

SUBSTITUTE FOR
HOUSE BILL NO. 4990

A bill to amend 1909 PA 279, entitled
"The home rule city act,"
by amending section 5f (MCL 117.5f), as amended by 2002 PA 201.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5f. (1) The legislative body of a city may provide by
2 resolution for **THE ACQUISITION OR FINANCING OF** energy conservation
3 improvements to be made to city facilities **OR INFRASTRUCTURE** and
4 may pay for the improvements **OR THE FINANCING OR REFUNDING OF THE**
5 **IMPROVEMENTS** from the general fund of the city or from the savings
6 that result from the energy conservation improvements. Energy
7 conservation improvements may include, but are not limited to,
8 heating, **VENTILATING, OR AIR-CONDITIONING** system improvements,
9 fenestration improvements, roof improvements, the installation of
10 any insulation, the installation or repair of heating, **VENTILATING,**

1 or ~~air conditioning~~ **AIR-CONDITIONING** controls, and entrance or exit
 2 way closures, **INFORMATION TECHNOLOGY IMPROVEMENTS ASSOCIATED WITH**
 3 **AN ENERGY CONSERVATION IMPROVEMENT, AND MUNICIPAL UTILITY**
 4 **IMPROVEMENTS ASSOCIATED WITH AN ENERGY CONSERVATION IMPROVEMENT.**

5 (2) The legislative body of a city may acquire, **FINANCE, OR**
 6 **REFUND** 1 or more of the energy conservation improvements described
 7 in subsection (1) by installment contract, **WHICH MAY INCLUDE A**
 8 **LEASE-PURCHASE AGREEMENT DESCRIBED IN SUBSECTION (5),** or may borrow
 9 money and issue notes for the purpose of securing funds for the
 10 improvements or may enter into contracts in which the cost of the
 11 energy conservation improvements is paid from a portion of the
 12 savings that result from the energy conservation improvements.
 13 These contractual agreements may provide that the cost of the
 14 energy conservation improvements are paid only if the energy
 15 savings are sufficient to cover their cost. An installment
 16 contract, **A LEASE-PURCHASE AGREEMENT DESCRIBED IN SUBSECTION (5),**
 17 or notes issued pursuant to this subsection shall extend for a
 18 period of time not to exceed ~~10~~**20** years **FROM THE DATE OF**
 19 **INSTALLATION OF THE ENERGY CONSERVATION IMPROVEMENT.** Notes issued
 20 pursuant to this subsection shall be full faith and credit, tax
 21 limited obligations of the city, payable from tax levies and the
 22 general fund as pledged by the legislative body of the city. The
 23 notes shall be subject to the revised municipal finance act, 2001
 24 PA 34, MCL 141.2101 to 141.2821. **A LEASE-PURCHASE AGREEMENT ISSUED**
 25 **PURSUANT TO THIS SUBSECTION SHALL NOT BE SUBJECT TO THE REVISED**
 26 **MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO 141.2821, AND**
 27 **SHALL NOT BE A MUNICIPAL SECURITY OR A DEBT AS THOSE TERMS ARE**

1 **DEFINED IN THAT ACT.** This subsection does not limit in any manner
2 the borrowing or bonding authority of a city as provided by law.

3 (3) If energy conservation improvements are made as provided
4 in this section, the legislative body of a city shall report the
5 following information to the Michigan public service commission
6 within 60 days of the completion of the improvements:

7 (a) Name of each facility to which an improvement is made and
8 a description of the conservation improvement.

9 (b) Actual energy consumption during the 12-month period
10 before completion of the improvement.

11 (c) Project costs and expenditures.

12 (d) Estimated annual energy savings.

13 (4) If energy conservation improvements are made as provided
14 in this section, the legislative body of a city shall report to the
15 Michigan public service commission, by July 1 of each of the 5
16 years after the improvements are completed, only the actual annual
17 energy consumption of each facility to which improvements are made.
18 The forms for the reports required by this section shall be
19 furnished by the Michigan public service commission.

20 (5) **AN INSTALLMENT CONTRACT DESCRIBED IN THIS SECTION MAY**
21 **INCLUDE A LEASE-PURCHASE AGREEMENT, WHICH MAY BE A MULTIYEAR**
22 **CONTRACTUAL OBLIGATION THAT PROVIDES FOR AUTOMATIC RENEWAL UNLESS**
23 **POSITIVE ACTION IS TAKEN BY THE LEGISLATIVE BODY TO TERMINATE THAT**
24 **CONTRACT. PAYMENTS UNDER A LEASE-PURCHASE AGREEMENT SHALL BE A**
25 **CURRENT OPERATING EXPENSE SUBJECT TO ANNUAL APPROPRIATIONS OF FUNDS**
26 **BY THE LEGISLATIVE BODY AND SHALL OBLIGATE THE LEGISLATIVE BODY**
27 **ONLY FOR THOSE SUMS PAYABLE DURING THE FISCAL YEAR OF CONTRACT**

1 EXECUTION OR ANY RENEWAL YEAR THEREAFTER. THE LEGISLATIVE BODY MAY
2 MAKE PAYMENTS UNDER A LEASE-PURCHASE AGREEMENT FROM ANY LEGALLY
3 AVAILABLE FUNDS OR FROM A COMBINATION OF ENERGY OR OPERATIONAL
4 SAVINGS, CAPITAL CONTRIBUTIONS, FUTURE REPLACEMENT COSTS AVOIDED,
5 OR BILLABLE REVENUE ENHANCEMENTS THAT RESULT FROM ENERGY
6 CONSERVATION IMPROVEMENTS, PROVIDED THAT THE LEGISLATIVE BODY HAS
7 DETERMINED THAT THOSE FUNDS ARE SUFFICIENT TO COVER, IN AGGREGATE
8 OVER THE FULL TERM OF THE CONTRACTUAL AGREEMENT, THE COST OF THE
9 ENERGY CONSERVATION IMPROVEMENTS. THE LEASE-PURCHASE AGREEMENT WILL
10 TERMINATE IMMEDIATELY AND ABSOLUTELY AND WITHOUT FURTHER OBLIGATION
11 ON THE PART OF THE LEGISLATIVE BODY AT THE CLOSE OF THE FISCAL YEAR
12 IN WHICH IT WAS EXECUTED OR RENEWED OR AT SUCH TIME AS APPROPRIATED
13 AND OTHERWISE UNOBLIGATED FUNDS ARE NO LONGER AVAILABLE TO SATISFY
14 THE OBLIGATIONS OF THE LEGISLATIVE BODY UNDER THE LEASE-PURCHASE
15 AGREEMENT. DURING THE TERM OF THE LEASE-PURCHASE AGREEMENT, THE
16 LEGISLATIVE BODY SHALL BE THE VESTED OWNER OF THE ENERGY
17 CONSERVATION IMPROVEMENTS AND MAY GRANT A SECURITY INTEREST IN THE
18 ENERGY CONSERVATION IMPROVEMENTS TO THE PROVIDER OF THE LEASE-
19 PURCHASE AGREEMENT. UPON THE TERMINATION OF THE LEASE-PURCHASE
20 AGREEMENT AND THE SATISFACTION OF THE OBLIGATIONS OF THE
21 LEGISLATIVE BODY, THE PROVIDER OF THE LEASE-PURCHASE AGREEMENT
22 SHALL RELEASE ITS SECURITY INTEREST IN THE ENERGY CONSERVATION
23 IMPROVEMENTS.

24 Enacting section 1. This amendatory act takes effect 90 days
25 after the date it is enacted into law.