

SENATE BILL No. 42

January 18, 2017, Introduced by Senator BRANDENBURG and referred to the Committee on Finance.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending sections 87b and 87f (MCL 211.87b and 211.87f), section
87b as amended and section 87f as added by 2016 PA 82.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 87b. (1) The county board of commissioners of any county,
2 on behalf of the taxing units in the county and, for purposes of
3 the state education tax under the state education tax act, 1993 PA
4 331, MCL 211.901 to 211.906, this state, may create a delinquent
5 tax revolving fund that, at the option of the county treasurer, may
6 be designated as the "100% tax payment fund". Upon the
7 establishment of the fund, all delinquent taxes, except taxes on
8 personal property, due and payable to the taxing units in the
9 county, except those units that collect their own delinquent taxes
10 after March 1 by charter or otherwise, are due and payable to the

1 county, on behalf of the taxing units in the county and this state.
2 Money and other property and assets held in the delinquent tax
3 revolving fund shall be kept separate from and shall not be
4 commingled with any other money, property, or assets in the custody
5 of the county treasurer. All money, property, and assets acquired
6 by the county treasurer, whether as revenues or otherwise, shall be
7 held by it in trust for the taxing units in the county for which
8 the taxes are levied. The county shall have no right, title, or
9 interest in the delinquent tax revolving fund except for the right
10 to payment provided for in section 87b(7) or 87c(3). If the county
11 determines to borrow pursuant to section 87c or 87d, that borrowing
12 shall be done on behalf of the county and its taxing units and the
13 primary obligation to pay to the county the amount of taxes and the
14 interest on the taxes shall rest with the local taxing units and
15 this state for the state education tax under the state education
16 tax act, 1993 PA 331, MCL 211.901 to 211.906. If the delinquent
17 taxes that are due and payable to the county are not received by
18 the county on behalf of the taxing units in the county and this
19 state for any reason, the county has full right of recourse against
20 the taxing unit or to this state for the state education tax under
21 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,
22 to recover the amount of the delinquent taxes and interest at the
23 rate of 1% per month or fraction of a month or a lower rate as
24 established by resolution of the board of commissioners until
25 repaid to the county by the taxing unit. However, if the county
26 borrows to provide funds for those payments, the interest rate
27 shall not exceed the highest interest rate paid on that borrowing.

1 If the board of commissioners reduces the interest rate on the
2 recovery of uncollected delinquent taxes as provided in this
3 subsection, that decrease shall not apply to any year's delinquent
4 taxes when borrowing against that year's delinquent taxes occurred
5 before the board of commissioners adopted a resolution to reduce
6 the interest rate on the recovery of uncollected delinquent taxes.
7 Any amount that is due from a local taxing unit or this state for a
8 prior year's uncollected delinquent tax is a lien against any
9 future delinquent tax payments that may be payable to a local
10 taxing unit or this state and the lien shall be satisfied by
11 offsetting the amount due to the county from the local taxing unit
12 or this state when distributions from the delinquent tax revolving
13 fund are made by the county to the local taxing unit or this state
14 in a subsequent year. A resolution or agreement previously executed
15 or adopted to this effect is validated and confirmed. For
16 delinquent state education taxes under the state education tax act,
17 1993 PA 331, MCL 211.901 to 211.906, the county may offset
18 uncollectible delinquent taxes against collections of the state
19 education tax under the state education tax act, 1993 PA 331, MCL
20 211.901 to 211.906, received by the county and owed to this state
21 under this act. **THE FUND SHALL BE SEGREGATED INTO SEPARATE FUNDS OR**
22 **ACCOUNTS FOR EACH YEAR'S DELINQUENT TAXES.** A separate delinquent
23 tax revolving fund shall be created for each year's delinquent
24 taxes **IN ANY COUNTY THAT ELECTS TO BORROW UNDER SECTION 87F.** This
25 subsection does not restrict a foreclosing governmental unit from
26 selling or transferring property under section 78m or 78r.

27 (2) If a delinquent tax revolving fund is established, the

1 county treasurer shall be the agent for the county, on behalf of
2 the taxing units in the county and this state, and, without further
3 action by the county board of commissioners, may enter into
4 contracts with other municipalities, this state, or private
5 persons, firms, or corporations in connection with any transaction
6 relating to the fund or any borrowing made by the county pursuant
7 to section 87c or 87d, including all services necessary to complete
8 this borrowing.

9 (3) The county treasurer shall pay from the fund any or all
10 delinquent taxes that are due and payable to the county and any
11 school district, intermediate school district, community college
12 district, city, township, special assessment district, this state,
13 or any other political unit for which delinquent tax payments are
14 due within 20 days after sufficient funds are deposited within the
15 delinquent tax revolving fund or, if the county treasurer is
16 treasurer for a county with a population greater than 1,500,000
17 persons, within 30 days after sufficient funds are deposited within
18 the delinquent tax revolving fund. In a county with a delinquent
19 tax revolving fund where the county does not borrow pursuant to
20 section 87c or 87d, if the county treasurer does not make payment
21 of the delinquent taxes to the local units within 10 days after the
22 completion of county settlement with all local units under section
23 55, the county shall pay interest on the unpaid delinquent taxes
24 from the date of actual county settlement at the rate of 12% per
25 annum for the number of days involved.

