions under subdivisions (a) to (d), the authority shall distribute the remaining balance of the local community stabilization share fund for the calendar year to each municipality that is a county, township, village, city, or community college district in an amount determined by multiplying the remaining balance by a fraction, the numerator of which is the sum of that municipality's amount received under subdivisions (b), (c), and (d), only to the extent that the distribution under subdivision (d) is for an underpayment of the current calendar year's subdivision (b) or (c) amount, and the overpayment adjustment under subdivision (d), and the denominator of which is the sum of the total amount distributed to all counties, townships, villages, cities, and community college districts under subdivisions (b), (c), and (d), only to the extent that the distribution under subdivision (d) is for an underpayment of the current calendar year's subdivision (b) or (c) amount, and the total overpayment adjustments for all counties, townships, villages, cities, and community college districts under subdivision (d). For any municipality that, in total, was overpaid under subdivisions (a), (b), and (c), the distribution under this subdivision, which for purposes of this calculation for any municipality other than a county, township, village, city, or community college district shall be \$0, shall be reduced by any positive amount determined by subtracting the corrected amounts under subdivisions (a) to (c) for that municipality from the distributed amounts under subdivisions (a) to (c) for that municipality and subtracting \$10,000.00. If the resulting distribution amount is negative, the municipality has been overpaid for the year by the amount of the negative balance. The municipality shall pay to the authority the amount of the overpayment in 3 equal annual payments, due by September 20 1 year following notice of the overpayment and by September 20 of the subsequent 2 years. A municipality may pay the amount of the overpayment at any time during the 3-year period. If a municipality fails to repay the amount of the overpayment as provided in this subdivision, the authority shall add interest to the entire amount of the original overpayment from the date of notice of the overpayment and may reduce subsequent distributions to the municipality under this section to recover the outstanding balance of the overpayment and interest. Interest added under this subdivision shall be at the rate determined under section 23 of 1941 PA 122,

MCL 205.23. Any overpayment amounts repaid to the authority under this subdivision by September 30 of each year shall be added to the local community stabilization share revenue available for distribution for the calendar year. If reductions to distributions calculated under this section result in the authority having a year-end balance of local community stabilization share revenue, that revenue shall be added to the local community stabilization share revenue available for distribution for the subsequent calendar year.

(5) The department and authority shall administer overpayments and underpayments as follows:

(a) For calendar years before 2016, if a municipality received an overpayment under this section due to an error in reporting or calculation, the authority may reduce a subsequent payment to the municipality or bill the municipality to recover the overpayment.

(b) Before November 7, 2017, the department shall recalculate 2016 payments to correct any errors in reporting under section 13(3) or (4) and any calculation errors made by the department, and adjust the 2017 payment to each municipality for any change in its 2016 payment.

(c) For calendar year 2018, for any errors in reporting under section 13(3) or (4) in calendar year 2017 or 2018, any calculation errors made by the department in calendar year 2017 or 2018, or any prior year error adjustment used in the calculation of the calendar year 2017 distributions, that resulted in an underpayment or overpayment under this section to a municipality for the prior calendar year or current calendar year, the department shall calculate the amount of underpayment or overpayment. For each municipality, the department shall add together the calendar year 2016 and calendar year 2017 underpayment and overpayment amounts. If a municipality has a net underpayment for calendar years 2016 and 2017, the amount of the net underpayment shall be added to the calendar year 2018 underpayment or overpayment amount for that municipality. If a municipality has a net overpayment for calendar years 2016 and 2017, the amount of the net overpayment shall be excused by the authority and shall not be added to the calendar year 2018 underpayment or overpayment amount for that municipality. The following apply to determining underpayment or overpayment amounts:

(i) For calendar year 2016, the underpayment or overpayment of a municipality's qualified loss shall be calculated by multiplying the municipality's qualified loss by 261.3820%.

(ii) For calendar year 2017, the underpayment or overpayment of a municipality's qualified loss shall be calculated by multiplying the municipality's qualified loss by 292.4677%.

(d) Beginning for calendar year 2019, for any errors in reporting under section 13(3) or (4), and for any calculation errors made by the department, that resulted in an underpayment or overpayment under this section to a municipality for the current calendar year, the department shall calculate the amount of underpayment or overpayment. A calculation made under this subdivision shall not recalculate a prior year payment.

(e) Except as provided in subsection (6), any underpayment shall be paid to the municipality as provided in subsection (4)(d). Any underpayment amount determined by the department to be the fault of that municipality, by either the municipality reporting inaccurate information or filing information after the reporting due dates, shall not be included in any payment made under subsection (4)(d) or (6).

