

Act No. 165
Public Acts of 2002
Approved by the Governor
April 10, 2002
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April 11, 2002
EFFECTIVE DATE: April 11, 2002

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Senator Johnson

ENROLLED SENATE BILL No. 971

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 87c (MCL 211.87c), as amended by 1999 PA 123; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 87c. (1) A county that has created a fund pursuant to section 87b by resolution of its board of commissioners and without a vote of its electors may borrow money and issue its revolving fund notes to establish or continue, in whole or in part, the delinquent tax revolving fund and to pay the expenses of the borrowing.

(2) If a fund is created and a county determines to borrow pursuant to this section, the county treasurer shall be the agent for the county in connection with all transactions relative to the fund.

(3) If provided by separate resolution of the county board of commissioners for any year in which a county determines to borrow for the purposes provided in this section and subject to subsection (15), there shall be payable from the surplus in the fund an amount equal to 20% of the following amount to the county treasurer for services as agent for the county and the remainder of the following amount to the county treasurer's office for delinquent tax administration expenses:

(a) For any delinquent tax on which the interest rate before sale exceeds 1% per month, 1/27 of the interest collected per month.

(b) For any delinquent tax on which the interest rate before sale is 1% per month or less, 3/64 of the interest collected each month.

(4) The amount payable under subsection (3) to the county treasurer for services as agent for the county shall not exceed 20% of the county treasurer's annual salary, and any excess over this limitation shall be payable to the county treasurer's office for delinquent tax administration expenses. In addition, the total sum payable under subsection (3) shall not exceed 5% of the total budget of the treasurer's office for that year.

(5) In the resolution authorizing the borrowing and issuance of notes, the delinquent taxes from which the borrowing is to be repaid shall be pledged to the payment of the principal and interest of the notes, and the proceeds of the collection of the delinquent taxes pledged and the interest on the proceeds shall be placed in a segregated fund or account and shall not be used for any other purpose until the notes are paid in full, including interest. The segregated fund or account shall be established as a part of the delinquent tax revolving fund and shall be accounted for separately on the books of the county treasurer.

(6) The proceeds of the notes shall be placed in and used as the whole or part of the fund established pursuant to section 87b, after the expenses of borrowing have been deducted.

(7) The notes issued pursuant to this section shall comply with all of the following:

(a) Be in an aggregate principal amount not exceeding the aggregate amount of the delinquent taxes pledged, exclusive of interest.

(b) Bear interest not exceeding 14.5% per annum.

(c) Be in those denominations, and mature on the date not exceeding 6 years after their date of issue, as the board of commissioners by its resolution determines.

(d) May be issued at an original issue discount not to exceed 2% of the face value of the note issued.

(8) The resolution authorizing issuance of the notes may provide that all or part of the notes shall be subject to prepayment and, if subject to prepayment, shall provide the amount of call premium payable, if any, the number of days' notice of prepayment that shall be given, and whether the notice shall be written or published, or both. Otherwise, the notes shall not be subject to prepayment.

(9) The sale and award of notes shall be conducted and made by the treasurer of the county issuing them at a public or private sale. If a public sale is held, the notes shall be advertised for sale once not less than 5 days before sale in a publication printed in the English language and circulated in this state that carries as a part of its regular service notices of the sales of municipal bonds and that has been designated in the resolution as a publication complying with these qualifications. The notice of sale shall be in the form designated by the county treasurer. The notes may be sold subject to the option of the county treasurer and the county treasurer may withhold a part of the issue from delivery if, in his or her opinion, sufficient funds are available before delivery of the notes to make full delivery unnecessary to the purposes of the borrowing.

(10) The notes are full faith and credit obligations of the county issuing them and, subject to section 87d, if the proceeds of the taxes pledged are not sufficient to pay the principal and interest of the notes when due, the county shall impose a general ad valorem tax without limitation as to rate or amount on all taxable property in the county to pay the principal and interest and may reimburse itself from delinquent taxes collected.