26 (4) Except as provided in subsection (5), the county treasurer
27 shall pay from the fund directly to a school district its share of

1 the fund when a single school district exists within a political
2 unit.

3 (5) If a local taxing unit has borrowed money in anticipation
4 of collecting taxes for any school district or other municipality
5 and the county treasurer has been so notified in writing, the
6 county treasurer shall pay to the local taxing unit the shares of
7 the fund for that school district or municipality. For purposes of
8 this subsection, "local taxing unit" means a city, village, or
9 township.

10 (6) The interest charges, penalties, and county property tax
11 administration fee rates established under this act shall remain in
12 effect and shall be payable to the county delinquent tax revolving
13 fund.

14 (7) Any surplus in the fund may be transferred to the county
15 general fund by appropriate action of the county board of
16 commissioners.

17 (8) A county board of commissioners may borrow money to create
18 a delinquent tax revolving fund as provided in section 87c or 87d,
19 or both.

20 (9) This section shall not supersede section 87 but is an
21 alternative method for paying delinquent taxes to local units.
22 However, where this section is used by a county, section 87 shall
23 not be used.

24 (10) Except for subsection (7), this section may be superseded
25 by section 87f, as provided in section 87f(1).

26 Sec. 87f. (1) In any county that has created a delinquent tax
27 revolving fund under section 87b, the county board of commissioners

1 may, by resolution, elect to continue the delinquent tax revolving
2 fund under this section. Except for section 87b(7) **AND ALL OF THE**
3 **POWERS GRANTED TO A COUNTY TREASURER BY SECTIONS 87B AND 87C**, this
4 section supersedes sections 87b and 87c as to a delinquent tax
5 revolving fund continued under this section. A resolution passed
6 under this subsection shall authorize the county treasurer to do
7 the following:

8 (a) Operate the delinquent tax revolving fund for delinquent
9 taxes returned for collection for the period during which
10 delinquent tax revenue notes secured by delinquent taxes pledged
11 from the delinquent tax revolving fund remain outstanding.

12 (b) In that year, issue the county's delinquent tax revenue
13 notes pursuant to the revenue bond act of 1933, 1933 PA 94, MCL
14 141.103 to 141.140, in an amount that will not exceed the aggregate
15 amount of the following:

16 (i) The delinquent taxes pledged to secure each borrowing.

17 (ii) At the option of the county treasurer and to the extent
18 authorized under subsection (6), a note reserve fund in an amount
19 not to exceed 15% of each borrowing.

20 (iii) The cost of issuance.

21 (2) Upon the board of commissioners' passage of the resolution
22 under subsection (1), the delinquent tax revolving fund shall be
23 continued, and the fund may be designated by the county treasurer
24 as the "100% tax payment fund". Thereafter, all delinquent taxes,
25 except taxes on personal property, due and payable to the taxing
26 units in the county, except those units that collect their own
27 delinquent taxes after March 1 by charter or otherwise, are due and

1 payable to the county treasurer, on behalf of the taxing units in
2 the county and this state. Money and other property and assets held
3 in the delinquent tax revolving fund shall be kept separate from
4 and shall not be commingled with any other money, property, or
5 assets in the custody of the county treasurer. All money, property,
6 and assets acquired by the county treasurer, whether as revenues or
7 otherwise, shall be held by it in trust for the taxing units in the
8 county for which the taxes are levied. The county shall have no
9 right, title, or interest in the delinquent tax revolving fund
10 except for the right to payment provided for in sections 87b(7) and
11 87c(3), and under section 22a(2) of the revenue bond act of 1933,
12 1933 PA 94, MCL 141.122a. If the county determines to borrow
13 pursuant to section 87c or 87d, that borrowing shall be done on
14 behalf of the county and its taxing units and the primary
15 obligation to pay to the county treasurer the amount of taxes and
16 the interest on the taxes shall rest with the local taxing units
17 and this state for the state education tax under the state
18 education tax act, 1993 PA 331, MCL 211.901 to 211.906. If the
19 delinquent taxes that are due and payable to the county treasurer
20 on behalf of the taxing units in the county and this state are not
21 received by the county treasurer for any reason, the county
22 treasurer has full right of recourse against the taxing unit or to
23 this state for the state education tax under the state education
24 tax act, 1993 PA 331, MCL 211.901 to 211.906, to recover the amount
25 of the delinquent taxes and interest at the rate of 1% per month or
26 fraction of a month or a lower rate as established by resolution of
27 the board of commissioners until repaid to the county treasurer by