(f) For any overpayment for which the state treasurer determines that the municipality was at fault and acted in bad faith, the department may calculate the amount of the overpayment for all years to which the bad faith applied without any adjustment and the municipality shall immediately repay the amount of the overpayment and interest to the authority within 30 days following notice of the overpayment. If a municipality fails to repay the amount of the overpayment and interest to the authority, the authority shall reduce subsequent payments to the municipality under this section to recover the outstanding balance of the overpayment and interest. Interest added under this subsection shall be at the rate determined under section 23 of 1941 PA 122, MCL 205.23. Any overpayment amounts repaid to the authority under this subsection by September 30 of each year shall be added to the local community stabilization share revenue available for distribution for the calendar year. Any reduction of subsequent payments due to municipalities failing to repay the amount of the overpayment and interest shall be added to the local community stabilization share revenue available for distribution for the subsequent calendar year.

(6) If a municipality received an underpayment under this section of \$500,000.00 or more for calendar year 2017 due to an error in reporting under section 13(3) or (4), or a calculation error made by the department, including a prior year error adjustment used in the calculation of the calendar year 2017 distributions, the municipality may notify the department of any errors identified by providing substantiating documentation to support an adjustment to the payment amount by August 1, 2018. Upon the department's review of the substantiating documentation and verification of the errors, the department shall calculate an underpayment amount in accordance with subsection (5) (c). The underpayment amount shall be calculated using the appropriate proration factor provided for under subsection (5)(c). The department shall determine if the substantiating documentation is sufficient. The department shall notify the authority to make an advance 2018 payment to the municipality for the amount of the 2017 underpayment. The advance payment shall be deducted from the municipality's payment for calendar year 2018 that includes the distribution under subsection (4)(d).

(7) For payments received beginning October 20, 2018, a municipality shall do all of the following:

(a) Allocate payments received, up to 100% reimbursement, under this section based on the portion of the municipality's payment attributable to each millage levied by the municipality. The portion of the payment allocated to each millage other than the general operating millage shall be considered restricted and recorded by the

municipality in the same manner as the millage levied. As used in this subsection, "100% reimbursement" means the amounts received under subsection (4)(a)(i) to (vi), (b), (c), and (d)(i), only to the extent that the distribution under subsection (4)(d)(i) is for an underpayment of the current calendar year's subsection (4)(a)(i) to (vi), (b), or (c) amount.

(b) For millage levied by a county under section 20b of 1909 PA 283, MCL 224.20b, the governing bodies of the cities and villages in the county and the board of county road commissioners shall agree to a formula that allocates a portion of the payments under this section to each city and village based on the city and village share of the losses and acquisition cost used to calculate the payment to the county described in this subdivision and each city's and village's portion of that share. The formula once established will be in effect until the effective date of any subsequent agreement. If the governing bodies of the cities and villages and the board of county road commissioners described in this subdivision do not agree on a formula by March 31 following the receipt of the subsection (8)(b) payment, the department may prescribe a formula for allocating the payments under this section.

(c) Payments under this section, except for the payments under subsection (4)(a)(vii) and (viii) and subsection (4)(d)(ii), to a municipality that is participating in an intergovernmental conditional transfer by contract under 1984 PA 425, MCL 124.21 to 124.30, or any other interlocal agreement that provides for a millage-based sharing of revenue, shall be allocated between the parties based on the proportionate share of the payment as it is attributable to the area subject to the agreement.

(8) The authority shall make the payments required by subsection (3) not later than June 20, 2016, payments required by subsection (6) not later than October 20, 2018, and payments required by subsection (4) not later than on the following dates:

(a) Except as provided in subdivision (d), for county allocated millage, November 20, 2017, and thereafter October 20 of the year the millage is levied.

(b) Except as provided in subdivision (d), for county extra-voted millage, township millage, and other millages levied 100% in December of a year, February 20 of the following year.

(c) Except as provided in subdivision (d), for other millages, November 20, 2017, and thereafter October 20 of the year the millage is levied.

(d) For payment under subsection (4)(d)(i) and (e), May 20 of the year following the calendar year for which the payments are calculated.

(e) For payment under subsection (4)(d)(ii), November 30, 2018, and for payment under subsection (4)(a)(vii) and (viii), November 30 every year.

(9) If the authority has insufficient funds to make the payments on the dates required in subsection (8), the department shall advance to the authority the amount necessary for the authority to make the required payments. The authority shall repay the advance to the department from the local community stabilization share.

(10) For each fiscal year from fiscal year 2015-2016 through fiscal year 2018-2019, the authority may use up to \$300,000.00 of the local community stabilization share revenue for purposes consistent with implementing and administering this act. For each fiscal year after fiscal year 2018-2019, the authority may use, for purposes consistent with implementing and administering this act, local community stabilization share revenue up to the amount of local community stabilization share revenue authorized for use under this subsection for the prior fiscal year multiplied by 1.01. For each fiscal year after fiscal year 2018-2019, before any distributions under subsection (4), the authority shall distribute the local community stabilization share revenue authorized for use in this subsection to an operating fund created within the authority.

(11) The authority shall distribute local community stabilization share revenue under this section as follows:

(a) From fiscal year 2015-2016 local community stabilization share revenue, \$19,200,000.00 for calendar years 2014 and 2015 and \$76,900,000.00 for calendar year 2016.

(b) From fiscal year 2016-2017 local community stabilization share revenue, \$297,400,000.00 for calendar year 2016 and \$83,200,000.00 for calendar year 2017.

(c) From fiscal year 2017-2018 local community stabilization share revenue, \$321,500,000.00 for calendar year 2017 and \$89,000,000.00 for calendar year 2018.

(d) From fiscal year 2018-2019 local community stabilization share revenue, \$341,800,000.00 for calendar year 2018 and \$95,900,000.00 for calendar year 2019.

(e) From fiscal year 2019-2020 local community stabilization share revenue, \$364,500,000.00 for calendar year 2019 and \$101,400,000.00 for calendar year 2020.

(f) From fiscal year 2020-2021 local community stabilization share revenue, \$383,500,000.00 for calendar year 2020 and \$108,000,000.00 for calendar year 2021.

(g) From fiscal year 2021-2022 local community stabilization share revenue, \$405,700,000.00 for calendar year 2021 and \$115,600,000.00 for calendar year 2022.

(h) From fiscal year 2022-2023 local community stabilization share revenue, \$428,300,000.00 for calendar year 2022 and \$119,700,000.00 for calendar year 2023.

(i) From fiscal year 2023-2024 local community stabilization share revenue, \$438,900,000.00 for calendar year 2023 and \$122,800,000.00 for calendar year 2024.

(j) From fiscal year 2024-2025 local community stabilization share revenue, \$445,800,000.00 for calendar year

2024 and \$124,000,000.00 for calendar year 2025.

(k) From fiscal year 2025-2026 local community stabilization share revenue, \$447,100,000.00 for calendar year 2025 and \$124,300,000.00 for calendar year 2026.

(l) From fiscal year 2026-2027 local community stabilization share revenue, \$447,700,000.00 for calendar year 2026 and \$124,500,000.00 for calendar year 2027.

(m) From fiscal year 2027-2028 local community stabilization share revenue, \$448,000,000.00 for calendar year 2027 and \$124,600,000.00 for calendar year 2028.

(n) From the local community stabilization share revenue for fiscal year 2028-2029 and each fiscal year thereafter, the authority shall increase the prior fiscal year's 2 distribution amounts under this subsection by the personal property growth factor, the first amount for the calendar year in which the fiscal year begins and the second amount for the calendar year in which the fiscal year ends. As used in this subdivision, "personal property growth factor" means that term as defined in section 2c of the use tax act, 1937 PA 94, MCL 205.92c.

History: 2014, Act 86, Eff. Aug. 22, 2014 ;-- Am. 2015, Act 122, Imd. Eff. July 10, 2015 ;-- Am. 2016, Act 124, Imd. Eff. May 19, 2016 ;-- Am. 2017, Act 102, Imd. Eff. July 13, 2017 ;-- Am. 2018, Act 247, Imd. Eff. June 28, 2018 ;-- Am. 2018, Act 248, Imd. Eff. June 28, 2018 ;-- Am. 2018, Act 616, Imd. Eff. Dec. 28, 2018 ;-- Am. 2020, Act 195, Imd. Eff. Oct. 15, 2020 ;-- Am. 2020, Act 196, Imd. Eff. Oct. 15, 2020

Compiler's Notes: Enacting section 2 of Act 86 of 2014 provides: "Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014." Enacting section 3 of Act 86 of 2014 provides: "Enacting section 3. If Senate Bill No. 822 of the 97th Legislature is not approved by the majority of the qualified electors of this state voting on the question at an election to be held on the August regular election in 2014, for fiscal year 2014-2015, the legislature shall appropriate an amount sufficient to make the appropriation described in section 17(1)(a) for fiscal year 2014-2015."

Compiler's Notes: Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows: "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES [] NO []". Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.