

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

125.4402 Definitions.

Sec. 402.

As used in this part:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance includes, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved before the advance, or a resolution of the authority or the municipality.

(b) "Alternative energy technology" means equipment, component parts, materials, electronic devices, testing equipment, and related systems that are specifically designed, specifically fabricated, and used primarily for 1 or more of the following:

(i) The storage, generation, reformation, or distribution of clean fuels integrated within an alternative energy system or alternative energy vehicle, not including an anaerobic digester energy system or a hydroelectric energy system, for use within the alternative energy system or alternative energy vehicle.

(ii) The process of generating and putting into a usable form the energy generated by an alternative energy system. Alternative energy technology does not include those component parts of an alternative energy system that are required regardless of the energy source.

(iii) Research and development of an alternative energy vehicle.

(iv) Research, development, and manufacturing of an alternative energy system.

(v) Research, development, and manufacturing of an anaerobic digester energy system.

(vi) Research, development, and manufacturing of a hydroelectric energy system.

(c) "Alternative energy technology business" means a business engaged in the research, development, or manufacturing of alternative energy technology or a business located in an authority district that includes a military installation that was operated by the United States Department of Defense and closed after 1980.

(d) "Assessed value" means 1 of the following:

(i) For valuations made before January 1, 1995, the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(ii) For valuations made after December 31, 1994, the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(e) "Authority" means a local development finance authority created under this part.

(f) "Authority district" means an area or areas within which an authority exercises its powers.

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

(h) "Business development area" means an area designated as a certified industrial park under this part before June 29, 2000, or an area designated in the tax increment financing plan that meets all of the following requirements:

(i) The area is zoned to allow its use for eligible property.

(ii) The area has a site plan or plat approved by the city, village, or township in which the area is located.

(i) "Business incubator" means real and personal property that meets all of the following requirements:

(i) Is located in a certified technology park or a certified alternative energy park.

(ii) Is subject to an agreement under section 412a or 412c.

(iii) Is developed for the primary purpose of attracting 1 or more owners or tenants who will engage in activities that would each separately qualify the property as eligible property under subdivision (s)(iii).

(j) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park, a certified alternative energy park, or a next Michigan development area, the real and personal property included in the tax increment financing plan, including the current assessed value of property for which specific local taxes are paid in lieu of property taxes as determined pursuant to subdivision (hh), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value. Except as otherwise provided in this part, tax abated property in a renaissance zone as defined under section 3 of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2683, must be excluded from the calculation of captured assessed value to the extent that the property is exempt from ad valorem property taxes or specific local taxes.

(k) "Certified alternative energy park" means that portion of an authority district designated by a written agreement entered into under section 412c between the authority, the municipality or municipalities, and the Michigan economic development corporation.

(l) "Certified business park" means a business development area that has been designated by the Michigan economic development corporation as meeting criteria established by the Michigan economic development

corporation. The criteria shall establish standards for business development areas including, but not limited to, use, types of building materials, landscaping, setbacks, parking, storage areas, and management.

(m) "Certified technology park" means that portion of the authority district designated by a written agreement entered into under section 412a between the authority, the municipality, and the Michigan economic development corporation.

(n) "Chief executive officer" means the mayor or city manager of a city, the president of a village, or, for other local units of government or school districts, the person charged by law with the supervision of the functions of the local unit of government or school district.

(o) "Development plan" means that information and those requirements for a development set forth in section 415.

(p) "Development program" means the implementation of a development plan.

(q) "Eligible advance" means an advance made before August 19, 1993.

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

(s) "Eligible property" means land improvements, buildings, structures, and other real property, and machinery, equipment, furniture, and fixtures, or any part or accessory of these items whether completed or in the process of construction comprising an integrated whole, located within an authority district, of which the primary purpose and use is or will be 1 of the following:

(i) The manufacture of goods or materials or the processing of goods or materials by physical or chemical change.

(ii) Agricultural processing.

(iii) A high technology activity.

(iv) The production of energy by the processing of goods or materials by physical or chemical change by a small power production facility as defined by the Federal Energy Regulatory Commission under the public utility regulatory policies act of 1978, Public Law 95-617, which facility is fueled primarily by biomass or wood waste. This part does not affect a person's rights or liabilities under law with respect to groundwater contamination described in this subparagraph. This subparagraph applies only if all of the following requirements are met:

(A) Tax increment revenues captured from the eligible property will be used to finance, or will be pledged for debt service on tax increment bonds used to finance, a public facility in or near the authority district designed to reduce, eliminate, or prevent the spread of identified soil and groundwater contamination, pursuant to law.

(B) The board of the authority exercising powers within the authority district where the eligible property is located adopted an initial tax increment financing plan between January 1, 1991 and May 1, 1991.

(C) The municipality that created the authority establishes a special assessment district whereby not less than 50% of the operating expenses of the public facility described in this subparagraph will be paid for by special assessments. Not less than 50% of the amount specially assessed against all parcels in the special assessment district must be assessed against parcels owned by parties potentially responsible for the identified groundwater contamination pursuant to law.

(v) A business incubator.

(vi) An alternative energy technology business.

(vii) A transit-oriented facility.

(viii) A transit-oriented development.

(ix) An eligible next Michigan business, as that term is defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803, and other businesses within a next Michigan development area, but only to the extent designated as eligible property within a development plan approved by a next Michigan development corporation.

(t) "Fiscal year" means the fiscal year of the authority.

(u) "Governing body" means, except as otherwise provided in this subdivision, the elected body having legislative powers of a municipality creating an authority under this part. For a next Michigan development corporation, governing body means the executive committee of the next Michigan development corporation, unless otherwise provided in the interlocal agreement or articles of incorporation creating the next Michigan development corporation or the governing body of an eligible urban entity or its designee as provided in the next Michigan development act, 2010 PA 275, MCL 125.2951 to 125.2959.

(v) "High-technology activity" means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(w) "Initial assessed value" means the assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park, a certified alternative energy park, or a next Michigan development area, the assessed value of any real and personal property included in the tax increment financing plan, when the resolution establishing the tax increment financing plan is approved as shown by the most recent assessment roll for which equalization has been completed when the resolution is adopted or, for property that

becomes eligible property in other than a certified technology park or a certified alternative energy park after the date the plan is approved, when the property becomes eligible property. Property exempt from taxation when the initial assessed value is determined must be included as zero. Property for which a specific local tax is paid in lieu of property tax is not considered exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of property tax is determined as provided in subdivision (hh).

(x) "Michigan economic development corporation" means the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999 between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund. If the Michigan economic development corporation is unable for any reason to perform its duties under this part, those duties may be exercised by the Michigan strategic fund.

(y) "Michigan strategic fund" means the Michigan strategic fund as described in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

(z) "Municipality" means a city, village, or urban township. However, for purposes of creating and operating a certified alternative energy park or a certified technology park, municipality includes townships that are not urban townships.

(aa) "Next Michigan development area" means a portion of an authority district designated by a next Michigan development corporation under section 412e to which a development plan is applicable.

(bb) "Next Michigan development corporation" means that term as defined in section 3 of the next Michigan development act, 2010 PA 275, MCL 125.2953.

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

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

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

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

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

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

(dd) "On behalf of an authority", in relation to an eligible advance made by a municipality or an eligible obligation or other protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by a municipality, or eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

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

(ii) A requirement imposed by law that the authority transfer tax increment revenues to the municipality.

(iii) A resolution of the authority agreeing to make payments to the incorporating unit.

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

(ee) "Other protected obligation" means:

(i) A qualified refunding obligation issued to refund an obligation described in subparagraph (ii) or (iii), an obligation that is not a qualified refunding obligation that is issued to refund an eligible obligation, or a qualified refunding obligation issued to refund an obligation described in this subparagraph.

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

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

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

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

(i) A street, road, bridge, storm water or sanitary sewer, sewage treatment facility, facility designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, retention basin, pretreatment facility, waterway, waterline, water storage facility, rail line, electric, gas, telephone or other communications, or any other type of utility line or pipeline, transit-oriented facility, transit-oriented development, or other similar or related structure or improvement, together with necessary easements for the structure or improvement. Except for rail lines, utility lines, or pipelines, the structures or improvements described in this subparagraph must be either owned or used by a public agency, functionally connected to similar or supporting facilities owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity. Any road, street, or bridge must be continuously open to public access. A public facility must be located on public property or in a public, utility, or transportation easement or right-of-way.

(ii) The acquisition and disposal of land that is proposed or intended to be used in the development of eligible property or an interest in that land, demolition of structures, site preparation, and relocation costs.

(iii) All administrative and real and personal property acquisition and disposal costs related to a public facility described in subparagraphs (i) and (iv), including, but not limited to, architect's, engineer's, legal, and accounting fees as permitted by the district's development plan.

(iv) An improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, which improvement is made to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(v) All of the following costs approved by the Michigan economic development corporation:

(A) Operational costs and the costs related to the acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that are or may become eligible for depreciation under the internal revenue code of 1986, 26 USC 1 to 9834, for a business incubator located in a certified technology park or certified alternative energy park.

(B) Costs related to the acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that, if privately owned, would be eligible for depreciation under the internal revenue code of 1986, 26 USC 1 to 9834, for laboratory facilities, research and development facilities, conference facilities, teleconference facilities, testing, training facilities, and quality control facilities that are or that support eligible property under subdivision (s)(iii), that are owned by a public entity, and that are located within a certified technology park.

(C) Costs related to the acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that, if privately owned, would be eligible for depreciation under the internal revenue code of 1986, 26 USC 1 to 9834, for facilities that are or that will support eligible property under subdivision (s)(vi), that have been or will be owned by a public entity when the costs are incurred, that are located within a certified alternative energy park, and that have been or will be conveyed, by gift or sale, by the public entity to an alternative energy technology business.

(vi) Operating and planning costs included in a plan under section 412(1)(f), including costs of marketing property within the district and attracting development of eligible property within the district.

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

(i) The net present value of the principal and interest to be paid on the refunding obligation, including the cost of issuance, will be less than the net present value of the principal and interest to be paid on the obligation being refunded, as calculated using a method approved by the department of treasury.

(ii) The net present value of the sum of the tax increment revenues described in subdivision (jj)(ii) and the distributions under section 411a to repay the refunding obligation will not be greater than the net present value of the sum of the tax increment revenues described in subdivision (jj)(ii) and the distributions under section 411a to repay the obligation being refunded, as calculated using a method approved by the department of treasury.

(hh) "Specific local taxes" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123, 1953 PA 189, MCL 211.181 to 211.182, and the technology park development act, 1984 PA 385, MCL 207.701 to 207.718. The initial assessed value or current assessed value of property subject to a specific local tax is the quotient of the specific local tax paid divided by the ad valorem millage rate. However, after 1993, the state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

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

(jj) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions on the captured assessed value of eligible property within the district or, for purposes of a certified technology park, a next Michigan development area, or a certified alternative energy park, real or personal property that is located within the certified technology park, a next Michigan development area, or a certified alternative energy park and included within the tax increment financing plan, subject to the following requirements:

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

(ii) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts on the captured assessed value of real and personal property in the development area in an amount equal to the amount necessary, without regard to subparagraph (i), for the following purposes:

(A) To repay eligible advances, eligible obligations, and other protected obligations.

(B) To fund or to repay an advance or obligation issued by or on behalf of an authority to fund the cost of public facilities related to or for the benefit of eligible property located within a certified technology park or a certified alternative energy park to the extent the public facilities have been included in an agreement under section 412a(3), 412b, or 412c(3), not to exceed 50%, as determined by the state treasurer, of the amounts levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local and intermediate school districts for a period, except as otherwise provided in this sub-subparagraph, not to exceed 15 years, as determined by the state treasurer, if the state treasurer determines that the capture under this sub-subparagraph is necessary to reduce unemployment, promote economic growth, and increase capital investment in the municipality. However, if approved by the state treasurer and the president of the Michigan economic development corporation, a certified technology park may capture under this sub-subparagraph for an additional period of 5 years if, before that capture, the authority agrees to additional reporting requirements and modifies its tax increment financing plan to include regional collaboration as determined by the state treasurer and the president of the Michigan economic development corporation. The retroactive approval of an additional period of 5 years may occur after a capture under this sub-subparagraph for that additional period, if the other requirements of this sub-subparagraph are satisfied. In addition, on approval of the state treasurer and the president of the Michigan economic development corporation, if a municipality that has created a certified technology park that has entered into an agreement with another authority that does not contain a certified technology park to designate a distinct geographic area under section 412b, that authority that has created the certified technology park and the associated distinct geographic area may both capture under this sub-subparagraph for an additional period of 15 years as determined by the state treasurer and the president of the Michigan economic development corporation.

(C) To fund the cost of public facilities related to or for the benefit of eligible property located within a next Michigan development area to the extent that the public facilities have been included in a development plan, not to exceed 50%, as determined by the state treasurer, of the amounts levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local and intermediate school districts for a period not to exceed 15 years, as determined by the state treasurer, if the state treasurer determines that the capture under this sub-subparagraph is necessary to reduce unemployment, promote economic growth, and increase capital investment in the authority district.

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

(A) Ad valorem property taxes or specific local taxes that are excluded from and not made part of the tax increment financing plan. Ad valorem personal property taxes or specific local taxes associated with personal property may be excluded from and may not be part of the tax increment financing plan.

(B) Ad valorem property taxes and specific local taxes attributable to ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority.

(C) Ad valorem property taxes exempted from capture under section 404(3) or specific local taxes attributable to those ad valorem property taxes.

