

# HOUSE BILL No. 6175

September 23, 1998, Introduced by Rep. Basham and referred to the Committee on Tax Policy.

A bill to amend 1980 PA 450, entitled "The tax increment finance authority act," by amending section 1 (MCL 125.1801), as amended by 1997 PA 201.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. As used in this act:

2       (a) "Advance" means a transfer of funds made by a municipal-  
3       ity to an authority or to another person on behalf of the  
4       authority. Evidence of the intent to repay an advance is  
5       required and may include, but is not limited to, an executed  
6       agreement to repay, provisions contained in a tax increment  
7       financing plan approved ~~prior to~~ BEFORE the advance or ~~prior~~  
8       to BEFORE August 14, 1993, or a resolution of the authority or  
9       the municipality.

10       (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 211.157.

4 (ii) For valuations made after December 31, 1994, 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 tax increment finance authority cre-  
8 ated ~~pursuant to~~ UNDER this act.

9 (d) "Authority district" means that area within which an  
10 authority exercises its powers and within which 1 or more devel-  
11 opment areas may exist.

12 (e) "Board" means the governing body of an authority.

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

20 (g) "Chief executive officer" means the mayor or city man-  
21 ager of a city, the president of a village, or the supervisor of  
22 a township.

23 (h) "Development area" means that area to which a develop-  
24 ment plan is applicable.

25 (i) "Development area citizens council" or "council" means  
26 that advisory body established pursuant to section 20.

1 (j) "Development plan" means that information and those  
2 requirements for a development set forth in section 16.

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

5 (l) "Eligible advance" means an advance made before  
6 August 19, 1993.

7 (m) "Eligible obligation" means an obligation issued or  
8 incurred by an authority or by a municipality on behalf of an  
9 authority before August 19, 1993 and its subsequent refunding by  
10 a qualified refunding obligation. Eligible obligation includes  
11 an authority's written agreement entered into before August 19,  
12 1993 to pay an obligation issued after August 18, 1993 and before  
13 December 31, 1996 by another entity on behalf of the authority.

14 (n) "Fiscal year" means the fiscal year of the authority.

15 (o) "Governing body" means the elected body of a municipal-  
16 ity having legislative powers.

17 (p) "Initial assessed value" means the assessed value, as  
18 equalized, of all the taxable property within the boundaries of  
19 the development area at the time the resolution establishing the  
20 tax increment financing plan is approved as shown by the most  
21 recent assessment roll of the municipality for which equalization  
22 has been completed at the time the resolution is adopted.  
23 Property exempt from taxation at the time of the determination of  
24 the initial assessed value shall be included as zero. For the  
25 purpose of determining initial assessed value, property for which  
26 a specific local tax is paid in lieu of a property tax shall not  
27 be considered property that is exempt from taxation. The initial

1 assessed value of property for which a specific tax was paid in  
2 lieu of a property tax shall be determined as provided in subdi-  
3 vision (w).

4 (q) "Municipality" means a city.

5 (r) "Obligation" means a written promise to pay, whether  
6 evidenced by a contract, agreement, lease, sublease, bond, or  
7 note, or a requirement to pay imposed by law. An obligation does  
8 not include a payment required solely because of default upon an  
9 obligation, employee salaries, or consideration paid for the use  
10 of municipal offices. An obligation does not include those bonds  
11 that have been economically defeased by refunding bonds issued  
12 under this act. Obligation includes, but is not limited to, the  
13 following:

14 (i) A requirement to pay proceeds derived from ad valorem  
15 property taxes or taxes levied in lieu of ad valorem property  
16 taxes.

17 (ii) A management contract or a contract for professional  
18 services.

19 (iii) A payment required on a contract, agreement, bond, or  
20 note if the requirement to make or assume the payment arose  
21 before August 19, 1993.

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

25 (v) A letter of credit, paying agent, transfer agent, bond  
26 registrar, or trustee fee associated with a contract, agreement,  
27 bond, or note.

1 (s) "On behalf of an authority", in relation to an eligible  
2 advance made by a municipality, or an eligible obligation or  
3 other protected obligation issued or incurred by a municipality,  
4 means in anticipation that an authority would transfer tax incre-  
5 ment revenues or reimburse the municipality from tax increment  
6 revenues in an amount sufficient to fully make payment required  
7 by the eligible advance made by a municipality, or the eligible  
8 obligation or other protected obligation issued or incurred by  
9 the municipality, if the anticipation of the transfer or receipt  
10 of tax increment revenues from the authority is pursuant to or  
11 evidenced by 1 or more of the following:

12 (i) A reimbursement agreement between the municipality and  
13 an authority it established.

14 (ii) A requirement imposed by law that the authority trans-  
15 fer tax increment revenues to the municipality.

16 (iii) A resolution of the authority agreeing to make pay-  
17 ments to the incorporating unit.

