
THE DELINQUENT TAX REVOLVING FUND IN 2016 AND BEYOND

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FOR ADDITIONAL INFORMATION
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PREFACE

This discussion of the Delinquent Tax Revolving Fund has been prepared by John R. Axe of the firm of Clark Hill, PLC, Detroit, Michigan. Mr. Axe has served as Bond Counsel for the following Counties during the period 1973 through 2016 which Counties currently are (or were) issuing such notes:

Alcona	Emmet	Lapeer	Osceola
Alger	Genesee	Leelanau	Oscoda
Allegan	Gladwin	Lenawee	Otsego
Alpena	Gogebic	Livingston	Ottawa
Arenac	Grand Traverse	Macomb	Roscommon
Bay	Hillsdale	Manistee	Saginaw
Benzie	Huron	Marquette	Sanilac
Berrien	Ingham	Menominee	Schoolcraft
Branch	Iosco	Midland	Shiawassee
Cass	Iron	Monroe	St. Clair
Cheboygan	Isabella	Montcalm	Tuscola
Chippewa	Jackson	Montmorency	Van Buren
Clinton	Kalamazoo	Oakland	Washtenaw
Crawford	Kalkaska	Oceana	Wayne
Delta	Lake	Ogemaw	Wexford
Eaton			

While Mr. Axe has represented all of these Counties at some time during this 43-year period, his actual representation was and is in connection with a particular note issue or issues. He currently represents approximately 33 Counties many of which do not have to borrow.

DELINQUENT TAX REVOLVING FUND

CHAPTER I

TAX COLLECTION PROCEDURES AND ESTABLISHMENT OF A DELINQUENT TAX REVOLVING FUND UNDER MICHIGAN LAW

A. INTRODUCTION

The purpose of this chapter is to discuss the collection of delinquent taxes, and how counties have established a delinquent tax revolving fund for the purpose of obtaining funds to pay to all taxing units within the county the total amount of delinquent real property taxes, which have not been collected by the due date pursuant to the Michigan property tax law, Act No. 206 of the Public Acts of Michigan of 1893, as amended, ("Act 206") and Act No. 94 of the Public Acts of Michigan of 1933, as amended ("Act 94"). It also discusses the changes which have been necessitated by the adoption of the Headlee Amendment.

B. THE COUNTY AND ITS POWERS

In Michigan, a county is a political subdivision of the state, organized and existing under the Constitution and statutes of the State. The county is one of the entities in Michigan, which levies and collects real property taxes. The actual procedures are set forth below.

Under the Act 206, ad valorem real property to be taxed by various units is assessed on an annual basis by the assessing officers of each city or township in the county. In Michigan, all property within a county is either within the corporate boundaries of a city or township. Each parcel of property is first listed, then a value assigned to it. The values assigned are then made available for review by the property owner and the valuations so assessed for each city and township are then equalized at both the county level and the State level.

C. CITY AND VILLAGE TAX COLLECTIONS

Once the valuation is determined in cities and villages, the city or village tax is spread on a tax roll and tax statements are prepared and mailed to the property owners.

In general law villages, the tax bills are mailed in May or June and payment thereon to the village at the village offices must be made at the latest by the last Monday in October. Thereafter, the taxes become delinquent and are only payable at the county treasurer's office. Terms of payment and interest on unpaid taxes prior to the time of delinquency are established by the village council.

City and home rule village taxes are usually payable on and after July 1 and may be paid at the city or village offices without interest or any collection fee until a certain date - usually 30 to 60 days. Thereafter, city and home rule village taxes are payable at the city or village offices

until the last day of the following February, when they are returned to the county treasurer for collection. Prior to that time, the unpaid taxes bear interest at a rate specified by charter or statute, generally 1/2% per month.

**D. COUNTY, TOWNSHIP, SCHOOL DISTRICTS
AND OTHER UNIT TAX COLLECTIONS**

For the county, townships, school districts and other units, once the valuations are determined, the respective taxing units, other than the county, determine their rate of taxation, certify the same to the county, which adds the county tax thereto and spreads the entire tax roll. Thereafter, the county notifies each city or township treasurer of the roll as spread and the city or township (where applicable), school* and other taxing units. County general operating taxes are payable on July 1 while Township taxes and County extra voted millage taxes are payable on or after December 1 of each year at the city or township offices. Generally, no interest or penalty accrues (although a collection fee of 1% may be added) until February 15, after which a collection penalty of 4% is added. Taxes may not be paid at the city or township hall after the last day of February. Thereafter, they are only payable at the office of the county treasurer.

E. COLLECTION OF DELINQUENT TAXES

Until 1968, under procedures dating back to 1827, and which had generally been unchanged between 1893 and 1968, village, city and township treasurers made a return of the taxes for the previous year which they had been unable to collect by March 1 (except for general law villages, whose treasurers made this return after the fourth Monday in October) to the county treasurer. Upon verifying the correctness of the return, the county treasurer discharged the city, village or township treasurer on his bond, and the tax rolls evidencing the delinquent taxes were deposited with the county treasurer. The county treasurer was thereafter responsible for the collection of all unpaid delinquent taxes.

The county treasurer mailed notices of delinquency to the persons shown as owning the property assessed for the unpaid taxes and was authorized to receive the amounts of delinquent tax due to the several taxing units, together with interest, collection fees and certain other penalties to defray the cost of mailing notices. The taxes and interest so collected by the county treasurer were paid to the taxing units (including the county), while the collection fees were retained by the county.

*School districts may elect to have one-half of their tax made payable on July 1, with the balance due on December 1. Where this occurs, the appropriate treasurer mails the extra bill in July.

Most taxes were collected and paid to the units without the need of further proceedings. Lands for which delinquent taxes were not paid, however, were subject to a lien in favor of the State and were consequently subject to sale for the collection and enforcement of the lien. At an annual tax sale held by the county treasurer, as agent for the State, the tax liens on lands delinquent for taxes assessed in the third year preceding such sale (or in any prior year) were sold for the total of all the unpaid taxes for said years, plus the collection fee and interest mentioned above. All monies received at the tax sale were paid into the State Treasury.

In the event taxes were not recovered at the May tax sale, the State of Michigan, in whose name the county treasurer conducts the sale, became entitled to claim the property. Customarily, the State of Michigan permitted such property taxes to be redeemed for one year thereafter by the payment of additional penalties and interest. Similarly, a private tax lien buyer could purchase the property from the State after such sale. In either event, the county ultimately received the unpaid taxes, penalties and interest due to the county and local taxing units since periodically the State Treasurer would make a statement of account between the State and the county to draw warrants on the State Treasury payable to the county treasurer for all monies in the State Treasury collected for the county or other taxing units.

The county treasurer, pursuant to Section 87 of Act 206, likewise, periodically made a statement of account between the county and the several townships or cities and paid the monies shown by the statement to be due to the various taxing units to the proper receiving officer of the villages (in the case of village taxes), cities or townships which served as the original assessing districts. These cities and townships retained the amounts of their taxes and the interest thereon and, in turn, paid over the taxes and interest due to other taxing units.

At the election of the State of Michigan, any property on which taxes had not been paid within one year after the May tax sale could be offered at a "scavenger" sale. At such sale the buyer, in theory, obtained clear title to the property and, once again, the proceeds were returned to the county treasurer for disposition after the State received such statutory amounts as are due it for conducting the sale. In the event such property was never offered, or was not sold, at scavenger sale, title vested in the State of Michigan and the delinquent taxes thereon were never collected.

As a consequence of this procedure, the ultimate receipt of collectible delinquent taxes by taxing units could require periods in excess of three years where the tax lien for such tax years was not sold at the tax sale.

In 1999, the Michigan legislature amended the Act and changed the foreclosure procedure to a "Title Sale", which is done either by the State or the County Treasurer depending upon whether a County is "Opt. in" or not.

Under this new procedure, if the delinquent taxes are not paid within one year the property is "forfeited" to the County Treasurer. Thereafter, either the County Treasurer or the State forecloses the property in Circuit Court in the County where it is located. If the taxes are

not paid within approximately one year and one month thereafter the property is then lost and is sold at a sale the following summer or fall.

F. CREATION OF THE DELINQUENT TAX REVOLVING FUND

A 1968 amendment to the Act permitted any county which chose to do so to create a "delinquent tax revolving fund" and to thereafter pay to all of the taxing units within the county all delinquent real property taxes due to such taxing units on settlement day. Once created, all delinquent taxes, interest and collection fees were payable to the county (to be deposited in the fund) on the date the same became delinquent.

Thereafter, a number of counties, using their general funds, established such funds, some of which continued to operate as originally established several years ago. The advantage to the local units was obvious; instead of having to wait for three years to collect their delinquent taxes, 100% collection was achieved by the date on which the delinquent rolls were received and accepted by the county treasurer. The advantages to the county were (i) the elimination of considerable paperwork in having to account and pay on a monthly basis to the various local taxing units the delinquent taxes and interest as the same were received by the county treasurer's office and (ii) the right of the county to retain the interest on such taxes. The county was protected from loss in the event some taxes were totally uncollectible by the provision that the underlying obligation to repay to the county the amounts received by the local taxing units rested with the local taxing units.

This method, however, was "an alternative method for paying taxes to local units" (Section 87b(7)). Inasmuch as the election had to be predicated on the county's ability to provide funds for the delinquent tax revolving fund, most counties (not having sufficient surplus funds on hand for this purpose) did not elect to create such funds and continued to operate as before (under the provisions of Section 87).

CHAPTER II

BORROWING IN ANTICIPATION OF DELINQUENT TAXES

UPDATE - 1970 - 2016

A. INTRODUCTION

The first delinquent tax revolving funds were established after 1969. Since 1973, it has been common practice for counties to borrow to approve funds for delinquent tax revolving funds. Since July 1, 1970, delinquent tax revolving funds have spread from two or perhaps three counties which had established the same out of cash which was surplus in the county general fund, to more than 80 Counties, most of which have borrowed some or all of the funds for the purpose of continuing their delinquent tax revolving funds in various years. During this period, there have been a number of significant changes and developments in connection with the delinquent tax revolving fund, some of which are briefly reviewed below.

B. ORIGINAL AUTHORITY TO BORROW FIRST GRANTED IN 1972

The first borrowing authority granted to counties in connection with the delinquent tax revolving fund was approved by the legislature in 1972 by an amendment to the Municipal Finance Act. This legislation (which apparently originated in Genesee County and was supported principally by school districts in that county) provided that when a delinquent tax revolving fund had been created, the county could borrow money to provide funds to fund the same. Despite a number of technical difficulties in the law, and particularly, despite a very difficult saga for the first county which chose to try to use it, a number of counties, including Oakland and Genesee, created delinquent tax revolving funds and borrowed to fund the same in 1973. Because of the way the law was drafted, it was impossible for the counties to sell their notes publicly and these notes were negotiated with banks on a private basis. This method of financing continued through 1974 and 1975, with a number of additional counties creating and borrowing for their delinquent tax revolving funds. In the meantime, a number of other counties created delinquent tax revolving funds out of surplus general funds.

By mid 1975, certain problems arose. The rate of interest on delinquent taxes at that time was 1/2 percent per month, or six percent per annum. Because of what then seemed to be high interest rates (nearly six percent per annum), it was risky for a number of counties to borrow without facing possible losses. Also, because more counties had established revolving funds and were borrowing to fund them, the availability of banks willing to loan on a private basis (that is, out of its commercial loan department rather than as a bank investment security) was diminishing.

