

FISCAL STABILIZATION ACT (EXCERPT)
Act 80 of 1981

141.1009 Bonds or obligations issued before April 11, 1988; bonds or obligations issued after April 11, 1988 and before January 1, 2010; powers of legislative body; agreement providing for direct payment of distributable aid to paying agent, trustee, escrow agent, or other person; lien; special fund; use of taxes; definition.

Sec. 9.

(1) All bonds or obligations issued pursuant to this act before April 11, 1988 are subject to the requirements of former 1981 PA 97.

(2) Unless otherwise provided by the city or county in the resolution required by section 4, bonds or obligations issued pursuant to this act on or after April 11, 1988 and before January 1, 2010 are not subject to the requirements of former 1981 PA 97, notwithstanding that distributable aid is pledged or assigned to secure bonds or obligations under this act.

(3) In the resolution authorizing the bonds or obligations, the legislative body of the city or county may provide for appointment of a trustee, escrow agent, or other person to hold funds or reserves for payment of the bonds or obligations and to perform other duties as the city or county determines, may provide for the vesting in the trustee, escrow agent, or other designated person the property, rights, powers, and remedies as the city or county determines, may pledge and create a lien upon any unencumbered revenues or taxes of the city or county, and may provide for payment of pledged revenues or taxes directly to a paying agent, trustee, escrow agent, the state treasurer, or other person to be held and used solely for payment of principal and interest on the bonds or obligations. A pledge pursuant to this act for benefit of bondholders or others is perfected without delivery, recording, or notice. The resolution authorizing the bonds or obligations also may provide for covenants and promises with respect to fiscal, budget, and accounting matters that are considered necessary or appropriate in the judgment of the city or county to sell the bonds or obligations to the best advantage of the city or county.

(4) In the resolution authorizing the bonds or obligations for the payment of the bonds or obligations, the city or county may provide for the payment of the bonds or obligations with distributable aid received or to be received by the city or county derived from the imposition of taxes by the state and returned or to be returned to the city or county as provided by law except for money that the state constitution of 1963 prohibits for use for such a pledge. The city or county and the state treasurer may enter into an agreement providing for the direct payment of distributable aid to a paying agent, trustee, escrow agent, or other person to be used for the sole purpose of paying principal or interest on bonds or obligations issued pursuant to this act, and that money may be pledged by the city or county for the payment of bonds or obligations issued under this act. If the city or county and the state treasurer enter into such an agreement, notwithstanding any other provision of this act to the contrary, for bonds or obligations issued after the effective date of the 2010 amendatory act that amended this subsection and made payable from distributable aid in the resolution authorizing those bonds or obligations a statutory lien and trust is created applicable to distributable aid received or to be received from the state treasurer by a paying agent, escrow agent, or a trustee, after the distributable aid has been appropriated but subject to any subsequent reduction of that appropriation by operation of law or executive order. The distributable aid paid or to be paid to a paying agent, trustee, escrow agent, or other person for the purpose of paying the principal of and interest on the bonds or obligations issued pursuant to this act shall be subject to a lien and trust, which for bonds or obligations issued pursuant to this act after the effective date of the 2010 amendatory act that amended this subsection and after bonds are issued subject to the statutory lien created by this subsection, is hereby made a statutory lien and trust paramount and superior to all other liens and interests of any kind, for the sole purpose of paying the principal of and interest on bonds and obligations issued pursuant to this act. The lien created under this subsection for the benefit of bondholders or others is perfected without delivery, recording, or notice. The distributable aid held or to be held by a paying agent, trustee, escrow agent, or other person shall be held in trust for the sole benefit of the holders of the bonds or obligations issued pursuant to this act and shall be exempt from being levied upon, taken, sequestered, or applied toward paying the debts or liabilities of the city or county other than for payment of debt service on the bonds or obligations to which the lien applies and the holders of bonds or obligations issued pursuant to this act after January 1, 2010, but before September 1, 2010, shall have a first priority lien that is paramount and superior to all other liens and interests of any kind that arise or are created after the effective date of the 2010 amendatory act that amended this subsection and after bonds are issued subject to the statutory lien created by this subsection. However, nothing in the 2010 amendatory act that amended this subsection shall abridge or reduce the ability of the state treasurer to withhold distributable aid from a city or county as provided by the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. For bonds or obligations issued pursuant to this act after January 1, 2010 and before September 1, 2010, the maximum principal and interest becoming due on the bonds or obligations in any fiscal year shall not exceed the amount of shared revenues received by the city for

the state fiscal year ending September 30, 2009 as provided for in the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, and as provided in the state constitution of 1963. This subsection shall not be construed to do any of the following:

(a) Create or constitute state indebtedness.

(b) Require the state to continue to impose and collect taxes from which distributable aid is paid or to make payments of distributable aid.

(c) Limit or prohibit the state from repealing or amending a law enacted for the imposition of taxes from which distributable aid is paid, for the payment or apportionment of distributable aid, or for the manner, time, or amount of distributable aid.

(5) With respect to bonds or obligations issued on or before September 30, 1988, in the resolution authorizing the bonds or obligations, the legislative body of the city or county may provide that, from each collection of ad valorem property taxes after the issuance of the bonds or obligations, there shall be set aside in a special fund, to be used for the payment of principal and interest on the bonds or obligations, an amount equal to the total amount of the collection multiplied by a fraction determined as follows:

(a) The numerator of the fraction is 125% of the amount of principal and interest coming due on the bonds or obligations in the current fiscal year.

(b) The denominator of the fraction is the total amount of the tax levied for the current fiscal year multiplied by a fraction, the numerator of which is the total of the taxes collected during the 5 prior fiscal years and the denominator of which is the total of taxes levied during the 5 prior fiscal years.

(6) An authorizing resolution under subsection (4) or (5) may provide that all or any portion of the taxes collected and set aside as provided in subsection (5) shall not be used for any other purpose.

(7) As used in this section, "distributable aid" means state shared revenues provided for in the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, any other law providing for distribution of state shared revenues which are derived from the same taxes distributed under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, and any law providing reimbursement to a municipality under the state constitution of 1963 as reimbursement for revenue which would otherwise be collected from taxes imposed by the municipality.

History: 1981, Act 80, Eff. July 15, 1981 ;-- Am. 1987, Act 279, Eff. Apr. 11, 1988 ;-- Am. 2010, Act 4, Imd. Eff. Feb. 5, 2010