(D) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific local taxes attributable to those ad valorem property taxes.

(E) The amount of ad valorem property taxes or specific taxes captured by a downtown development authority under part 2, tax increment finance authority under part 3, or brownfield redevelopment authority under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2670, if those taxes were captured by these other authorities on the date that the initial assessed value of a parcel of property was established under this part.

(F) Ad valorem property taxes levied under 1 or more of the following or specific local taxes attributable to

those ad valorem property taxes:

(I) The zoological authorities act, 2008 PA 49, MCL 123.1161 to 123.1183.

(II) The art institute authorities act, 2010 PA 296, MCL 123.1201 to 123.1229.

(III) Except as otherwise provided in section 404(3), ad valorem property taxes or specific local taxes attributable to those ad valorem property taxes levied for a separate millage for public library purposes approved by the electors after December 31, 2016.

(iv) The amount of tax increment revenues authorized to be included under subparagraph (ii), and required to be transmitted to the authority under section 413(1), from ad valorem property taxes and specific local taxes attributable to the application of the levy of the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, or a local school district or an intermediate school district on the captured assessed value of real and personal property in a development area must be determined separately for the levy by this state, each school district, and each intermediate school district as the product of sub-subparagraphs (A) and (B):

(A) The percentage that the total ad valorem taxes and specific local taxes available for distribution by law to this state, a local school district, or an intermediate school district, respectively, bears to the aggregate amount of ad valorem millage taxes and specific taxes available for distribution by law to this state, each local school district, and each intermediate school district.

(B) The maximum amount of ad valorem property taxes and specific local taxes considered tax increment revenues under subparagraph (ii).

(kk) "Transit-oriented development" means infrastructure improvements that are located within 1/2 mile of a transit station or transit-oriented facility that promotes transit ridership or passenger rail use as determined by the board and approved by the municipality in which it is located.

(ll) "Transit-oriented facility" means a facility that houses a transit station in a manner that promotes transit ridership or passenger rail use.

(mm) "Urban township" means a township that meets 1 or more of the following:

(i) Meets all of the following requirements:

(A) Has a population of 20,000 or more, or has a population of 10,000 or more but is located in a county with a population of 400,000 or more.

(B) Adopted a master zoning plan before February 1, 1987.

(C) Provides sewer, water, and other public services to all or a part of the township.

(ii) Meets all of the following requirements:

(A) Has a population of less than 20,000.

(B) Is located in a county with a population of 250,000 or more but less than 400,000, and that county is located in a metropolitan statistical area.

(C) Has within its boundaries a parcel of property under common ownership that is 800 acres or larger and is capable of being served by a railroad, and located within 3 miles of a limited access highway.

(D) Establishes an authority before December 31, 1998.

(iii) Meets all of the following requirements:

(A) Has a population of less than 20,000.

(B) Has a state equalized valuation for all real and personal property located in the township of more than \$200,000,000.00.

(C) Adopted a master zoning plan before February 1, 1987.

(D) Is a charter township under the charter township act, 1947 PA 359, MCL 42.1 to 42.34.

(E) Has within its boundaries a combination of parcels under common ownership that is 800 acres or larger, is immediately adjacent to a limited access highway, is capable of being served by a railroad, and is immediately adjacent to an existing sewer line.

(F) Establishes an authority before March 1, 1999.

(iv) Meets all of the following requirements:

(A) Has a population of 13,000 or more.

(B) Is located in a county with a population of 150,000 or more.

(C) Adopted a master zoning plan before February 1, 1987.

(v) Meets all of the following requirements:

(A) Is located in a county with a population of 1,000,000 or more.

(B) Has a written agreement with an adjoining township to develop 1 or more public facilities on contiguous property located in both townships.

(C) Has a master plan in effect.

(vi) Meets all of the following requirements:

(A) Has a population of less than 10,000.

(B) Has a state equalized valuation for all real and personal property located in the township of more than \$280,000,000.00.

(C) Adopted a master zoning plan before February 1, 1987.

(D) Has within its boundaries a combination of parcels under common ownership that is 199 acres or larger, is

located within 1 mile of a limited access highway, and is located within 1 mile of an existing sewer line.

(E) Has rail service.

(F) Establishes an authority before May 7, 2009.

(vii) Has joined an authority under section 403(2) that is seeking or has entered into an agreement for a certified technology park.

(viii) Has established an authority that is seeking or has entered into an agreement for a certified alternative energy park.

History: 2018, Act 57, Eff. Jan. 1, 2019 ;-- Am. 2023, Act 312, Eff. Feb. 13, 2024