During the summer of 1975, in conjunction with a number of the larger counties which were then borrowing, the author met with a number of the large purchasers of the notes. After conferring with these purchasers, he concluded that it was necessary to provide for a method of borrowing where a county could issue these notes for sale to not only banks but to investment banking houses which could in turn resell the same to the general public. Accordingly, Senate Bill No. 517 was introduced and ultimately was enacted into law on January 12, 1976, as Act 334 of 1975.

C. BORROWINGS AFTER 1976

Public Act 334 of the Public Acts of Michigan of 1975, which took effect in January of 1976, brought about a dramatic change in the borrowing powers and in the type of borrowings which counties could use for the purpose of providing funds for the delinquent tax revolving fund. First, this legislation raised the interest rate on delinquent taxes from 1/2 percent per month to 3/4 percent per month, thereby raising the effective interest rate on delinquent taxes from six percent to nine percent annually. The change was critical since it allowed legislation to be drafted to create a new interest rate limit on the borrowing at 8-3/4 percent.

In addition, the counties were given the authority to create an administrative fund whereby a county treasurer could be reimbursed for some of the extra services he or she rendered to the county in connection with the borrowings, and whereby the treasurer's office was authorized to obtain some monies for administrative expenses in connection with the delinquent tax revolving fund and the collection of the delinquent taxes.

Most important, this statute established the principle that the treasurer was the "agent" for the county, and as such, was in full control of the delinquent tax revolving fund and borrowings made in connection therewith.

When the author prepared the legislation, care was taken to grant the authority to the counties to issue notes in a way that these notes would be fully marketable; that is, attractive for purchase by both investment banking houses, or by banks and by the investment departments of banks. As a result of the legislation, the first series of publicly issued General Obligation Tax Notes were sold in the spring of 1976. By then, the number of counties borrowing had reached nearly 20, and the amounts borrowed were significantly greater than in earlier years. Without this legislation, it would have been impossible for all of the counties to complete their borrowings because there would not have been sufficient funds on hand available for private bank loans to counties.

In 1976, a few counties still sold notes privately. By the end of 1976, however, it was fairly clear that a competitive sale generally resulted in a lower interest rate. While there generally were greater expenses involved in connection with the public sale, the savings in interest cost more than offset the extra expenses.

In 1976, it was necessary to prepare and ultimately obtain the passage of legislation which cured certain constitutional challenges which had been made to the general procedure connected with the May tax sale. This legislation, enacted into law in late 1976, was embodied in House Bill No. 4674 and was a compromise over legislation which had been proposed which would have radically changed the entire May tax sale.

The years 1977 and 1978 saw an even greater influx of counties creating delinquent tax revolving funds and again an increase in the total number of borrowings. Between March 28 and June 14, 1977, 36 counties sold General Obligation Tax Notes in public sales and one additional county sold notes in a private sale. By the end of the summer of 1978, the number of counties which had borrowed approximated 50.

D. HEADLEE PROBLEMS

The year 1978 was the year that the so-called tax limitation proposals first appeared on the Michigan ballot. One of these proposals, the "Tisch Amendment," did not pass. The other proposal, the "Headlee Amendment," did pass. As a result of its passage, it was necessary again to change the legislation which related to borrowings by counties in connection with their 100% tax payment funds.

Because the author had anticipated that this amendment might pass, two weeks after the Headlee Amendment passed, he obtained the introduction into the legislature of a new bill which authorized the issuance of two different types of notes. The first of these notes, which were to be substantially the same as those issued in earlier years, were entitled "Unlimited Tax Notes". These notes could not be issued unless the county voters first approved the issuance of the same at an election called or held for that purpose. Once the voters approved the issuance of such notes they could be issued for up to ten years by the county and the county could continue to pledge the county's unlimited taxing power to repay the borrowing, in the event the taxes pledged were not collected quickly enough to repay the notes.

A second and new type of note, referred to as a "Limited Tax Note," was also authorized in the legislation. With this note, the county was not required to first obtain voters' approval but could simply issue notes, as in past years, pledging however, to repay the notes only from the delinquent taxes, the interest and collection fees. The county was also authorized to pledge whatever limited taxing power it had, and for the first time, the county was allowed to establish a "Note Reserve Fund" to be used to repay the notes in the event taxes were not collected as fast as had been anticipated.

Because of the great support from county treasurers and the officers of the Michigan Association of County Treasurers (the "Association"), the author and the Association were successful in obtaining the passage of this legislation in the near record time of approximately one month from introduction. It was signed into law on December 21, 1978, prior to the day upon which the Headlee Amendment took effect. Without the passage of this legislation, all of the borrowings to continue delinquent tax revolving funds would have terminated and counties

would have been faced with the unfortunate prospect of going back to the old method of collecting and remitting delinquent taxes to local units of government.

E. BORROWINGS IN THE POST-HEADLEE PERIOD

In 1979, after the Headlee Amendment had been adopted, the bond community was uncertain how the market would react to the new so-called "Limited" obligations which counties and other municipalities in Michigan would have to issue absent voter approval. The General Obligation Limited Tax Note issues sold, beginning in March of 1979, proved beyond question that it was possible to sell limited tax obligations. Indeed, between March and the end of May in 1979, 50 counties had sold such notes, and by the end of 1979 almost 60 counties had issued such notes.

Despite considerable fears prior to the first successful sales in March, the notes were very well received, and, in many cases, interest rates were lower than had been anticipated. While the interest rates on the notes in 1979 were high, it was hoped that the bond market would stabilize and that the interest rates would not be any higher the next year. Unfortunately, that was not to be the case.

F. 1987 - THE YEAR OF DECISION

By 1986, the Delinquent Tax Program had become so popular that it had been copied by out-of-state investment bankers, who, relying on the tax-exempt rulings obtained by Oakland County from the IRS in the late 1970's, obtained legislation authorizing cities to borrow in anticipation of current local school and other taxes. The program known as "CTANS" was, unlike the county program, contrived to take advantage of a federal tax loop-hole which allowed such borrowings to be tax-exempt, whether they were really necessary or not, so long as an artificially created cash short-fall was created and the notes were repaid in 13 months.

After beginning on a small scale with local borrowings in 1985, this program was seized upon by the newly created State Municipal Bond Authority and was widely touted by New York investment bankers and bond lawyers looking for new bond deals.

In early 1987, the bubble burst when the Internal Revenue Service announced its intention to revoke the Oakland County rulings under which counties had issued their notes and, in addition, to treat the CTAN issues already done as subject to tax.

While the IRS did not question the tax status of the past county notes, the proposed action would have required all counties to borrow taxable in 1987, thereby involving a great hardship on counties which were in the process of borrowing.

A major campaign was initiated by the Michigan Association of County Treasurers and its General Counsel, which resulted in favorable revenue procedures issued in July of 1987, allowing those counties which had not borrowed already, to do so once more on a tax-exempt basis.

G. 1988 - 2016

Beginning in 1988 a new era, that of "taxable" notes, dawned for the county delinquent tax program. Despite the fact that almost no municipality in the whole United States had issued "taxable" obligations before 1988, Michigan counties were able to borrow and issue their "taxable" notes.

CHAPTER III

BACKGROUND ON MICHIGAN LAW RELATED TO THE COLLECTION OF DELINQUENT REAL PROPERTY TAXES

A. GENERAL BACKGROUND ON THE COLLECTION OF REAL PROPERTY TAXES IN MICHIGAN

In Michigan, ad valorem property taxes are levied by all cities, villages, townships, school districts and other taxing jurisdictions for which any County, there are different taxing jurisdictions each of which sets its own tax rates. Once these rates are set, the city or township in which such taxing jurisdictions are located (after being advised of the tax rate to apply) prepares and sends tax bills each year to the taxpayers of the taxing jurisdiction. These bills always include taxes payable to multiple taxing jurisdictions. Villages bill their own taxes. The city, township and village treasurers are required to obtain a surety bond to protect against any misappropriation of the taxes so collected.

These taxes are billed either on July 1st or December 1st depending upon the jurisdiction and the taxes are collected by the city or township treasurer for all taxing units located within the city or township except for village taxes which are collected by the village treasurer. Once collected, these current taxes are remitted by the city or township treasurer twice a month to the taxing unit to which the taxes belong. The village treasurer only collects village taxes so they are kept by such treasurer in the village treasury.

B. STATUTORY AUTHORITY FOR THE COLLECTION OF CURRENT TAXES

Once the taxes are assessed by the Local Unit, in townships and cities the collection of taxes is governed by Section 42, Section 42a., Section 43, Section 44 and Section 44a. of Act No. 206 of the Public Acts of Michigan of 1893, as amended (“Act 206”) which provides as follows:

“Sec. 42. The supervisor shall prepare a tax roll, with the taxes levied as provided in this act, and annex to the roll a warrant signed by him or her, commanding the township or city treasurer to collect the several sums mentioned in the last column of the roll but the warrant shall not refer to the total or aggregate of the several sums mentioned in the last column, and to retain the amount receivable by law into the township treasury for the purpose therein specified, and to pay over as provided in section 43 to the county treasurer the amounts which are collected for state and county purposes, and to the treasurer of each school district the amounts which are collected for that school district as provided in section 43, and notify the secretary or director of each school district of the amount paid to the school district treasurer, and the remainder of the amounts specified in the roll for the purposes specified in the roll, and account in full for all money received on or before March 1 next following. The warrant shall authorize and command the treasurer, in case any person named in the tax

roll neglects or refuses to pay the tax, to levy the tax by distress and sale of the goods and chattels of the person. The supervisor may make a new roll and warrant in case of the loss of the roll originally given to the township treasurer. The copy of the roll with the warrant annexed shall be known as “the tax roll.” [MCL 211.42]

Sec. 42a.

(1) Subject to this section, a local tax collecting unit may use a computerized data base system as the tax roll if any of the following apply:

(a) The local unit obtains written authorization from the state tax commission.

(b) The treasurer of the county in which the local tax collecting unit is located obtains written authorization from the state tax commission for the use by the county treasurer or local tax collecting units within the county of an approved computerized data base system as the tax roll. This subdivision shall not be construed to prohibit a local tax collecting unit from seeking authorization from the state tax commission to use a computerized data base system developed by the local tax collecting unit.

(c) The state tax commission fails to authorize or deny within 120 days a written request from a county treasurer or a local tax collecting unit under this subsection to use a computerized data base system as the tax roll.

(2) The state tax commission shall authorize the use of a computerized data base system as the tax roll if the local tax collecting unit or the county treasurer demonstrates that the proposed system has the capacity to enable a local unit to comply and the local unit complies with all of the following requirements:

(a) An original precollection tax roll shall be printed from the computerized data base and warranted by the assessor. That printed precollection tax roll shall be maintained by the assessor until the expiration of the redemption period provided in section 78k following the entry of a judgment foreclosing property forfeited for delinquent taxes under section 78g, or the resolution of all pending appeals, whichever is later.

(b) A separate computer printout of all parcel splits and combinations, including sufficient information to document the accuracy of the splits or combinations, shall be prepared and maintained by the assessor until the expiration of the redemption period provided in section 78k following the entry of a judgment foreclosing property forfeited for delinquent taxes under section 78g, or the resolution of all pending appeals, whichever is later.

