

RECODIFIED TAX INCREMENT FINANCING ACT (EXCERPT)
Act 57 of 2018

***** 125.4412.new THIS NEW SECTION IS EFFECTIVE JANUARY 1, 2019 *****

125.4412.new Tax increment financing plan.

Sec. 412. (1) If the board determines that it is necessary for the achievement of the purposes of this part, the board shall prepare and submit a tax increment financing plan to the governing body. The plan shall be in compliance with section 413 and shall include a development plan as provided in section 415. The plan shall also contain the following:

(a) A statement of the reasons that the plan will result in the development of captured assessed value that could not otherwise be expected. The reasons may include, but are not limited to, activities of the municipality, authority, or others undertaken before formulation or adoption of the plan in reasonable anticipation that the objectives of the plan would be achieved by some means.

(b) An estimate of the captured assessed value for each year of the plan. The plan may provide for the use of part or all of the captured assessed value or, subject to subsection (3), of the tax increment revenues attributable to the levy of any taxing jurisdiction, but the portion intended to be used shall be clearly stated in the plan. The board or the municipality creating the authority may exclude from captured assessed value a percentage of captured assessed value as specified in the plan or growth in property value resulting solely from inflation. If excluded, the plan shall set forth the method for excluding growth in property value resulting solely from inflation.

(c) The estimated tax increment revenues for each year of the plan.

(d) A detailed explanation of the tax increment procedure.

(e) The maximum amount of note or bonded indebtedness to be incurred, if any.

(f) The amount of operating and planning expenditures of the authority and municipality, the amount of advances extended by or indebtedness incurred by the municipality, and the amount of advances by others to be repaid from tax increment revenues.

(g) The costs of the plan anticipated to be paid from tax increment revenues as received.

(h) The duration of the development plan and the tax increment plan.

(i) An estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions in which the eligible property is or is anticipated to be located.

(j) A legal description of the eligible property to which the tax increment financing plan applies or shall apply upon qualification as eligible property.

(k) An estimate of the number of jobs to be created as a result of implementation of the tax increment financing plan.

(l) The proposed boundaries of a certified technology park to be created under an agreement proposed to be entered into pursuant to section 412a, or of a certified alternative energy park to be created under an agreement proposed to be entered into pursuant to section 412c, or of a Next Michigan development area designated under section 412e, an identification of the real property within the certified technology park, the certified alternative energy park, or the Next Michigan development area to be included in the tax increment financing plan for purposes of determining tax increment revenues, and whether personal property located in the certified technology park, the certified alternative energy park, or the Next Michigan development area is exempt from determining tax increment revenues.

(2) Except as provided in subsection (7), a tax increment financing plan shall provide for the use of tax increment revenues for public facilities for eligible property whose captured assessed value produces the tax increment revenues or, to the extent the eligible property is located within a business development area or a Next Michigan development area, for other eligible property located in the business development area or the Next Michigan development area. Public facilities for eligible property include the development or improvement of access to and around, or within the eligible property, of road facilities reasonably required by traffic flow to be generated by the eligible property, and the development or improvement of public facilities that are necessary to service the eligible property, whether or not located on that eligible property. If the eligible property identified in the tax increment financing plan is property to which section 402(p)(iv) applies, the tax increment financing plan shall not provide for the use of tax increment revenues for public facilities other than those described in the development plan as of April 1, 1991. Whether or not provided in the tax increment financing plan, if the eligible property identified in the tax increment financing plan is property to which section 402(s)(iv) applies, then to the extent that captured tax increment revenues are utilized for the costs of cleanup of identified soil and groundwater contamination, the captured tax increment revenues shall be first credited against the shares of responsibility for the total costs of cleanup of uncollectible parties who

are responsible for the identified soil and groundwater contamination pursuant to law, and then shall be credited on a pro rata basis against the shares of responsibility for the total costs of cleanup of other parties who are responsible for the identified soil and groundwater contamination pursuant to law.

(3) The percentage of taxes levied for school operating purposes that is captured and used by the tax increment financing plan and the tax increment financing plans under part 2, part 3, and the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, shall not be greater than the percentage capture and use of taxes levied by a municipality or county for operating purposes under the tax increment financing plan and tax increment financing plans under part 2, part 3, and the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672. For purposes of the previous sentence, taxes levied by a county for operating purposes include only millage allocated for county or charter county purposes under the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a.