1 the taxing unit. However, if the county treasurer borrows to
2 provide funds for those payments, the interest rate shall not
3 exceed the highest interest rate paid on that borrowing. If the
4 board of commissioners reduces the interest rate on the recovery of
5 uncollected delinquent taxes as provided in this subsection, that
6 decrease shall not apply to any year's delinquent taxes when
7 borrowing against that year's delinquent taxes occurred before the
8 board of commissioners adopted a resolution to reduce the interest
9 rate on the recovery of uncollected delinquent taxes. Any amount
10 that is due from a local taxing unit or this state for a prior
11 year's uncollected delinquent tax is a lien against any future
12 delinquent tax payments that may be payable to a local taxing unit
13 or this state and the lien shall be satisfied by offsetting the
14 amount due to the county from the local taxing unit or this state
15 when distributions from the delinquent tax revolving fund are made
16 by the county treasurer to the local taxing unit or this state in a
17 subsequent year. A resolution or agreement previously executed or
18 adopted to this effect is validated and confirmed. For delinquent
19 state education taxes under the state education tax act, 1993 PA
20 331, MCL 211.901 to 211.906, the county may offset uncollectible
21 delinquent taxes against collections of the state education tax
22 under the state education tax act, 1993 PA 331, MCL 211.901 to
23 211.906, received by the county and owed to this state under this
24 act. The fund shall be segregated into separate funds or accounts
25 for each year's delinquent taxes.

26 (3) The delinquent taxes returned to the county treasurer
27 shall remain the property of the local units of government and the

1 county treasurer shall solely serve as a collection agent for those
2 delinquent taxes, with a county treasurer or other foreclosing
3 governmental unit authorized to perform collection functions under
4 sections 78 to 78s.

5 (4) All of the taxes, interest, fees, and charges required to
6 be collected by the county treasurer by this act related to
7 delinquent taxes shall remain in full force and effect in the event
8 this section applies.

9 (5) Subject to the limitations of subsections (1) and (6), the
10 county treasurer shall have the power to borrow money and issue
11 delinquent tax revenue notes as permitted by the revenue bond act
12 of 1933, 1933 PA 94, MCL 141.101 to 141.140, for the purpose of
13 continuing the delinquent tax revolving fund. Delinquent tax
14 revenue notes issued pursuant to the revenue bond act of 1933, 1933
15 PA 94, MCL 141.101 to 141.140, shall be secured by a statutory lien
16 on the delinquent taxes from which the borrowing is to be repaid
17 and all other property and assets and any revenues derived from the
18 delinquent taxes and other property and assets that are held in the
19 delinquent tax revolving fund. The lien shall automatically attach
20 without further action or authorization by the county. The lien on
21 the delinquent taxes and all other property and assets that are
22 held in the delinquent tax revolving fund and any revenues derived
23 from those sources shall be valid and binding from the time the
24 notes are executed and delivered. The lien shall automatically
25 attach and be effective, binding, and enforceable against the
26 county, its successors, transferees, and creditors, and all others
27 asserting rights, regardless of whether those parties have notice

1 of the lien and without the need for any physical delivery,
2 recordation, filing, or further act. In addition, the amounts
3 collected that are subject to the lien shall be held in trust for
4 the owners of the notes authorized by this subsection. Any property
5 eligible to be conveyed and properly conveyed to a land bank fast
6 track authority as tax reverted property, as defined by section
7 3(q) of the land bank fast track act, 2003 PA 258, MCL 124.753, or
8 to this state or a person, city, village, township, or county
9 pursuant to section 78m or 78r ~~of the general property tax act,~~
10 ~~1893 PA 206, MCL 211.78m and 211.78r,~~ shall be released from any
11 lien created under this section.

12 (6) The resolution adopted pursuant to subsection (1)
13 authorizing the county treasurer to issue delinquent tax revenue
14 notes pursuant to the revenue bond act of 1933, 1933 PA 94, MCL
15 141.101 to 141.140, shall be approved by the county board of
16 commissioners and, in a charter or unified county, the chief
17 executive officer of the county in the manner authorized under the
18 charter or by law. The resolution shall also specify the following:

19 (a) The existence of a note reserve, if any, to meet any
20 possible future deficiencies in the note and interest redemption
21 account created for a note.

22 (b) The reasonable excess amount of the reserve authorized to
23 be created to secure the delinquent tax revenue notes and the
24 maximum size of the reserve, which shall not exceed 15% of the
25 principal amount of the notes to be issued.

26 (c) The amount of any excess delinquent taxes, if any, that
27 may be set to fund or provide for a reserve for future deficiencies

1 in amounts available to repay the county's delinquent tax revenue
2 notes.

3 (d) Any additional security under section 7b(5) or (6) of the
4 revenue bond act of 1933, 1933 PA 94, MCL ~~141.1076~~**141.107B**.