(c) A separate computer printout of all corrections and adjustments to the precollection tax roll authorized by action of the board of review, state tax commission, or tax tribunal, including sufficient information to document the accuracy of all corrections and adjustments, shall be prepared and maintained by the assessor until the expiration of the redemption period provided in section 78k following the entry of a judgment foreclosing property forfeited for delinquent taxes under section 78g, or the resolution of all pending appeals, whichever is later.

(d) The local tax collecting treasurer and the assessor shall produce a final settlement tax roll to certify taxes collected to the county treasurer under section 55. The assessor shall certify that taxable values, state equalized valuations, adjusted valuations, and the spread of taxes and adjusted taxes are correctly recorded in the settlement tax roll. The local tax collecting treasurer shall certify delinquent taxes and certify that all tax collections are posted on the settlement tax roll. Those certifications and the settlement tax roll shall be transmitted to the county treasurer. The settlement tax roll transmitted to the county treasurer may be in either a computer printed format or a disk, external drive, or other electronic data processing format compatible with the computer system used by the county treasurer. The affidavit attached to or included with the settlement tax roll shall include documentation that authorizes and reports all changes in the precollection tax roll.

(e) The treasurer of the local tax collecting unit shall prepare and maintain a journal of the collections totaled and reconciled to the amount of actual collections daily.

(f) A payment of the tax shall be posted to the computerized data base system using a transaction or receipt number with the date of payment. A posting on the computerized data base system is considered the entry of the fact and date of payment in an indelible manner on the tax roll as required by section 46(2).

(g) The computerized data base system has internal and external security procedures sufficient to assure the integrity of the system.

(h) The local tax collecting unit is capable of making available a posted computer printed tax roll.

(i) The computerized data base system is compatible with the system used by the county treasurer for the collection of delinquent taxes.

(3) Not later than May 1 of the third year following the year in which a local tax collecting unit begins using a computerized data base system as the tax roll after approval under subsection (1) and every 3 years thereafter, the local tax collecting

unit shall certify to the state tax commission that the requirements of this section are being met.

(4) A county treasurer or local tax collecting unit that provides a computer terminal for public viewing of the tax roll is considered having the tax roll available for public inspection.

(5) If at any time the state treasurer or the state tax commission believes that a local tax collecting unit is no longer in compliance with subsection (2), the state treasurer or the state tax commission shall provide written notice to that local tax collecting unit. The notice shall specify the reasons that use of the computerized data base system as the original tax roll is no longer in compliance with subsection (2). The local tax collecting unit has not less than 60 days to provide evidence that the local tax collecting unit is in compliance with subsection (2) or that action to correct noncompliance has been implemented. If, after the expiration of 60 days, the state tax commission or the state treasurer believes that the local tax collecting unit is not taking satisfactory steps to correct a condition of noncompliance, the state tax commission upon its own motion may, and upon the request of the state treasurer shall, withdraw approval of the use of the computerized data base system as the original tax roll. Proceedings of the state tax commission under this subsection shall be in accordance with rules for other proceedings of the commission promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and shall not be considered a contested case. [MCL 211.42a]

Sec. 43. (1) The supervisor of each township, immediately upon authorization to raise money by taxation pursuant to an election held under section 36 or on or before the November 5 in each year, shall notify the township treasurer of the amount of the state, county, school, and public transportation authority taxes as apportioned to his or her township.

(2) The treasurer, immediately upon authorization to raise money by taxation pursuant to an election held under section 36 or on or before the third day immediately preceding the day the taxes to be collected become a lien, shall give to the county treasurer a bond running to the county in the actual amount of state, county, and school taxes, except school taxes collected through a city treasurer, with sufficient sureties to be approved by the supervisor of the township and the county treasurer, conditioned that he or she will pay over to the county treasurer as required by law all state and county taxes, pay over to the respective school treasurers all school taxes that he or she collects during each year of his or her term of office, and duly and faithfully perform all the other duties of the office of treasurer. If a corporate surety bond is provided, the bond shall be approved only by the county treasurer. If the bond is furnished by a surety company authorized

to transact business under the laws of this state, it is sufficient that the bond is equal to 40% of the amount of state, county, and school taxes. If the bond is furnished by a surety company, the premium and cost of the bond given to the county shall be paid by the county treasurer from the general fund of the county against which the premium and cost is made a charge. However, the county treasurer having paid the premium may bill each district school board afforded protection by the bond that portion of the premium charge as is allocated to the school taxes and the school district treasurers shall pay that allocated premium charge as determined by the county treasurer for the protection of school taxes from available school district funds. If the county treasurer and township supervisor determine that the bond of the township treasurer recorded with the township clerk and on file with the township supervisor is adequate and sufficient to safeguard the proper accounting of state, county, and school taxes as required by law, the township treasurer shall not be required to file with the county treasurer the bond provided for in this section. The county treasurer shall deliver to the supervisor on or before the day the taxes to be collected become a lien a signed statement of approval of the bond. Upon the receipt of the signed statement and on or before the day the taxes to be collected become a lien, the supervisor shall deliver to the township treasurer the tax roll of this township. The county treasurer shall file and safely keep the bond in his or her office and shall give to the township treasurer a receipt stating that the required bond was received, which receipt the township treasurer shall deliver to the supervisor on or before the day the taxes to be collected become a lien. After the delivery of the receipt and on or before the day the taxes to be collected become a lien, the supervisor shall deliver to the township treasurer the tax roll of the township.

(3) Except as provided in subsections (4) and (5), tax collections shall be delivered pursuant to the following schedule:

(a) Within 10 business days after the first and fifteenth day of each month, the township or city treasurer shall account for and deliver to the county treasurer the total amount of state and county tax collections on hand on the first and fifteenth day of each month; to the school district treasurers the total amount of school tax collections on hand on the first and fifteenth day of each month; and to the public transportation authorities the total amount of public transportation authority tax collections on hand the first and fifteenth day of each month. If the intermediate school district and community college district provide for direct payment pursuant to subsection (9), the township or city treasurer shall also account for and deliver to the intermediate school district and the community college district the total respective amounts of school tax collections on hand the first and fifteenth day of each month. This subdivision shall not apply to the month of March.

(b) Within 10 business days after the last day of February, the township or city treasurer shall account for and deliver to the county treasurer at least 90% of the total amount of state and county tax collections on hand on the last day of

February; to the school district treasurers at least 90% of the total amount of school tax collections on hand on the last day of February; and to the public transportation authorities at least 90% of the total amount of public transportation authority tax collections on hand on the last day of February. If the intermediate school district and community college district provide for direct payment pursuant to subsection (9), the township or city treasurer shall also account for and deliver to the intermediate school district and community college district at least 90% of the total respective amounts of school tax collections on hand on the last day of February.

(c) A final adjustment and delivery of the total amount of tax collections on hand for the county, community college districts, intermediate school districts, school districts, and public transportation authorities shall be made not later than April 1 of each year.

(4) Instead of following the schedule prescribed in subsection (3), the township or city serving as the tax collecting unit and the local governmental unit for which the tax collections are made may enter into an agreement to establish an alternative schedule for delivering tax collections.

(5) A township that has a state equalized valuation of \$15,000,000.00 or less shall account for and deliver to the county treasurer, the school district treasurers, and the public transportation authorities and, if the intermediate school district and community college district provide for direct payment pursuant to subsection (9), the intermediate school district treasurers and community college treasurers the taxes collected up to and including January 10, within 10 business days after January 10. However, a township treasurer subject to this subsection shall at no time have on hand collections of state, county, community college, intermediate school district if applicable pursuant to subsection (9), school district, and public transportation authority taxes in excess of 25% of the amount of the taxes apportioned to the township and, when collections on hand reach this percentage, the township treasurer shall immediately account for and turn over the total amount of state and county tax collections on hand to the county treasurer, the total respective amounts of school tax collections on hand to the respective treasurers, and the total respective amounts of public transportation authority tax collections on hand to the respective public transportation authorities. The township treasurer shall notify the secretary or superintendent of each community college district, intermediate school district, and school district applicable and each of the applicable public transportation authorities of the total amount of taxes paid to the respective treasurer or authority, which notification shall show the different funds for which the taxes were collected.

(6) Except as may be provided under section 1613 of Act No. 451 of the Public Acts of 1976, being section 380.1613 of the Michigan Compiled Laws, when a county treasurer is collecting the school district or intermediate school district

levy, the county treasurer shall account for and deliver to the appropriate local governmental unit treasurer the tax collections received by the county treasurer within 10 business days after the county treasurer receives the funds.

(7) The county treasurer shall account for and deposit in the county library fund for the use of the county library board, county tax collections received pursuant to a tax levied under section 1 of Act No. 138 of the Public Acts of 1917, being section 397.301 of the Michigan Compiled Laws, within 10 business days after the county treasurer receives the funds.

(8) The county treasurer shall account for and deliver to the boards of each metropolitan transportation authority the county tax collections for transportation authority purposes received by the county treasurer within 10 business days after the county treasurer receives the funds.

(9) For taxes that become a lien in December 1984 or after 1984, an intermediate school district board or the board of trustees of a community college may provide that a local tax collecting treasurer shall account for and deliver tax collections directly to the respective intermediate school district or community college treasurer pursuant to the schedule contained in subsections (3), (4), and (5) for delivery of the respective taxes to the county treasurer. A resolution shall be adopted at least 60 days before the day taxes to be collected become a lien and shall specify the period for which the resolution is effective. Copies of the resolution shall be transmitted to each local tax collecting treasurer and county treasurer within the intermediate school district or community college district.

(10) By the fifteenth day of each month, the county treasurer shall account for and deliver to the state the collections under the state education tax act, Act No. 331 of the Public Acts of 1993, being sections 211.901 to 211.906 of the Michigan Compiled Laws, on hand on the last day of the preceding month. By the first day of each month, the county treasurer shall account for and deliver to the state the collections under the state education tax act, Act No. 331 of the Public Acts of 1993, on hand on or before the fifteenth day of the immediately preceding month. The county treasurer may retain the interest earned on the money collected under Act No. 331 of the Public Acts of 1993 while held by the county treasurer, as reimbursement for the cost incurred by the county in collecting and transmitting the tax imposed by that act. The money retained by the county treasurer under this section shall be deposited in the treasury of the county in which the tax is collected to the credit of the general fund.

(11) A treasurer who willfully neglects or refuses to perform a duty required by subsections (3) to (8) is subject to the penalty prescribed in section 119(1).

(12) Except as otherwise provided by subsection (10), interest earned by a city, township, or county on collections of taxes levied on or after November 5, 1985

before the tax collections are accounted for and delivered to the respective taxing units pursuant to this section shall also be accounted for and delivered to the respective taxing units on a pro rata basis. Interest earned by a city, township, or county on collections of taxes levied before November 5, 1985 before those collections were accounted for and delivered to the respective taxing units in compliance with the requirements of this section is not subject to claim and retroactive collection by those taxing units. However, interest earned on collections of taxes levied on or after November 5, 1985 and before December 1, 1987 are not subject to claim and retroactive collection unless a claim has been filed in a court of competent jurisdiction before March 1, 1988. This subsection does not apply to interest or penalties imposed by law or charter and does not nullify or prohibit any agreements made between a collecting unit and a taxing unit regarding the earned interest.