(4) Except as otherwise provided by this subsection, approval of the tax increment financing plan shall be in accordance with the notice, hearing, disclosure, and approval provisions of sections 416 and 417. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together. For a plan submitted by an authority established by 2 or more municipalities under sections 403(2) and 404(7) or by an authority established by a Next Michigan development corporation under sections 403(3) and 404(8), the notice required by section 416 may be published jointly by the municipalities in which the authority district is located or by the Next Michigan development corporation. For a plan submitted by an authority exercising its powers under sections 403(2) and 404(7), the plan shall not be considered approved unless each governing body in which the authority district is located makes the determinations required by section 417 and approves the same plan, including the same modifications, if any, made to the plan by any other governing body. A plan submitted by an authority exercising its powers under sections 403(3) and 404(8) shall be approved if the governing body of the Next Michigan development corporation makes the determinations required by section 417.

(5) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to express their views and recommendations regarding the tax increment financing plan. The authority shall fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed tax increment financing plan. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the authority district is located to share a portion of the captured assessed value of the district or to distribute tax increment revenues among taxing jurisdictions. Upon adoption of the plan, the collection and transmission of the amount of tax increment revenues, as specified in this part, shall be binding on all taxing units levying ad valorem property taxes or specific local taxes against property located in the authority district.

(6) Property qualified as a public facility under section 402(ff)(ii) that is acquired by an authority may be sold, conveyed, or otherwise disposed to any person, public or private, for fair market value or reasonable monetary consideration established by the authority with the concurrence of the Michigan economic development corporation and the municipality in which the eligible property is located based on a fair market value appraisal from a fee appraiser only if the property is sold for fair market value. Unless the property acquired by an authority was located within a certified business park, a certified technology park, a certified alternative energy park, or a Next Michigan development area at the time of disposition, an authority shall remit all monetary proceeds received from the sale or disposition of property that qualified as a public facility under section 402(ff)(ii) and was purchased with tax increment revenues to the taxing jurisdictions. Proceeds distributed to taxing jurisdictions shall be remitted in proportion to the amount of tax increment revenues attributable to each taxing jurisdiction in the year the property was acquired. If the property was acquired in part with funds other than tax increment revenues, only that portion of the monetary proceeds received upon disposition that represent the proportion of the cost of acquisition paid with tax increment revenues is required to be remitted to taxing jurisdictions. If the property is located within a certified business park, a certified technology park, or a certified alternative energy park, or a Next Michigan development area at the time of disposition, the monetary proceeds received from the sale or disposition of that property may be retained by the authority for any purpose necessary to further the development program for the certified business park, certified technology park, certified alternative energy park, or Next Michigan development area in accordance with the tax increment financing plan.

(7) The tax increment financing plan may provide for the use of tax increment revenues from a certified technology park for public facilities for any eligible property located in the certified technology park. The tax increment financing plan may provide for the use of tax increment revenues from a certified alternative energy park for public facilities for any eligible property located in the certified alternative energy park. The

tax increment financing plan may provide for the use of tax increment revenues within or without the development area from which the tax increment revenues are derived, provided that the tax increment revenues shall be used for public facilities within a Next Michigan development area within the municipality whose levy has contributed to the tax increment revenues except as otherwise provided in the interlocal agreement creating the Next Michigan development corporation that established the authority.

(8) If title to property qualified as a public facility under section 402(ff)(ii) and acquired by an authority with tax increment revenues is sold, conveyed, or otherwise disposed of pursuant to subsection (6) for less than fair market value, the authority shall enter into an agreement relating to the use of the property with the person to whom the property is sold, conveyed, or disposed of, which agreement shall include a penalty provision addressing repayment to the authority if any interest in the property is sold, conveyed, or otherwise disposed of by the person within 12 years after the person received title to the property from the authority. This subsection shall not require enforcement of a penalty provision for a conveyance incident to a merger, acquisition, reorganization, sale-lease back transaction, employee stock ownership plan, or other change in corporate or business form or structure.

(9) The penalty provision described in subsection (8) shall not be less than an amount equal to the difference between the fair market value of the property when originally sold, conveyed, or otherwise disposed of and the actual consideration paid by the person to whom the property was originally sold, conveyed, or otherwise disposed of.

History: 2018, Act 57, Eff. Jan. 1, 2019.