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

20 (t) "Other protected obligation" means:

21 (i) A qualified refunding obligation issued to refund an  
22 obligation described in subparagraph (ii) or (iii), an obligation  
23 that is not a qualified refunding obligation that is issued to  
24 refund an eligible obligation, or a qualified refunding obliga-  
25 tion issued to refund an obligation described in this  
26 subparagraph.

1           (ii) An obligation issued or incurred by an authority or by  
2 a municipality on behalf of an authority after August 19, 1993,  
3 but before December 31, 1994, to finance a project described in a  
4 tax increment finance plan approved by the municipality in  
5 accordance with this act before December 31, 1993, for which a  
6 contract for final design is entered into by the municipality or  
7 authority before March 1, 1994.

8           (iii) An obligation incurred by an authority or municipality  
9 after August 19, 1993, to reimburse a party to a development  
10 agreement entered into by a municipality or authority before  
11 August 19, 1993, for a project described in a tax increment  
12 financing plan approved in accordance with this act before  
13 August 19, 1993, and undertaken and installed by that party in  
14 accordance with the development agreement.

15           (iv) An obligation issued or incurred by an authority or by  
16 a municipality on behalf of an authority to implement a project  
17 described in a tax increment finance plan approved by the munic-  
18 ipality in accordance with this act before August 19, 1993, that  
19 is located on land owned by a public university on the date the  
20 tax increment financing plan is approved, and for which a con-  
21 tract for final design is entered into before December 31, 1993.

22           (v) An ongoing management or professional services contract  
23 with the governing body of a county which was entered into before  
24 March 1, 1994 and which was preceded by a series of limited term  
25 management or professional services contracts with the governing  
26 body of the county, the last of which was entered into before  
27 August 19, 1993.

1 (vi) An obligation issued or incurred by a municipality  
2 under a contract executed on December 19, 1994 as subsequently  
3 amended between the municipality and the authority to implement a  
4 project described in a tax increment finance plan approved by the  
5 municipality under this act before August 19, 1993 for which a  
6 contract for final design was entered into by the municipality  
7 before March 1, 1994 provided that final payment by the munici-  
8 pality is made on or before December 31, 2001.

9 (vii) AN OBLIGATION ISSUED OR INCURRED BY AN AUTHORITY OR BY  
10 A MUNICIPALITY ON BEHALF OF AN AUTHORITY THAT MEETS ALL OF THE  
11 FOLLOWING QUALIFICATIONS:

12 (A) THE OBLIGATION IS ISSUED OR INCURRED TO FINANCE A  
13 PROJECT DESCRIBED IN A TAX INCREMENT FINANCING PLAN APPROVED  
14 BEFORE AUGUST 19, 1993 BY A MUNICIPALITY IN ACCORDANCE WITH THIS  
15 ACT.

16 (B) THE OBLIGATION QUALIFIES AS AN OTHER PROTECTED OBLIGA-  
17 TION UNDER SUBPARAGRAPH (ii) AND WAS ISSUED OR INCURRED BY THE  
18 AUTHORITY BEFORE DECEMBER 31, 1994 FOR THE PURPOSE OF FINANCING  
19 THE PROJECT.

20 (C) A PORTION OF THE OBLIGATION ISSUED OR INCURRED BY THE  
21 AUTHORITY BEFORE DECEMBER 31, 1994 FOR THE PURPOSE OF FINANCING  
22 THE PROJECT WAS RETIRED PRIOR TO DECEMBER 31, 1996.

23 (D) THE OBLIGATION DOES NOT EXCEED THE DOLLAR AMOUNT OF THE  
24 PORTION OF THE OBLIGATION RETIRED PRIOR TO DECEMBER 31, 1996.

25 (u) "Public facility" means 1 or more of the following:

26 (i) A street, plaza, or pedestrian mall, and any  
27 improvements to a street, plaza, boulevard, alley, or pedestrian

1 mall, including street furniture and beautification, park,  
2 parking facility, recreation facility, playground, school,  
3 library, public institution or administration building, right of  
4 way, structure, waterway, bridge, lake, pond, canal, utility line  
5 or pipeline, and other similar facilities and necessary easements  
6 of these facilities designed and dedicated to use by the public  
7 generally or used by a public agency. As used in this subpara-  
8 graph, public institution or administration building includes,  
9 but is not limited to, a police station, fire station, court  
10 building, or other public safety facility.

11 (ii) The acquisition and disposal of real and personal prop-  
12 erty or interests in real and personal property, demolition of  
13 structures, site preparation, relocation costs, building rehabil-  
14 itation, and all associated administrative costs, including, but  
15 not limited to, architect's, engineer's, legal, and accounting  
16 fees as contained in the resolution establishing the district's  
17 development plan.

18 (iii) An improvement to a facility used by the public or a  
19 public facility as those terms are defined in section 1 of 1966  
20 PA 1, MCL 125.1351, which improvement is made to comply with the  
21 barrier free design requirements of the state construction code  
22 promulgated under the state construction code act of 1972, 1972  
23 PA 230, MCL 125.1501 to 125.1531.

24 (v) "Qualified refunding obligation" means an obligation  
25 issued or incurred by an authority or by a municipality on behalf  
26 of an authority to refund an obligation if the refunding  
27 obligation meets both of the following:

1           (i) The net present value of the principal and interest to  
2 be paid on the refunding obligation, including the cost of issu-  
3 ance, will be less than the net present value of the principal  
4 and interest to be paid on the obligation being refunded, as cal-  
5 culated using a method approved by the department of treasury.

6           (ii) The net present value of the sum of the tax increment  
7 revenues described in subdivision (aa)(ii) and the distributions  
8 under section 12a to repay the refunding obligation will not be  
9 greater than the net present value of the sum of the tax incre-  
10 ment revenues described in subdivision (aa)(ii) and the distribu-  
11 tions under section 12a to repay the obligation being refunded,  
12 as calculated using a method approved by the department of  
13 treasury.

14           (w) "Specific local tax" means a tax levied under 1974 PA  
15 198, MCL 207.551 to 207.572, the commercial redevelopment act,  
16 1978 PA 255, MCL 207.651 to 207.668, the technology park develop-  
17 ment act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189,  
18 MCL 211.181 to 211.182. The initial assessed value or current  
19 assessed value of property subject to a specific local tax shall  
20 be the quotient of the specific local tax paid divided by the ad  
21 valorem millage rate. However, after 1993, the state tax commis-  
22 sion shall prescribe the method for calculating the initial  
23 assessed value and current assessed value of property for which a  
24 specific local tax was paid in lieu of a property tax.

25           (x) "State fiscal year" means the annual period commencing  
26 October 1 of each year.

1 (y) "Tax increment district" or "district" means that area  
2 to which the tax increment finance plan pertains.

3 (z) "Tax increment financing plan" means that information  
4 and those requirements set forth in sections 13 to 15.

5 (aa) "Tax increment revenues" means the amount of ad valorem  
6 property taxes and specific local taxes attributable to the  
7 application of the levy of all taxing jurisdictions upon the cap-  
8 tured assessed value of real and personal property in the devel-  
9 opment area, subject to the following requirements:

10 (i) Tax increment revenues include ad valorem property taxes  
11 and specific local taxes attributable to the application of the  
12 levy of all taxing jurisdictions other than the state pursuant to  
13 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,  
14 and local or intermediate school districts upon the captured  
15 assessed value of real and personal property in the development  
16 area for any purpose authorized by this act.

17 (ii) Tax increment revenues include ad valorem property  
18 taxes and specific local taxes attributable to the application of  
19 the levy of the state pursuant to the state education tax act,  
20 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate  
21 school districts upon the captured assessed value of real and  
22 personal property in the development area in an amount equal to  
23 the amount necessary, without regard to subparagraph (i), to  
24 repay eligible advances, eligible obligations, and other pro-  
25 tected obligations.

26 (iii) Tax increment revenues do not include any of the  
27 following:

1 (A) Ad valorem property taxes attributable either to a  
2 portion of the captured assessed value shared with taxing juris-  
3 dictions within the jurisdictional area of the authority or to a  
4 portion of value of property that may be excluded from captured  
5 assessed value or specific local taxes attributable to such ad  
6 valorem property taxes.

7 (B) Ad valorem property taxes excluded by the tax increment  
8 financing plan of the authority from the determination of the  
9 amount of tax increment revenues to be transmitted to the author-  
10 ity or specific local taxes attributable to such ad valorem prop-  
11 erty taxes.

12 (iv) The amount of tax increment revenues authorized to be  
13 included under subparagraph (ii), and required to be transmitted  
14 to the authority under section 14(1), from ad valorem property  
15 taxes and specific local taxes attributable to the application of  
16 the levy of the state education tax act, 1993 PA 331, MCL 211.901  
17 to 211.906, a local school district or an intermediate school  
18 district upon the captured assessed value of real and personal  
19 property in a development area shall be determined separately for  
20 the levy by the state, each school district, and each intermedi-  
21 ate school district as the product of sub-subparagraphs (A) and  
22 (B):

23 (A) The percentage which the total ad valorem taxes and spe-  
24 cific local taxes available for distribution by law to the state,  
25 local school district, or intermediate school district, respec-  
26 tively, bear to the aggregate amount of ad valorem millage taxes  
27 and specific taxes available for distribution by law to the

1 state, each local school district, and each intermediate school  
2 district.

3 (B) The maximum amount of ad valorem property taxes and spe-  
4 cific local taxes considered tax increment revenues under sub-  
5 paragraph (ii).