

## INTERGOVERNMENTAL CONDITIONAL TRANSFER OF PROPERTY BY CONTRACT Act 425 of 1984

AN ACT to permit the conditional transfer of property by contract between certain local units of government; to provide for permissive and mandatory provisions in the contract; to provide for certain conditions upon termination, expiration, or nonrenewal of the contract; and to prescribe penalties and provide remedies.

**History:** 1984, Act 425, Eff. Mar. 29, 1985;—Am. 1998, Act 192, Eff. Mar. 23, 1999.

*The People of the State of Michigan enact:*

### 124.21 Definitions.

Sec. 1. As used in this act:

(a) "Economic development project" means land and existing or planned improvements suitable for use by an industrial or commercial enterprise, or housing development, or the protection of the environment, including, but not limited to, groundwater or surface water. Economic development project includes necessary buildings, improvements, or structures suitable for and intended for or incidental to use as an industrial or commercial enterprise or housing development; and includes industrial park or industrial site improvements and port improvements or housing development incidental to an industrial or commercial enterprise; and includes the machinery, furnishings, and equipment necessary, suitable, intended for, or incidental to a commercial, industrial, or residential use in connection with the buildings or structures.

(b) "Local unit" means a city, township, or village.

**History:** 1984, Act 425, Eff. Mar. 29, 1985;—Am. 1990, Act 22, Imd. Eff. Mar. 6, 1990.

### 124.22 Conditional transfer of property; period; written contract; renewal.

Sec. 2. (1) Two or more local units may conditionally transfer property for a period of not more than 50 years for the purpose of an economic development project. A conditional transfer of property shall be controlled by a written contract agreed to by the affected local units.

(2) A contract under this act may be renewed for additional periods of not to exceed 50 years upon approval of each legislative body of the affected local units.

**History:** 1984, Act 425, Eff. Mar. 29, 1985.

### 124.23 Formulation of contract; factors.

Sec. 3. When formulating a contract under this act, the local units shall consider the following factors:

(a) Composition of the population; population density; land area and land uses; assessed valuation; topography, natural boundaries, and drainage basins; and the past and probable future growth, including population increase and business, commercial, and industrial development in the area to be transferred. Comparative data for the transferring local unit and the portion of the local unit remaining after transfer of the property shall be considered.

(b) The need for organized community services; the present cost and adequacy of governmental services in the area to be transferred; the probable future needs for services; the practicability of supplying such services in the area to be transferred; the probable effect of the proposed transfer and of alternative courses of action on the cost and adequacy of services in the area to be transferred and on the remaining portion of the local unit from which the area will be transferred; the probable change in taxes and tax rates in the area to be transferred in relation to the benefits expected to accrue from the transfer; and the financial ability of the local unit responsible for services in the area to provide and maintain those services.

(c) The general effect upon the local units of the proposed action; and the relationship of the proposed action to any established city, village, township, county, or regional land use plan.

**History:** 1984, Act 425, Eff. Mar. 29, 1985.

### 124.24 Public hearing; notice; majority vote required.

Sec. 4. (1) The legislative body of each local unit affected by a proposed transfer of property under this act shall hold at least 1 public hearing before entering into a contract under this act. Notice of the hearing shall be given in the manner provided by the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(2) A decision to enter into a contract under this act shall be made by a majority vote of those members elected and serving on the legislative body of each affected local unit.

**History:** 1984, Act 425, Eff. Mar. 29, 1985.

**124.25 Compliance as condition to entering into contract; resolution; referendum; approval by majority of electors; petition; effect of not filing petition or adopting resolution.**

Sec. 5. (1) A contract shall not be entered into under this act except in compliance with this section.

(2) If the governing body of a local unit involved in a transfer of property under this act adopts a resolution calling for a referendum on the transfer, the local unit may enter into the contract only if the transfer is approved by a majority of the electors voting on the transfer.