(13) If there is an agreement for an alternative schedule for delivering tax collections or for interest earned under subsections (4) and (12), the collection of the state education tax is subject to those provisions of that agreement.

(14) As used in this section:

(a) "Metropolitan transportation authority" means an authority created under the metropolitan transportation authorities act of 1967, Act No. 204 of the Public Acts of 1967, being sections 124.401 to 124.425 of the Michigan Compiled Laws.

(b) "Public transportation authority" means an authority created under Act No. 55 of the Public Acts of 1963, being sections 124.351 to 124.359 of the Michigan Compiled Laws. [MCL 211.43]

Sec. 44.

(1) Upon receipt of the tax roll, the township treasurer or other collector shall proceed to collect the taxes. The township treasurer or other collector shall mail to each taxpayer at the taxpayer's last known address on the tax roll or to the taxpayer's designated agent a statement showing the description of the property against which the tax is levied, the taxable value of the property, the amount of the tax on the property, and, for property returned to the county treasurer for delinquent taxes, in the year in which the property is returned to the county treasurer for delinquent taxes only, notice of the fact that as of March 1 there were delinquent taxes on the property, that those delinquent taxes were returned to the county treasurer for collection, and contact information for the county treasurer. However, if not later than 2 weeks before the tax bill is finalized, a local tax collecting unit receives from the county notice that previously delinquent taxes on a parcel of property are no longer delinquent, the statement for that property under this subsection is not required to include notice of the fact that as of March 1 there were delinquent taxes on the property, that those delinquent taxes were returned

to the county treasurer for collection, and contact information for the county treasurer. If a tax statement is mailed to the taxpayer, a tax statement sent to a taxpayer's designated agent may be in a summary form or may be in an electronic data processing format. If the tax statement information is provided to both a taxpayer and the taxpayer's designated agent, the tax statement mailed to the taxpayer may be identified as an informational copy. A township treasurer or other collector electing to send a tax statement to a taxpayer's designated agent or electing not to include an itemization in the manner described in subsection (10)(d) in a tax statement mailed to the taxpayer shall, upon request, mail a detailed copy of the tax statement, including an itemization of the amount of tax in the manner described by subsection (10)(d), to the taxpayer without charge.

(2) The expense of preparing and mailing the statement shall be paid from the county, township, city, or village funds. Failure to send or receive the notice does not prejudice the right to collect or enforce the payment of the tax. The township treasurer shall remain in the office of the township treasurer at some convenient place in the township from 9 a.m. to 5 p.m. to receive taxes on the following days:

(a) At least 1 business day between December 25 and December 31 unless the township has an arrangement with a local financial institution to receive taxes on behalf of the township treasurer and to forward that payment to the township on the next business day. The township shall provide timely notification of which financial institutions will receive taxes for the township and which days the treasurer will be in the office to receive taxes.

(b) The last day that taxes are due and payable before being returned as delinquent under section 78a(2).

(c) For the collection of a summer tax levy, the last day taxes are due and payable before interest is added under section 44a(5).

(3) Except as provided by subsection (7), on a sum voluntarily paid before February 15 of the succeeding year, the local property tax collecting unit shall add a property tax administration fee of not more than 1% of the total tax bill per parcel. However, unless otherwise provided for by an agreement between the assessing unit and the collecting unit, if a local property tax collecting unit other than a village does not also serve as the local assessing unit, the excess of the amount of property tax administration fees over the expense to the local property tax collecting unit in collecting the taxes, but not less than 80% of the fee imposed, shall be returned to the local assessing unit. A property tax administration fee is defined as a fee to offset costs incurred by a collecting unit in assessing property values, in collecting the property tax levies, and in the review and appeal processes. The costs of any appeals, in excess of funds available from the property tax administration fee, may be shared by any taxing unit only if approved by the governing body of the taxing unit. Except as provided

by subsection (7), on all taxes paid after February 14 and before taxes are returned as delinquent under section 78a(2) the governing body of a city or township may authorize the treasurer to add to the tax a property tax administration fee to the extent imposed on taxes paid before February 15 and the day that taxes are returned as delinquent under section 78a(2) a late penalty charge equal to 3% of the tax. The governing body of a city or township may waive interest from February 15 to the last day of February on a summer property tax that has been deferred under section 51 or any late penalty charge for the homestead property of a senior citizen, paraplegic, quadriplegic, hemiplegic, eligible serviceperson, eligible veteran, eligible widow or widower, totally and permanently disabled person, or blind person, as those persons are defined in chapter 9 of the income tax act of 1967, 1967 PA 281, MCL 206.501 to 206.532, if the person makes a claim before February 15 for a credit for that property provided by chapter 9 of the income tax act of 1967, 1967 PA 281, MCL 206.501 to 206.532, if the person presents a copy of the form filed for that credit to the local treasurer, and if the person has not received the credit before February 15. The governing body of a city or township may waive interest from February 15 to the day taxes are returned as delinquent under section 78a(2) on a summer property tax deferred under section 51 or any late penalty charge for a person's property that is subject to a farmland development rights agreement recorded with the register of deeds of the county in which the property is situated as provided in section 36104 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36104, if the person presents a copy of the development rights agreement or verification that the property is subject to a development rights agreement before February 15. A 4% county property tax administration fee, a property tax administration fee to the extent imposed on and if authorized under subsection (7) for taxes paid before taxes are returned as delinquent under section 78a(2), and interest on the tax at the rate of 1% per month shall be added to taxes collected by the township or city treasurer after the last day taxes are payable before being returned as delinquent under section 78a(2) and before settlement with the county treasurer, and the payment shall be treated as though collected by the county treasurer. If the statements required to be mailed by this section are not mailed before December 31, the treasurer shall not impose a late penalty charge on taxes collected after February 14.

(4) The governing body of a local property tax collecting unit may waive all or part of the property tax administration fee or the late penalty charge, or both. A property tax administration fee collected by the township treasurer shall be used only for the purposes for which it may be collected as specified by subsection (3) and this subsection. If the bond of the treasurer, as provided in section 43, is furnished by a surety company, the cost of the bond may be paid by the township from the property tax administration fee.

(5) If apprehensive of the loss of personal tax assessed upon the roll, the township treasurer may enforce collection of the tax at any time, and if compelled to seize

property or bring an action in December may add, if authorized under subsection (7), a property tax administration fee of not more than 1% of the total tax bill per parcel and 3% for a late penalty charge.

(6) Along with taxes returned delinquent to a county treasurer, the amount of the property tax administration fee prescribed by subsection (3) that is imposed and not paid shall be included in the return of delinquent taxes and, when delinquent taxes are distributed by the county treasurer under this act, the delinquent property tax administration fee shall be distributed to the treasurer of the local unit who transmitted the statement of taxes returned as delinquent. Interest imposed upon delinquent property taxes under this act shall also be imposed upon the property tax administration fee and, for purposes of this act other than for the purpose of determining to which local unit the county treasurer shall distribute a delinquent property tax administration fee, any reference to delinquent taxes shall be considered to include the property tax administration fee returned as delinquent for the same property.

(7) The local property tax collecting treasurer shall not impose a property tax administration fee, collection fee, or any type of late penalty charge authorized by law or charter unless the governing body of the local property tax collecting unit approves, by resolution or ordinance adopted after December 31, 1982, an authorization for the imposition of a property tax administration fee, collection fee, or any type of late penalty charge provided for by this section or by charter, which authorization shall be valid for all levies that become a lien after the resolution or ordinance is adopted. However, unless otherwise provided for by an agreement between the assessing unit and the collecting unit, a local property tax collecting unit that does not also serve as the assessing unit shall impose a property tax administration fee on each parcel at a rate equal to the rate of the fee imposed for city or township taxes on that parcel.

(8) The annual statement required by 1966 PA 125, MCL 565.161 to 565.164, or a monthly billing form or mortgagor passbook provided instead of that annual statement shall include a statement to the effect that a taxpayer who was not mailed the tax statement or a copy of the tax statement by the township treasurer or other collector shall receive, upon request and without charge, a copy of the tax statement from the township treasurer or other collector or, if the tax statement has been mailed to the taxpayer's designated agent, from either the taxpayer's designated agent or the township treasurer or other collector. A designated agent who is subject to 1966 PA 125, MCL 565.161 to 565.164, and who has been mailed the tax statement for taxes that became a lien in the calendar year immediately preceding the year in which the annual statement may be required to be furnished shall mail, upon request and without charge to a taxpayer who was not mailed that tax statement or a copy of that tax statement, a copy of that tax statement.

(9) For taxes levied after December 31, 2001, if taxes levied on qualified real property remain unpaid on February 15, all of the following shall apply:

(a) The unpaid taxes on that qualified real property shall be collected in the same manner as unpaid taxes levied on personal property are collected under this act.

(b) Unpaid taxes on qualified real property shall not be returned as delinquent to the county treasurer for forfeiture, foreclosure, and sale under sections 78 to 79a.

(c) If a county treasurer discovers that unpaid taxes on qualified real property have been returned as delinquent for forfeiture, foreclosure, and sale under sections 78 to 79a, the county treasurer shall return those unpaid taxes to the appropriate local tax collection unit for collection as provided in subdivision (a).

(10) As used in this section:

(a) "Designated agent" means an individual, partnership, association, corporation, receiver, estate, trust, or other legal entity that has entered into an escrow account agreement or other agreement with the taxpayer that obligates that individual or legal entity to pay the property taxes for the taxpayer or, if an agreement has not been entered into, that was designated by the taxpayer on a form made available to the taxpayer by the township treasurer and filed with that treasurer. The designation by the taxpayer shall remain in effect until revoked by the taxpayer in a writing filed with the township treasurer. The form made available by the township treasurer shall include a statement that submission of the form allows the treasurer to mail the tax statement to the designated agent instead of to the taxpayer and a statement notifying the taxpayer of his or her right to revoke the designation by a writing filed with the township treasurer.

(b) "Qualified real property" means buildings and improvements located upon leased real property that are assessed as real property under section 2(1)(c), except buildings and improvements exempt under section 9f, if the value of the buildings or improvements is not otherwise included in the assessment of the real property.

(c) "Taxpayer" means the owner of the property on which the tax is imposed.

(d) When describing in subsection (1) that the amount of tax on the property must be shown in the tax statement, "amount of tax" means an itemization by dollar amount of each of the several ad valorem property taxes and special assessments that a person may pay under section 53 and an itemization by millage rate, on either the tax statement or a separate form accompanying the tax statement, of each of the several ad valorem property taxes that a person may pay under section 53. The township treasurer or other collector may replace the itemization described in this subdivision with a statement informing the taxpayer that the

itemization of the dollar amount and millage rate of the taxes is available without charge from the local property tax collecting unit. [MCL 211.44]

Sec. 44a.

(1) Notwithstanding any other statutory or charter provision to the contrary, beginning in 2005 and each year after 2005, a county shall impose as a summer property tax levy that portion of the number of mills allocated to the county by a county tax allocation board or authorized for the county through a separate tax limitation vote as provided in this section. The portion of the total number of mills allocated to a county by a county tax allocation board or authorized for a county through a separate tax limitation vote that shall be imposed in each year as a summer property tax levy under this section is as follows:

(a) In 2005, 1/3 of the total number of mills allocated to the county by a county tax allocation board or authorized for the county through a separate tax limitation vote.

(b) In 2006, 2/3 of the total number of mills allocated to the county by a county tax allocation board or authorized for the county through a separate tax limitation vote.

(c) In 2007 and each year after 2007, the total number of mills allocated to the county by a county tax allocation board or authorized for the county through a separate tax limitation vote.

(2) Notwithstanding any other statutory or charter provision to the contrary, beginning in 2013 and each year after 2013, a millage that is levied by any taxing authority within a local tax collecting unit that had been previously billed and collected as part of the winter property tax levy in a preceding tax year may be accelerated and collected earlier in that tax year as a summer property tax levy if all of the following conditions are satisfied:

(a) The aggregate amount of the revenue from the levy and collection of all individual millages that would be levied and collected in the winter tax bill totals \$100.00 or less per individual tax bill, excluding any property tax administration fee. A millage may be accelerated and collected earlier for only those tax bills that total \$100.00 or less for all individual millages and that millage may be levied and collected as a winter property tax levy for all other tax bills that total more than \$100.00 for all individual millages. Any additional millage approved to be levied by any taxing authority after collection of the summer property tax levy shall be collected as part of a winter property tax levy as provided in this act.

(b) A resolution authorizing the summer collection is approved by all of the following:

(i) The county board of commissioners.

(ii) The legislative body of the local tax collecting unit.

(iii) The county tax allocation board, if any.

(c) Within 60 days of approval of the resolutions required under subdivision (b), the local tax collecting unit notifies all owners of property on the tax roll that if the aggregate amount of the revenue from the levy and collection of all individual millages that would be levied and collected in the winter tax bill totals \$100.00 or less, excluding any property tax administration fee, those millages will be accelerated and collected as a summer property tax levy.

(3) Before June 30 and in conformance with the procedures prescribed by this act, the taxes being collected as a summer property tax levy shall be spread in terms of millages on the assessment roll, the amount of tax levied shall be assessed in proportion to the taxable value, and a tax roll shall be prepared that commands the appropriate treasurer to collect on July 1 the taxes indicated as due on the tax roll.

(4) Taxes authorized to be collected shall become a lien against the property on which assessed, and due from the owner of that property on July 1.

(5) All taxes and interest imposed pursuant to this section that are unpaid before March 1 shall be returned as delinquent on March 1 and collected pursuant to this act.

(6) Interest shall be added to taxes collected after September 14 at that rate imposed by section 78a on delinquent property tax levies that became a lien in the same year. However, if September 14 is on a Saturday, Sunday, or legal holiday, the last day taxes are due and payable before interest is added is on the next business day and interest shall be added to taxes that remain unpaid on the immediately succeeding business day. The tax levied under this act that is collected with the city taxes shall be subject to the same penalties, interest, and collection charges as city taxes and shall be returned as delinquent to the county treasurer in the same manner and with the same interest, penalties, and fees as city taxes.

(7) All or a portion of the fees or charges, or both, authorized under section 44 may be imposed on taxes paid before March 1 and shall be retained by the treasurer actually performing the collection of the summer property tax levy pursuant to this section, regardless of whether all or part of these fees or charges, or both, have been waived by the township or city.

(8) Collections shall be remitted to the county for which the taxes were collected pursuant to section 43.

(9) To the extent applicable and consistent with the requirements of this section, this act shall apply to proceedings in relation to the assessment, spreading, and collection of taxes pursuant to this section.

(10) Each county shall establish a restricted fund known as the revenue sharing reserve fund. The total amount required to be placed in the revenue sharing reserve fund for each county shall equal the amount of that county's December 2004 property tax levy of the total number of mills allocated to the county by a county tax allocation board or authorized for the county through a separate tax limitation vote, less any amount of tax levy captured and used under a tax increment financing plan under 1975 PA 197, MCL 125.1651 to 125.1681; the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830; the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174; or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, and shall be deposited in the revenue sharing reserve fund as provided in this section. Revenues credited to the revenue sharing reserve fund from the December tax levy of a county with a fiscal year ending December 31 shall be accrued to the fiscal year ending in the year of that December property tax levy. Revenue shall be credited to the fund by each county as follows:

(a) From the county's December 2004 property tax levy, 1/3 of the total December levy of the total number of mills allocated to the county by a county tax allocation board or authorized for the county through a separate tax limitation vote, less any amount of tax levy captured and used under a tax increment financing plan under 1975 PA 197, MCL 125.1651 to 125.1681; the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830; the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174; or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(b) From the county's December 2005 property tax levy, 1/2 of the remaining balance required to be deposited in the fund.

(c) From the county's December 2006 property tax levy, the balance required to be deposited in the fund.

(11) All of the following apply to a revenue sharing reserve fund established under subsection (10):

(a) Funds in the revenue sharing reserve fund may not be expended in any fiscal year except as provided in this section.

(b) Funds in the revenue sharing reserve fund may be used within a county fiscal year for cash flow purposes at the discretion of the county.

(c) Interest earnings on funds deposited in the revenue sharing reserve fund shall be credited to the revenue sharing reserve fund. However, the county is not required to reimburse the revenue sharing reserve fund for a reduction of interest earnings that occurs because funds in the revenue sharing reserve fund were used for cash flow purposes.

(d) The revenue sharing reserve fund shall be separately reported in the annual financial report required under section 4 of 1919 PA 71, MCL 21.44.

(12) For a county fiscal year that ends on December 31, 2004, a county may expend in that fiscal year an amount not to exceed the payments made to that county under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, in October and December 2003 and, if the payment is accrued back to the county's 2003 fiscal year, February 2004.

(13) Not later than March 1, 2005, a county that receives a payment in October 2004 as provided in a bill making appropriations to the department of treasury for the 2004-05 fiscal year shall pay the amount of that payment to the state treasurer from the revenue sharing reserve fund. A county that does not make the payment required under this subsection shall not make any expenditures from the fund provided under subsection (13).

(14) For each fiscal year of a county that begins after September 30, 2004, a county may expend from the revenue sharing reserve fund an amount not to exceed the total payments made to that county under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, in the state fiscal year ending September 30, 2004, adjusted annually by the inflation rate, without regard to any executive orders issued after May 17, 2004. As used in this subsection, "inflation rate" means that term as defined in section 34d.

(15) A county's required 2012 revenue sharing reserve fund balance shall be reduced by an amount equal to the amount of county allocated property tax the county had to refund for the 2004 tax year due to a single court judgment, if the refund of 2004 county allocated tax due to that judgment was at least 70% of the county's 2011 allowable withdrawal from its revenue sharing reserve fund. The refund amount shall include the interest the county paid on the 2004 property tax refund.

(16) If a resolution authorizing a summer property tax levy for a tax previously billed as part of the winter property tax levy is approved under subsection (2), the treasurer that collects the summer property tax levy shall establish a restricted fund to be known as the other levies reserve fund for any millage collected that

was previously billed as part of the winter property tax levy. Any millage that had been previously billed and collected as part of the winter property tax levy in a preceding tax year that is accelerated and collected earlier as a summer property tax levy shall be deposited into the other levies reserve fund. The treasurer that collects the summer property tax levy shall distribute to the local taxing authorities the revenues credited to the other levies reserve fund from the summer property tax collection of a millage that had been previously billed and collected as part of a winter property tax levy on December 1 of the tax year that the December property tax levy would otherwise have been due and payable. If a millage previously billed and collected as part of the winter property tax levy is accelerated and collected earlier as a summer property tax levy, and if the millage collected in that summer property tax levy is less than that millage would have been if levied as part of the immediately succeeding winter property tax levy, the treasurer that collected the summer property tax levy may issue a supplemental winter tax bill for the deficiency or, if approved by a resolution of the legislative body of the local unit that collected the summer property tax levy, pay any deficiency from that local unit's general fund. The treasurer collecting the summer property tax levy shall account for interest earned on the other levies reserve fund and interest shall be transmitted to the various local tax collecting units in proportion to the revenue collected from a millage previously billed and collected as part of the winter property tax levy in a preceding tax year that is accelerated and collected earlier as a summer property tax levy, after a deduction of reasonable expenses incurred by the treasurer in administering the accounting and disbursement of funds, to the extent that those expenses are in addition to the expenses of accounting and disbursing other taxes.

(17) The treasurer that collects the state education tax shall collect the summer property tax levy under this section.” [MCL 211.44]

As provided in Section 43(3) the township treasurer or city treasurer collecting taxes for Local Units is required to remit to the Local Taxing Unit the taxes collected twice a month.

C. STATUTORY AUTHORITY FOR THE COLLECTION OF DELINQUENT TAXES

Regardless of the jurisdiction or when the taxes are initially billed, after the last day of February each year, the city, village or township treasurer ceases to collect delinquent real property taxes as provided by Section 55 of Act 206, which provides as follows:

Sec. 55. A township treasurer or other collecting officer who is unable to collect any of the taxes on the roll, assessed on real or personal property, shall make a duplicate statement of the same with a full and perfect description of the property, as entered on the tax roll, with the taxes assessed upon each parcel as shown on the roll and the name of the person to whom the property is assessed. A township treasurer or other collecting officer may include as a delinquent tax any

unpaid special assessment which is delinquent on the last day of February in the delinquent taxes returned to the county treasurer the next day pursuant to this section. A delinquent special assessment included as a delinquent tax pursuant to this section shall, after return to the county treasurer, be a valid tax for all purposes under this act. In lieu of this delinquent tax roll, the original tax roll may be used as a delinquent roll, if the use is approved by a resolution adopted by the county board of commissioners. If the original tax roll is used as a delinquent roll the amount of the taxes which remain unpaid on a piece of property at time of settlement with the county treasurer shall be extended in total to a column provided in the tax roll for this purpose. The aggregate total of this delinquent tax column in the tax roll constitutes the total taxes returned delinquent to the county treasurer. The state treasurer may prescribe a tax roll form which meets the requirements of this section or approve or disapprove tax roll forms adopted by the various tax collecting local units.

The collecting officer shall attach his affidavit to the tax roll or delinquent roll stating the aggregate amount of taxes remaining unpaid and the amounts remaining unpaid for each taxing unit and the amount of all moneys collected on account of taxes. The affidavit shall state in substance that the sums mentioned in the statement as uncollected remain unpaid and that the collecting officer has not, upon diligent inquiry, been able to discover any goods or chattels belonging to the person liable to pay the sums upon which he could levy the same.

If the original tax roll is used as a delinquent tax roll the county treasurer, upon receipt of the payment of an item of delinquent tax, shall note the fact of the payment of delinquent tax in the roll using a distinctive stamp or marking which clearly indicates that the tax was paid to the county treasurer, the date of payment and the number of the delinquent tax receipt. The county treasurer shall immediately compare the affidavits of the tax collecting officer with regard to the taxes collected and taxes remaining unpaid with the tax roll. If the county treasurer finds them to be correct, a certificate shall be added to each of them showing that the county treasurer has examined and compared the statements with the tax roll and found them correct, and shall file the original of the statements in his office and forward the duplicate to the township clerk who shall file them in his office. The county treasurer at any time may reject any tax upon land which has been twice assessed, or upon any parcel which is so erroneously or defectively described upon the tax roll that it cannot be correctly and easily ascertained. The township treasurer or other collecting officer upon filing the statement with the county treasurer, or within 5 days thereafter, shall file a duplicate statement with the secretary or director of each school district showing the amount of school taxes collected for the school district and the amount of school taxes remaining unpaid which have been returned delinquent to the county treasurer. The township treasurer or other collecting officer at the time of filing the statement shall also prepare duplicate statements or copies thereof to be signed and approved by the secretary or director of each school district which shall be recorded by the

township clerk and filed with the supervisor of the township. The county treasurer shall give to the township treasurer a receipt, stating the amount of moneys paid by the township treasurer, for which the township shall receive a credit on the books of the county treasurer, and shall also give the township treasurer a statement of all taxes rejected, the amount of delinquent taxes returned, and the amount of any unpaid taxes on personal property, which receipt and statements shall be the vouchers of the treasurer of the amounts specified therein. [MCL 211.55]

Pursuant to Section 55 of Act 206, the city, village or township treasurer returns to the Treasurer on March 1st each year a delinquent tax roll setting forth the total amount of delinquent real property taxes which are unpaid to the city, village or township treasurer on the last day of February each year.

At that point, the duty to collect these delinquent real property taxes is transferred to the Treasurer who is required (once the settlement between the Treasurer and the city, village or township treasurer is made covering the delinquent taxes so delivered) to release the city, village or township treasurer from their surety bonds and assume the obligation to collect these delinquent taxes pursuant to Section 56 of Act 206 which provides as follows:

Sec. 56. (1) The county treasurer shall indorse on the statement given to the township treasurer the fact of the settlement on the bond of the township or city treasurer, which indorsement shall operate as a discharge of the township or city treasurer and his or her sureties from the obligation on the bond, unless the return of the treasurer is incorrect, in which case the bond shall continue in force, and the township or city treasurer and his or her sureties shall be liable on the bond for all damages occasioned by incorrect returns. The township treasurer shall immediately deposit his or her tax roll with the county treasurer, who shall file and preserve the tax roll in his or her office. This tax roll or a certified copy of this tax roll shall, for all purposes and in all courts, actions, and proceedings, be taken, held, and used as evidence, in the same manner and with like effect as the original roll.

(2) The county treasurer shall give the township or city treasurer a statement of all the personal property taxes which remain uncollected, taken from the return of the township or city treasurer, with a warrant authorizing the township or city treasurer, or his or her successor, to collect them pursuant to law, and after receipt of this statement the township or city treasurer, or his or her successor, shall have the same power to collect the personal property taxes as under the original warrant. A township or city shall not be required to advance to the county treasurer or school district treasurer the amount of any unpaid county and school district taxes assessed against personal property, but any sums collected by any township or city treasurer upon county personal property taxes subsequent to the settlement with the county treasurer shall be paid to the county treasurer and any sums collected by any township or city treasurer upon school district personal

property taxes subsequent to the settlement with the county treasurer shall be paid to the school district treasurer within 10 days after the collection. The county treasurer and the township or city treasurer shall then credit the remitted personal property tax collections upon the returned tax roll and give receipt for them. The bond, if any, given by the township or city treasurer to the county treasurer covering the collection of county and school taxes shall not be kept in force on account of any unpaid personal property taxes but in case any treasurer should default in the payment to the county treasurer of any collected county personal property taxes or to the school district treasurer of any collected school district personal property taxes, after the termination of the bond, then the township or city of which he or she is treasurer shall be liable for these tax collections. [MCL 211.56]

Beginning March 1st each year, all of those delinquent real property taxes are collected by the county treasurer and all taxpayers must pay those delinquent taxes to the county treasurer and not to the city, village or township treasurer.

As pointed out above, until 1968 under procedures dating back to 1827, and which had generally been unchanged between 1893 and 1968, village, city and township treasurers made a return of the taxes for the previous year which they had been unable to collect by March 1st thereafter verifying the correctness of the return, the county treasurer discharges the city, village or township treasurer on his bond, and the tax rolls evidencing the delinquent taxes were deposited with the county treasurer. The county treasurer was thereafter responsible for the collection of all unpaid delinquent taxes.

In all counties, the county treasurer would then collect the delinquent real property taxes each month which were paid to his/her office together with the interest thereon and a collection fee. At the end of each month, the county treasurer would calculate the total amount collected including interest and remit that to the local taxing unit to which the tax belonged. The collection fee of 4% was retained by the county treasurer to cover the cost of collecting. The mechanics of the collections by the county treasurer and payments to the local taxing units are specified in Section 87 of Act 206 which provides as follows:

Sec. 87. (1) The accounts between this state and each county and local tax collecting unit in this state shall be adjusted on the basis of crediting and paying to each county and local tax collecting unit the taxes collected by and for each county and local tax collecting unit with interest on those taxes.

(2) The state treasurer shall, on January 1, April 1, July 1, and October 1 in each year, make a statement of account between this state and each county and deliver the statement of account to the county treasurer of each county together with a warrant payable to the county treasurer for all money in the state treasury collected for the county, a local tax collecting unit, school district, or highway in that county, or any other purposes for that county, local tax collecting unit, school

district, or highway. The state treasurer shall send notice of the warrant to the county clerk.

(3) At the time designated in subsection (2), the county treasurer shall pay to this state all money collected and due from that county to this state, as shown by the statement of account prepared by the state treasurer. On January 15, and on the fifteenth day of each month thereafter, the county treasurer shall pay to this state all money coming into his or her hands from the collection of the state tax, and shall transmit a sworn statement of the amount of taxes received from the collector in each assessing district in that county. The collector in each assessing district in the county shall pay to the county treasurer of its respective county all money collected not later than January 10, and not later than the tenth day of each month thereafter until the regular quarterly settlement for the quarter ending March 31 is made each year. The county treasurer or collector of each assessing district in the county shall also pay to the state treasurer for the use of this state $\frac{1}{2}$ of 1% for each month or fraction of a month as interest on all money in his or her possession belonging to this state and not remitted on the fifteenth of the month. The state treasurer shall include all sums due as interest in his or her quarterly statement to the county treasurer. The sum due as interest shall be paid by the county the same as the taxes are paid and collected by the county from the treasurer or the sureties on his or her bond.

(4) The county treasurer of each county shall, on or before the fifteenth day of each month, make out a detailed statement of account for the preceding calendar month between the county and the local tax collecting units in that county. The statement shall show the different funds to which the several debits and credits belong. The county treasurer shall deliver the statement to the treasurer of the local tax collecting unit and pay the amount shown by the statement to the local tax collecting unit. The county treasurer shall notify the clerk of the local tax collecting unit of the total amount paid and provide a description of the property upon which the taxes were paid. The county clerk shall charge that amount to the county treasurer, and the clerks of the local tax collecting units shall charge that amount to the treasurers of the local tax collecting units on the books of their respective offices.

(5) Treasurers for the local tax collecting units are not required to make a settlement with the county treasurer for the items of state and county taxes included in the annual charge back list until the annual settlement with the county treasurer.

(6) The county board of commissioners by majority vote may authorize the county treasurer to pay directly to the school districts all money shown on the statement to be due to the school districts within the county. In that case the county superintendent is not required to compute and report delinquent school taxes handled by the county. [MCL 211.87]

D. CREATION OF THE DELINQUENT TAX REVOLVING FUND

A 1968 amendment to the Act 206 permitted any county which chose to do so to create a "delinquent tax revolving fund" and to thereafter pay to all of the taxing units within the county all delinquent real property taxes due to such taxing units on settlement day. Once created, all delinquent taxes, interest and collection fees were payable to the county (to be deposited in the fund) on the date the same became delinquent.

Thereafter, a number of counties, using their own funds, established such funds, some of which continued to operate as originally established. The advantage to the Local Units was obvious; instead of having to wait for three years to collect their delinquent taxes, 100% collection was achieved by the date on which the delinquent rolls were received and accepted by the county treasurer. The advantages to the county were (i) the elimination of considerable paperwork in having to account and pay on a monthly basis to the various local taxing units the delinquent taxes and interest as the same were received by the county treasurer's office and (ii) the right of the county to retain the interest on such taxes. The county was protected from loss in the event some taxes were totally uncollectible by the provision that the underlying obligation to repay to the county the amounts received by the local taxing units rested with the local taxing units.

E. BORROWING FOR THE PURPOSE OF RAISING MONEY TO PLACE IN THE DELINQUENT TAX REVOLVING FUND

This method, however, was "an alternative method for paying taxes to local units" (Section 87b(9)). Inasmuch as the election had to be predicated on the county's ability to provide funds for the delinquent tax revolving fund, most counties (not having sufficient surplus funds on hand for this purpose) did not elect to create such funds and continued to operate as before until after mid-1972 when the first borrowing provisions were added to Act 206.

The borrowing provisions in effect today are set forth by two different statutes; Act 206 and act No. 94 of the Public Acts of Michigan of 1933, as amended. ("Act 94")

CHAPTER IV

MICHIGAN STATUTORY LAW CURRENTLY AUTHORIZING BORROWINGS AGAINST DELINQUENT TAXES

A. 2016 AMENDMENTS TO ACT 206

Effective April 12, 2016 Sections 87b and 87c of Act 206 were amended and Section 87f was added to provide as follows:

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. A separate delinquent tax revolving fund shall be created for each year's delinquent taxes. 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). [MCL 211.87b]

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, on behalf of the taxing units in the county and this state, 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 (4), there shall be payable to the county treasurer's office from the surplus in the fund after payment of the principal of and interest on the notes and the expenses of the borrowing an amount equal to the following 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.

(c) Notwithstanding any other provision of this act or other law to the contrary, a county shall not pay any sums due to a county treasurer for services as agent for that county that have not been paid prior to December 21, 2012.

(4) The total sum payable under subsection (3) shall not exceed 5% of the total budget of the treasurer's office for that year.

(5) If a county determines to borrow pursuant to this section, the delinquent taxes from which the borrowing is to be repaid and, to the extent held in the delinquent tax revolving fund, any money and other property and assets received in connection with those delinquent taxes and revenues derived from the delinquent taxes and money and other property and assets, including any money in a note reserve fund, shall be pledged as security for, and used for the payment of, the principal and interest of the notes until the notes are paid in full, including interest. Money and other property held in the delinquent tax revolving fund shall be kept separate from and shall not be commingled with any other money in the custody of the county treasurer. 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) 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.

(16) 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.

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

(18) This section may be superseded by section 87f, as provided in section 87f(1). [MCL 211.87c]

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), 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 of the general property tax act, 1893 PA 206, MCL 211.78m and 211.78r, 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 141.1076. [MCL 211.87f]

B. AMENDMENTS TO ACT 94

Effective April 12, 2016 Section 3 of Act 94 was amended and Sections 7b, 21a and 22a were added to Act 94 to provide as follows:

Sec 3

(a) "Public corporation" means a county, city, village, township, school district, port district, or metropolitan district of the state or a combination of these if authorized by law to act jointly; an authority created by or under an act of the legislature; or a municipal health facilities corporation or subsidiary municipal health facilities corporation incorporated as provided in the municipal health facilities corporations act, 1987 PA 230, MCL 331.1101 to 331.1507.

(b) "Public improvements" means only the following improvements: housing facilities; garbage disposal plants; rubbish disposal plants; incinerators; transportation systems, including plants, works, instrumentalities, and properties used or useful in connection with those systems; sewage disposal systems, including sanitary sewers, combined sanitary and storm sewers, plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of sewage or industrial wastes; storm water systems, including storm sewers, plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of storm water; water supply systems, including plants,

works, instrumentalities, and properties used or useful in connection with obtaining a water supply, the treatment of water, or the distribution of water; utility systems for supplying light, heat, or power, including plants, works, instrumentalities, and properties used or useful in connection with those systems; approved cable television systems, approved cable communication systems, or telephone systems, including plants, works, instrumentalities, and properties used or useful in connection with those systems; automobile parking facilities, including within or as part of the facilities areas or buildings that may be rented or leased to private enterprises serving the public; yacht basins; harbors; docks; wharves; terminal facilities; elevated highways; bridges over, tunnels under, and ferries across bodies of water; community buildings; public wholesale markets for farm and food products; stadiums; convention halls; auditoriums; dormitories; hospitals and other health care facilities; buildings devoted to public use; museums; parks; recreational facilities; reforestation projects; aeronautical facilities; and marine railways; or any right or interest in or equipment for these improvements. The term "public improvement" means the whole or a part of any of these improvements or of any combination of these improvements or any interest or participation in these improvements, as determined by the governing body. The definition contained in this subdivision does not broaden or enlarge the extent of a particular public improvement made by a public corporation.

(c) "Borrower" means a public corporation exercising the power to issue bonds as provided in this act or a county treasurer exercising the power to issue notes as provided in this act.

(d) "Governing body" means for a county, the board of commissioners; for a city, the body having legislative powers; for a village, the body having legislative powers; for a township, the township board; for a school district, the board of education; for a port district, the port commission; for a metropolitan district, the legislative body of the district; for a municipal health facilities corporation, the board of trustees; for a nonprofit subsidiary municipal health facilities corporation, the nonprofit subsidiary board; and for an authority, the body in which is lodged general governing powers. If the charter of a public corporation or applicable law provides that a separate board has general management over a public improvement, "governing body" means, with respect to that public improvement, the separate board, subject to review by the legislative body of the public corporation as the charter or law may provide. Unless the charter or law specifically provides otherwise, the

separate board shall adopt the bond authorizing ordinance, but shall not pledge full faith and credit.

(e) "Rates" means the charges, fees, rentals, and rates that may be fixed and imposed for the services, facilities, and commodities furnished by a public improvement.

(f) "Revenues" means the income derived from the rates charged for the services, facilities, and commodities furnished by a public improvement. Revenues include, to the extent provided in the authorizing ordinance, earnings on investment of funds of the public improvement and other revenues derived from or pledged to operation of the public improvement.

(g) "Net revenues" means the revenues of a public improvement remaining after deducting the reasonable expenses of administration, operation, and maintenance of the public improvement.

(h) "Project cost" or "costs" means the costs of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing a public improvement, including any engineering, architectural, legal, accounting, financial, and other expenses incident to the public improvement. Project costs include interest on the bonds, and other obligations of the borrower issued to pay project costs, during the period of construction and until full revenues are developed. Project costs include a reserve or addition to a reserve for payment of principal and interest on the bonds and the amount required for operation and maintenance until sufficient revenues have developed.

(i) "Ordinance" means an ordinance, resolution, or other appropriate legislative enactment of the governing body of a public corporation.

(j) "Approved cable television system" or "approved cable communication system" means a cable television or communication system to which 1 of the following applies:

(i) A municipality acquires or establishes the system either before January 1, 1987 or before a system is established in that municipality by a private person.

(ii) A municipality acquires or establishes the system after a system is established in that municipality by a private person and after approval by a majority of the electors in the affected area of that municipality voting on the question of the sale of revenue bonds to finance the acquisition or establishment of the municipal system.

(k) "County treasurer" means an elected county treasurer or a county treasurer appointed under section 5 of 1923 PA 199, MCL 201.35, of a county.

(l) "Delinquent tax revenues" means the delinquent taxes, interest, penalties and fees, and chargebacks of uncollected delinquent taxes due or to become due to local units of government to be collected by a county treasurer as agent for the local unit of government in connection with a delinquent tax system and pledged to any borrowing by a county treasurer under section 7b. Delinquent tax revenues do not include fees, charges, and other amounts due and payable to the county treasurer under section 87c(3) of the general property tax act, 1893 PA 206, MCL 211.87c.

(m) "Delinquent tax system" means the delinquent tax revolving fund in any county created and designated under section 87b of the general property tax act, 1893 PA 206, MCL 211.87b, and continued under section 87f of the general property tax act, 1893 PA 206, MCL 211.87f.

(n) "Order" means the legislative enactment of a county treasurer's powers under this act.

[MCL 141.3]

Section 7b

(1) A county treasurer in any county that has continued a delinquent tax revolving fund under section 87b of the general property tax act, 1893 PA 206, MCL 211.87b, and that has authorized the issuance of notes under this act pursuant to section 87f of the general property tax act, 1893 PA 206, MCL 211.87f, may by order of the county treasurer and without a vote of the electors borrow money and issue its revenue notes on behalf of itself and the local units of government secured by delinquent tax revenues from the county's delinquent tax revolving fund.

(2) In the order authorizing the borrowing and issuance of notes, the delinquent tax revenues from which the borrowing is to be repaid shall be pledged as security for the payment of the principal and interest on the notes. Money and other property held in the delinquent tax revolving fund, including collections on the delinquent tax revenues, shall be kept separate from and shall not be commingled with any other money in the custody of the county treasurer. 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.

(3) The proceeds of the notes shall be placed in and used as the whole or part of the delinquent tax revolving fund established under section 87b of the general property tax act, 1893 PA 206, MCL 211.87b, after the expenses of borrowing have been deducted.

(4) 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 all of the following:

(i) The delinquent tax revenues pledged, exclusive of interest.

(ii) At the option of the county treasurer, and to the extent authorized under section 87f of the general property tax act, 1893 PA 206, MCL 211.87f, a note reserve fund in an amount not to exceed 15% of each borrowing.

(iii) The cost of issuance.

(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 county treasurer by order determines.

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

(e) The order 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.

(f) The sale and award of notes shall be conducted and made by the county treasurer 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.

(5) If the county board of commissioners provides by resolution, the notes may also be limited tax full-faith and credit obligations of the county subject to the state constitution of 1963 as to the levying of any taxes not authorized by the voters or by law unless the county has held an election pursuant to section 87d of the general property tax act, 1893 PA 206, MCL 211.87d, if the county's voters have approved the proposition found in section 87d(1) of the general property tax act, 1893 PA 206, MCL 211.87d, permitting the county to pledge the county's unlimited taxing power for the purpose of providing money for the delinquent tax revolving fund. 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.

(6) If the county board of commissioners provides by resolution, the notes may be secured additionally by a pledge of the county's general fund and are subject to all the following:

(a) The notes shall be designated general obligation limited tax notes.

(b) The notes shall be the full faith and credit obligations of the county issuing them. If the proceeds of the taxes and interest and, when pledged, county property tax administration fees, or note reserve fund are not sufficient to pay the principal and interest, when due, the county shall pay the principal and interest from its general funds or any additional tax which may be levied within its constitutional and statutory debt limits, and the county may subsequently reimburse itself from delinquent taxes collected. The county's obligation to pay from its general funds shall be its first budget obligation and shall be provided for in the borrowing resolution in the following language:

"This note issue, in addition, shall be a general obligation of the county of _____, secured by its full faith and credit, which shall include this county's limited tax obligation, within applicable constitutional and statutory limits, and its general funds. The county

budget shall provide that if the pledged delinquent taxes and any other pledged amounts are not collected in sufficient amounts to meet the payments of principal and interest due on these notes, the county, before paying any other budgeted amounts, will promptly advance from its general funds sufficient money to pay that principal and interest."

(7) Notwithstanding any other provisions of this section, all the following apply:

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

(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 county treasurer's order may authorize.

(iii) Callable as set forth in the order.

(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 and secured by a second lien on delinquent tax revenues, interest, and 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.

(8) 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.

(9) 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.

(10) To the extent authorized under section 87f of the general property tax act, 1893 PA 206, MCL 211.87f, a county treasurer shall have all the powers granted by this act to a public corporation and shall exercise those powers by order. A copy of that order shall be maintained in the records of the county treasurer, and a second copy shall be filed with the county clerk on December 31 each year for all such orders issued that year.

(11) 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 treasurer to issue notes by 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 this section.

(12) If the treasurer so authorizes in 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.

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

[MCL 141.7b]

Section 21a

(1) Delinquent tax revenues shall be fixed before the issuance of the notes and shall be sufficient to provide for all of the following:

(a) The payment of the interest on and the principal of notes payable from the delinquent tax revenues when the notes become due and payable.

(b) The creation of any reserve for the notes as required in the order authorizing the issuance of those notes.

(2) The county treasurer shall covenant and agree in the order authorizing the issuance of the notes and on the face of each note to collect at all times the amounts pledged to repay the notes which shall be sufficient to provide for the amounts described in subsection (1). The amounts pledged that are fixed and established pursuant to the order shall not be subject to revision or change.

(3) Notes issued and sold under this section shall be secured by a statutory lien on the delinquent taxes and, to the extent held in the delinquent tax revolving fund, on all other property and assets and any revenues derived from the delinquent taxes and other property or assets. The lien shall automatically attach without further action or authorization by the county treasurer. The lien on the delinquent taxes and all other property and assets and any revenues derived from the delinquent taxes and other property or assets that are held in the delinquent tax revolving fund 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, the county treasurer, its successors, transferees, and creditors, and all others asserting rights in the secured property, irrespective 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 which are subject to the lien shall be held in trust for the owners of the notes authorized by this section. 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 of the general property tax act, 1893 PA 206, MCL 211.78m and 211.78r, shall be released from any lien created under this section.

[MCL 141.121a]

Section 22a

(1) In the authorizing order, the county treasurer shall also provide that the delinquent tax revenues of the delinquent tax system are all subject to a statutory lien and shall be kept separate from and shall not be commingled with any other money in the custody of the county treasurer. The delinquent tax revenues of the delinquent tax system shall be used to provide for the payment of the principal of and the interest upon all notes payable from those revenues, as and when the notes become due and payable. This account shall be designated note and interest redemption account and shall be subject to the statutory lien. In respect to the allocation and use of money in the note and interest redemption account, due recognition shall be given as to priority rights, if any, between different issues or series of outstanding notes. If authorized under a resolution adopted by the 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 county treasurer may provide by order that a reasonable excess amount shall be set aside in the note and interest redemption account from time to time so as to produce and provide a reserve to meet any possible future deficiencies, which reserve shall also be subject to the statutory lien.

(2) Revenues remaining, after satisfaction of subsection (1), at the end of any operating year shall be part of the surplus in the delinquent tax revolving fund which may be transferred to the county general fund as provided in section 87b(7) of the general property tax act, 1893 PA 206, MCL 211.87b.

[MCL 141.122a]

.....

Section 24a

Money in the several accounts of the delinquent tax system shall be deposited as designated by the county board of commissioners of the

county. Money in the several accounts of the delinquent tax system, except money in the note and interest redemption account and money derived from the proceeds of sale of the notes each of which shall be kept in a separate deposit account, may be kept in 1 deposit account, provided, however, that only delinquent tax revenues of the delinquent tax systems shall be held in or credited to that deposit account and those funds and other property shall not be commingled with any other money of or in the custody of the county treasurer. In that case, the money in the combined deposit accounts shall be allocated on the books and records of the county treasurer to the various accounts in the manner provided in the authorizing order. The county treasurer of the county may provide that the money in the several accounts of the delinquent tax system be kept in separate depository accounts. The money in the note and interest redemption account shall be accounted for separately.

[MCL 141.24a]

CHAPTER V

CREATION OF A DELINQUENT TAX REVOLVING FUND AFTER APRIL 12, 2016

A. WHERE A COUNTY DOES NOT UTILIZE THE PROVISIONS OF SECTION 87F OF ACT 206

Unless a County Board of Commissioners exercises its option to utilize the provisions of Section 87f of Act 206 the creation or continuation of a Delinquent Tax Revolving Fund remains the same as it was under the law in effect before April 12, 2016.

B. WHERE A COUNTY WISHES TO USE THE PROVISIONS OF SECTION 87F OF ACT 206

1. **Adoption of Resolution by Board of Commissioners exercising option to use Section 87f.**

In order to proceed under this option the Board of Commissioners must adopt a resolution specifically determining to use the provisions of Section 87f of Act 206 which resolutions will also specifically continue the Delinquent Tax Revolving Fund in such county but under the statutory provisions set forth in Section 87f. This resolution must be adopted each year for the County to use Act 94.

2. **Effect of opting to use Section 87f**

a. **Most Provisions in Sections 87b and 87c No Longer Apply**

Sub paragraph (1) of Section 87f provides as follows:

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), 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.

[MCL 211.87f(1)]

Accordingly Section 87f supersedes everything in Section 87b and 87c of Act 206 except the provisions of 87b(7) which provides as follows:

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

[MCL 211.87b(7)]

b. All Delinquent Taxes Are Now Payable to the County Treasurer Not the County

Section 87f provides in part as follows:

(2).

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.]

[MCL 211. 87f(2)]

.....

(3) The delinquent taxes returned to the county treasurer shall remain the property of the local units of government and the county treasurer shall serve solely as a collection agent for those delinquent taxes

[MCL 211.87.f(3)]

Formerly under Act 206 all delinquent taxes were payable to the county and collected by the county treasurer under his official duties as treasurer.

Once 87f applies the taxes interest and penalties which are collected are payable to the county treasurer not the county.

c. Money Received by the Treasurer is Held in Trust for the Taxing Units in the County and the County Has No Right to the Money

As set forth above, the money received is held in trust for the local units once it is received by the county treasurer. In addition the money must be held separate from and cannot be **“commingled with any other money, property or assets in the custody of the county treasurer”**

Moreover the county has no right, title or interest in the delinquent tax revolving fund and the county treasurer is only a collecting agent.

CHAPTER VI.

**WHERE A COUNTY USES SECTION 87F THE COUNTY TREASURER
BORROWS NOT UNDER ACT 206 BUT UNDER ACT 94**

**A. THE BOARD OF COMMISSIONERS MUST
FIRST APPROVE USING ACT 94**

1. Statutory Borrowing Provisions

Section 3 subparagraphs (k), (l), (m) and (n) of Act 94 provide as follows:

Sec 3

(k) "County treasurer" means an elected county treasurer or a county treasurer appointed under section 5 of 1923 PA 199, MCL 201.35, of a county.

(l) "Delinquent tax revenues" means the delinquent taxes, interest, penalties and fees, and chargebacks of uncollected delinquent taxes due or to become due to local units of government to be collected by a county treasurer as agent for the local unit of government in connection with a delinquent tax system and pledged to any borrowing by a county treasurer under section 7b. Delinquent tax revenues do not include fees, charges, and other amounts due and payable to the county treasurer under section 87c(3) of the general property tax act, 1893 PA 206, MCL 211.87c.

(m) "Delinquent tax system" means the delinquent tax revolving fund in any county created and designated under section 87b of the general property tax act, 1893 PA 206, MCL 211.87b, and continued under section 87f of the general property tax act, 1893 PA 206, MCL 211.87f.

(n) "Order" means the legislative enactment of a county treasurer's powers under this act.

[MCL 141.3]

Section 7b of Act 94 provides in part as follows:

Sec 7b

(1) A county treasurer in any county that has continued a delinquent tax revolving fund under section 87b of the general property tax act, 1893 PA 206, MCL 211.87b, and that has authorized the issuance of notes under this act pursuant to section 87f of the general property tax act, 1893 PA 206, MCL 211.87f, may by order of the county treasurer and without a vote of the electors borrow money and issue its revenue notes on behalf of itself and the local units of government secured by delinquent tax revenues from the county's delinquent tax revolving fund.

(2) In the order authorizing the borrowing and issuance of notes, the delinquent tax revenues from which the borrowing is to be repaid shall be pledged as security for the payment of the principal and interest on the notes. Money and other property held in the delinquent tax revolving fund, including collections on the delinquent tax revenues, shall be kept separate from and shall not be commingled with any other money in the custody of the county treasurer. 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.

[MCL 141.7b]

Section 21a of Act 94a provides in part as follows:

Sec 21.a

(2) The county treasurer shall covenant and agree in the order authorizing the issuance of the notes and on the face of each note to collect at all times the amounts pledged to repay the notes which shall be sufficient to provide for the amounts described in subsection (1). The amounts pledged that are fixed and established pursuant to the order shall not be subject to revision or change.

(3) Notes issued and sold under this section shall be secured by a statutory lien on the delinquent taxes and, to the extent held in the delinquent tax revolving fund, on all other property and assets and any revenues derived from the delinquent taxes and other property or assets. The lien shall automatically attach without further action or authorization by the county treasurer. The lien on the delinquent

taxes and all other property and assets and any revenues derived from the delinquent taxes and other property or assets that are held in the delinquent tax revolving fund 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, the county treasurer, its successors, transferees, and creditors, and all others asserting rights in the secured property, irrespective 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 which are subject to the lien shall be held in trust for the owners of the notes authorized by this section. 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 of the general property tax act, 1893 PA 206, MCL 211.78m and 211.78r, shall be released from any lien created under this section. [MCL 211.121a]

Section 22a of Act 94 provides in part as follows:

Sec 22a

(1) In the authorizing order, the county treasurer shall also provide that the delinquent tax revenues of the delinquent tax system are all subject to a statutory lien and shall be kept separate from and shall not be commingled with any other money in the custody of the county treasurer. The delinquent tax revenues of the delinquent tax system shall be used to provide for the payment of the principal of and the interest upon all notes payable from those revenues, as and when the notes become due and payable. This account shall be designated note and interest redemption account and shall be subject to the statutory lien. In respect to the allocation and use of money in the note and interest redemption account, due recognition shall be given as to priority rights, if any, between different issues or series of outstanding notes. If authorized under a resolution adopted by the 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 county treasurer may provide by order that a reasonable excess amount shall be set aside in the note and interest redemption account from time to time so as to produce and provide a reserve to meet any possible future deficiencies, which reserve shall also be subject to the statutory lien. [MCL 211.122a] ***

2. The Actual Approval to Use Act 94 must be Included in a Resolution Adopted by the Board of Commissioners

When the Board of Commissioners approves the use of Act 94 (as opposed to Act 206) it must do so each year that the County Treasurer is authorized to do such a borrowing. While there may be some conditions attached to the approval, the conditions must meet the statutory requirements. The most common condition would be to authorize a maximum amount for the borrowing.

B. WHERE THE COUNTY WISHES TO PLEDGE ITS LIMITED TAX FULL FAITH AND CREDIT AS EXTRA SECURITY FOR REPAYMENT OF THE NOTES THE BOARD OF COMMISSIONERS MUST APPROVE THIS PLEDGE BY RESOLUTION

Under Act 206, the County always approves an extra pledge of its limited Tax Full Faith and Credit as extra security for repayment of the notes (hence the name “Limited Tax Notes”).

Since Act 94 Notes are primarily secured by “delinquent tax revenues” the extra pledge of the County’s limited tax full faith and credit cannot occur unless it is specifically approved by a resolution of the Board of Commissioners.

C. ALL OTHER PARTS OF THE TRANSACTION ARE APPROVED BY THE COUNTY TREASURER

1. Details of Act 206 Borrowing are Approved by Board of Commissioners

In Act 206 Borrowing, all of the details of the borrowing must be specifically approved in the borrowing resolution adopted by the Board of Commissioners.

Thus, the maximum amount of the borrowing, the maturity dates, the amount pledged for repayment, as well as, whether the notes have a fixed or floating rate, the type of sale (competitive or negotiated) are all included in the borrowing resolution together with any provisions for a Note Reserve.

2. Act 94 Borrowing Details are all Approved by the County Treasurer

Unlike a borrowing under Act 206, an Act 94 borrowing is entirely approved the orders executed by the County Treasurer.

a. Borrowing Order

The Borrowing Order is like the Borrowing Resolution adopted by the Board of Commissioners. This approves the amount to be borrowed, the maximum interest rate, any covenants the security to be pledged to secure the borrowing and sets the terms of repayment and whether the notes will be sold at competitive or negotiated sale.

b. Either in the Borrowing Order or in a Separate Document the County Treasurer establishes any Note Reserve fund or other Extra Security for the Notes

In addition to the Borrowing Order, the County Treasurer will customarily sign additional orders covering a variety of matters including, but not limited to, any note reserve, additional security of other types and other matters related to the borrowing including various covenants.

D. ADVANTAGES OF AN ACT 94 BORROWING

1. In a Bankruptcy of the County, the Notes have Superior Protection to Notes Issued Under Act 206

Under Act 206, it is possible that the creditors might be able to claim some or all of the unpaid delinquent taxes are owed to the County and are not payable solely to the holders of the Notes.

2. The Threat that this Could Occur will Affect the Interest Rate Charged by Buyers of the Notes Even if the County is Not Yet in Bankruptcy

As an example, in 2015 newspaper accounts of financial difficulties being experienced by Wayne County made its notes very difficult to market because of the worry that an emergency manager might be appointed and that bankruptcy could result. The recent Detroit bankruptcy made this situation even worse since Detroit was the largest City in Wayne County.

3. Savings Experienced by Wayne County as a Result of Using Act 94 Instead of Act 206 for its 2016 Borrowing

a. 2015 Borrowing Results

In 2015, Wayne County issued \$187,995,000 in General Obligation Tax Notes in June of 2015 which were to be repaid semi-annually with a final maturity of December 1, 2017. The interest rate on all maturities was 5.75%.

Total interest costs over the life of the notes together with the discount were \$39,621,988.55.

b. 2016 Borrowing Results

In 2016, Wayne County issued \$171,300,000 in Revenue Notes in June which were to be paid semi-annually with a final maturity of December 1, 2018.

The interest rate on all maturities was 4.25% per annum.

Total interest costs over the life of the Notes together with the discount were \$25,193,943.

c. Interest Savings by Using Act 94 Revenue Notes

After adjusting the results to account for the smaller borrowing in 2016, the net savings in interest was calculated as follows:

Interest Costs in 2015	\$36,103,081
Interest Costs in 2016	<u>\$25,193,943</u>
TOTAL INTEREST SAVINGS	<u>\$10,909,138</u>

E. SUMMARY

Without any question, this legislation process leading to the approval of Act 94 borrowings was long and sometimes difficult. The principal reason for the legislation was to assist Wayne (and any other County in the future) which might experience financial difficulties. Clearly, the legislation was worth the effort.