

Act No. 27
Public Acts of 2017
Approved by the Governor
May 4, 2017
Filed with the Secretary of State
May 4, 2017
EFFECTIVE DATE: May 4, 2017

**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2017**

Introduced by Rep. Tedder

ENROLLED HOUSE BILL No. 4136

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 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:

Sec. 87b. (1) The county board of commissioners of any county, on behalf of the taxing units in the county and, for purposes of the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, this state, may create a delinquent tax revolving fund that, at the option of the county treasurer, may be designated as the “100% tax payment fund”. Upon the establishment of the fund, all delinquent taxes, except taxes on personal property, due and payable to the taxing units in the county, except those units that collect their own delinquent taxes after March 1 by charter or otherwise, are due and payable to the county, on behalf of the taxing units in the county and this state. Money and other property and assets held in the delinquent tax revolving fund shall be kept separate from and shall not be commingled with any other money, property, or assets in the custody of the county treasurer. All money, property, and assets acquired by the county treasurer, whether as revenues or otherwise, shall be held by it in trust for the taxing units in the county for which the taxes are levied. The county shall have no right, title, or interest in the delinquent tax revolving fund except for the right to payment provided for in section 87b(7) or 87c(3). If the county determines to borrow pursuant to section 87c or 87d, that borrowing shall be done on behalf of the county and its taxing units and the primary obligation to pay to the county the amount of taxes and the interest on the taxes shall rest with the local taxing units and this state for the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. If the delinquent taxes that are due and payable to the county are not received by the county on behalf of the taxing units in the county and this state for any reason, the county has full right of recourse against the taxing unit or to this state for the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to recover the amount of the delinquent taxes and interest at the rate of 1% per month or fraction of a month or a lower rate as established by resolution of the board of commissioners until repaid to the county by the taxing unit. However, if the county borrows to provide funds for those payments, the interest rate shall not exceed the highest interest rate paid on that borrowing. If the board of commissioners reduces the interest rate on the recovery of uncollected delinquent

taxes as provided in this subsection, that decrease shall not apply to any year's delinquent taxes when borrowing against that year's delinquent taxes occurred before the board of commissioners adopted a resolution to reduce the interest rate on the recovery of uncollected delinquent taxes. Any amount that is due from a local taxing unit or this state for a prior year's uncollected delinquent tax is a lien against any future delinquent tax payments that may be payable to a local taxing unit or this state and the lien shall be satisfied by offsetting the amount due to the county from the local taxing unit or this state when distributions from the delinquent tax revolving fund are made by the county to the local taxing unit or this state in a subsequent year. A resolution or agreement previously executed or adopted to this effect is validated and confirmed. For delinquent state education taxes under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, the county may offset uncollectible delinquent taxes against collections of the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, received by the county and owed to this state under this act. The fund shall be segregated into separate funds or accounts for each year's delinquent taxes. A separate delinquent tax revolving fund shall be created for each year's delinquent taxes in any county that elects to borrow under section 87f. This subsection does not restrict a foreclosing governmental unit from selling or transferring property under section 78m or 78r.

(2) If a delinquent tax revolving fund is established, the county treasurer shall be the agent for the county, on behalf of the taxing units in the county and this state, and, without further action by the county board of commissioners, may enter into contracts with other municipalities, this state, or private persons, firms, or corporations in connection with any transaction relating to the fund or any borrowing made by the county pursuant to section 87c or 87d, including all services necessary to complete this borrowing.

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

(4) Except as provided in subsection (5), the county treasurer shall pay from the fund directly to a school district its share of the fund when a single school district exists within a political unit.

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

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

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

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

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

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

Sec. 87f. (1) In any county that has created a delinquent tax revolving fund under section 87b, the county board of commissioners may, by resolution, elect to continue the delinquent tax revolving fund under this section. Except for section 87b(7) and all of the powers granted to a county treasurer by sections 87b and 87c, this section supersedes sections 87b and 87c as to a delinquent tax revolving fund continued under this section. A resolution passed under this subsection shall authorize the county treasurer to do the following:

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

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

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

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

(iii) The cost of issuance.