(11) If the resolution provides and subject to section 87d, the notes may be designated general obligation tax notes.

(12) Notwithstanding any other provisions of this section and section 87d, all the following apply:

(a) Interest on the notes may be payable at any time provided in the resolution, and may be set, reset, or calculated as provided in the resolution.

(b) Notes issued under this section may have 1 or more of the following attributes:

(i) Made the subject of a put or agreement to repurchase by the county treasurer.

(ii) Secured by a letter of credit issued by a bank under an agreement entered into by the county treasurer or by any other collateral that the resolution may authorize.

(iii) Callable as set forth in the resolution.

(iv) Reissued by the county treasurer once reacquired by the county treasurer under any put or repurchase agreement.

(c) The county treasurer may by order do 1 or more of the following:

(i) Authorize the issuance of renewal notes.

(ii) Refund or refund in advance notes by the issuance of new notes, whether the notes to be refunded have or have not matured.

(iii) Issue notes partly to refund notes and partly for any other purposes authorized by this act.

(iv) Buy and sell any notes issued under this section.

(d) Renewal, refunding, or advance refunding notes shall comply with all of the following:

(i) Shall be sold and the proceeds applied to the purchase redemption or payment of the notes to be renewed or refunded.

(ii) Shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(iii) May be sold or resold at a public or private sale.

(iv) May pledge the delinquent taxes pledged in the issue to be refunded in advance after the original issue is defeased by the advance refunding issue.

(e) Notes may be issued secured by a second lien on delinquent taxes, interest, and county property tax administration fees already the subject of a first lien because of the issuance of a prior note issue.

(f) Any notes issued may be secured in whole or in part under a trust or escrow agreement, which agreement may also govern the issuance of renewal notes, refunding notes, and advance refunding notes. The agreement may authorize the trustee or escrow agent to make investments of any type authorized in the agreement.

(13) The notes issued under this section and interest on the notes shall be payable in lawful money of the United States of America and shall be exempt from all taxation by this state or a taxing authority in this state.

(14) The notes issued under this section may be made payable at a bank or trust company, or may be made registrable as to principal or as to principal and interest under the terms and conditions specified in the authorizing resolution or by the county treasurer when awarding the notes.

(15) A county treasurer elected or appointed to office after October 1, 1999 is not eligible for the payment under subsection (3) for services as agent for the county unless that county treasurer held office on October 1, 1999 and has not vacated that office after October 1, 1999.

(16) Notwithstanding 1966 PA 293, MCL 45.501 to 45.521, a county operating under a home rule charter shall not be restricted by the provisions of the home rule charter in connection with the powers granted to the county to issue notes by sections 87b and 87d and this section. The treasurer of a county described in this subsection, notwithstanding any charter provisions to the contrary, shall have all of the powers granted to county treasurers by sections 87b and 87d and this section.

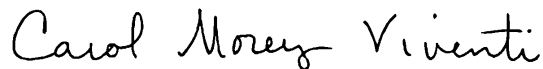
(17) Notwithstanding the provisions of 1947 PA 261, MCL 45.451 to 45.457, the provisions of this section shall control the entitlement of the county treasurer to the fee provided for in this section.

(18) If the treasurer authorizes on the order authorizing the notes, any notes issued may be secured in whole or in part under a trust or escrow agreement. That agreement may authorize the trustee or escrow agent to make investments of any type authorized in the agreement.

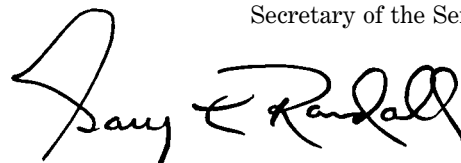
(19) Notes issued under this act are exempt from the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

Enacting section 1. Sections 87e and 87f of the general property tax act, 1893 PA 206, MCL 211.87e and 211.87f, are repealed.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved

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Governor.