(3) If, within 30 days after a public hearing is held under section 4, a petition signed by 20% or more of the registered electors residing within the property to be transferred is filed with the clerk of the local unit in which the property is located, a referendum on the transfer shall be held in that local unit. If a majority of the electors voting on the transfer approve the transfer, the local unit may enter into the contract.

(4) If no registered electors reside within the property to be transferred and if, within 30 days after a public hearing is held under section 4, a petition signed by persons owning 50% or more of the property to be transferred is filed with the clerk of the local unit in which the property is located, a referendum on the transfer shall be held in that local unit. If a majority of the electors in the local unit voting on the transfer approve the transfer, the local unit may enter into the contract.

(5) If a petition is not filed or resolution is not adopted as provided in this section, the local unit may enter into the contract to transfer the property.

**History:** 1984, Act 425, Eff. Mar. 29, 1985.

**124.25a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 5a. Except as otherwise provided in this section, a petition under section 5, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A petition under section 5(4) that is signed by landowners because no registered electors reside within the property to be transferred is not subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 192, Eff. Mar. 23, 1999.

**124.26 Contract; provisions.**

Sec. 6. If applicable to the transfer, a contract under this act may provide for any of the following:

(a) Any method by which the contract may be rescinded or terminated by any participating local unit before the stated date of termination.

(b) The manner of employing, engaging, compensating, transferring, or discharging personnel required for the economic development project to be carried out under the contract.

(c) The fixing and collecting of charges, rates, rents, or fees, where appropriate, and the adoption of ordinances and their enforcement by or with the assistance of the participating local units.

(d) The manner in which purchases shall be made and contracts entered into.

(e) The acceptance of gifts, grants, assistance funds, or bequests.

(f) The manner of responding for any liabilities that might be incurred through performance of the contract and insuring against any such liability.

(g) Any other necessary and proper matters agreed upon by the participating local units.

**History:** 1984, Act 425, Eff. Mar. 29, 1985;—Am. 2011, Act 114, Imd. Eff. July 20, 2011.

**124.27 Contract; additional provisions.**

Sec. 7. A contract under this act shall provide for the following:

(a) The length of the contract.

(b) Specific authorization for the sharing of taxes and any other revenues designated by the local units. The manner and extent to which the taxes and other revenues are shared shall be specifically provided for in the contract.

(c) Methods by which a participating local unit may enforce the contract including, but not limited to, return of the transferred area to the local unit from which the area was transferred before the expiration date of the contract.

(d) Which local unit has jurisdiction over the transferred area upon the expiration, termination, or nonrenewal of the contract.

**History:** 1984, Act 425, Eff. Mar. 29, 1985.

**124.28 Conditionally transferred property; jurisdiction.**

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Sec. 8. Unless the contract specifically provides otherwise, property which is conditionally transferred by a contract under this act is, for the term of the contract and for all purposes, under the jurisdiction of the local unit to which the property is transferred.

**History:** 1984, Act 425, Eff. Mar. 29, 1985.

**124.29 Other method of annexation or transfer prohibited.**

Sec. 9. While a contract under this act is in effect, another method of annexation or transfer shall not take place for any portion of an area transferred under the contract.

**History:** 1984, Act 425, Eff. Mar. 29, 1985.

**124.30 Effect of filing contract; entering contract in book; contract as prima facie evidence of conditional transfer.**

Sec. 10. The conditional transfer of property pursuant to a contract under this act takes place when the contract is filed in the manner required by this section. After the affected local units enter into a contract under this act, the clerk of the local unit to which the property is to be conditionally transferred shall file a duplicate original of the contract with the county clerk of the county in which that local unit, or the greater part of that local unit, is located and with the secretary of state. That county clerk and the secretary of state shall enter the contract in a book kept for that purpose. The contract or a copy of the contract certified by that county clerk or by the secretary of state is prima facie evidence of the conditional transfer.

**History:** Add. 1990, Act 22, Imd. Eff. Mar. 6, 1990.

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