(2) Upon the board of commissioners' passage of the resolution under subsection (1), the delinquent tax revolving fund shall be continued, and the fund may be designated by the county treasurer as the "100% tax payment fund". Thereafter, all delinquent taxes, except taxes on personal property, due and payable to the taxing units in the county, except those units that collect their own delinquent taxes after March 1 by charter or otherwise, are due and payable to the county treasurer, on behalf of the taxing units in the county and this state. Money and other property and assets held in the delinquent tax revolving fund shall be kept separate from and shall not be commingled with any other money, property, or assets in the custody of the county treasurer. All money, property, and assets acquired by the county treasurer, whether as revenues or otherwise, shall be held by it in trust for the taxing units in the county for which the taxes are levied. The county shall have no right, title, or interest in the delinquent tax revolving fund except for the right to payment provided for in sections 87b(7) and 87c(3), and under section 22a(2) of the revenue bond act of 1933, 1933 PA 94, MCL 141.122a. If the county determines to borrow pursuant to section 87c or 87d, that borrowing shall be done on behalf of the county and its taxing units and the primary obligation to pay to the county treasurer the amount of taxes and the interest on the taxes shall rest with the local taxing units and this state for the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. If the delinquent taxes that are due and payable to the county treasurer on behalf of the taxing units in the county and this state are not received by the county treasurer for any reason, the county treasurer has full right of recourse against the taxing unit or to this state for the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to recover the amount of the delinquent taxes and interest at the rate of 1% per month or fraction of a month or a lower rate as established by resolution of the board of commissioners until repaid to the county treasurer by the taxing unit. However, if the county treasurer borrows to provide funds for those payments, the interest rate shall not exceed the highest interest rate paid on that borrowing. If the board of commissioners reduces the interest rate on the recovery of uncollected delinquent taxes as provided in this subsection, that decrease shall not apply to any year's delinquent taxes when borrowing against that year's delinquent taxes occurred before the board of commissioners adopted a resolution to reduce the interest rate on the recovery of uncollected delinquent taxes. Any amount that is due from a local taxing unit or this state for a prior year's uncollected delinquent tax is a lien against any future delinquent tax payments that may be payable to a local taxing unit or this state and the lien shall be satisfied by offsetting the amount due to the county from the local taxing unit or this state when distributions from the delinquent tax revolving fund are made by the county treasurer to the local taxing unit or this state in a subsequent year. A resolution or agreement previously executed or adopted to this effect is validated and confirmed. For delinquent state education taxes under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, the county may offset uncollectible delinquent taxes against collections of the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, received by the county and owed to this state under this act. The fund shall be segregated into separate funds or accounts for each year's delinquent taxes.

(3) The delinquent taxes returned to the county treasurer shall remain the property of the local units of government and the county treasurer shall solely serve as a collection agent for those delinquent taxes, with a county treasurer or other foreclosing governmental unit authorized to perform collection functions under sections 78 to 78s.

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

(5) Subject to the limitations of subsections (1) and (6), the county treasurer shall have the power to borrow money and issue delinquent tax revenue notes as permitted by the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, for the purpose of continuing the delinquent tax revolving fund. Delinquent tax revenue notes issued pursuant to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, shall be secured by a statutory lien on the delinquent taxes from which the borrowing is to be repaid and all other property and assets and any revenues derived from the delinquent taxes and other property and assets that are held in the delinquent tax revolving fund. The lien shall automatically attach without further action or authorization by the county. The lien on the delinquent taxes and all other property and assets that are held in the delinquent tax revolving fund and any revenues derived from those sources shall be valid and binding from the time the notes are executed and delivered. The lien shall automatically attach and be effective, binding, and enforceable against the county, its successors, transferees, and creditors, and all others asserting rights, regardless of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act. In addition, the amounts collected that are subject to the lien shall be held in trust for the owners of the notes authorized by this subsection. Any property eligible to be conveyed and properly conveyed to a land bank fast track authority as tax reverted property, as defined by section 3(q) of the land bank fast track act, 2003 PA 258, MCL 124.753, or to this state or a person, city, village, township, or county pursuant to section 78m or 78r shall be released from any lien created under this section.

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


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

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

(c) The amount of any excess delinquent taxes, if any, that may be set to fund or provide for a reserve for future deficiencies in amounts available to repay the county's delinquent tax revenue notes.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor