

***** Act 406 of 2012 THIS NEW ACT IS EFFECTIVE WHEN CONDITIONS APPLIED BY ENACTING SECTION 1 OF ACT 406 OF 2012 ARE MET: See enacting section 1 of Act 406 of 2012 *****
Act 406 of 2012 THIS ACT IS REPEALED BY ACT 92 OF 2014 EFFECTIVE WHEN THE CONDITION APPLIED BY ENACTING SECTION 2 IS MET: See enacting sections 1 and 2 of Act 92 of 2014 *****

LOCAL UNIT OF GOVERNMENT ESSENTIAL SERVICES SPECIAL ASSESSMENT ACT
Act 406 of 2012

AN ACT to authorize the creation of special assessment districts; to provide for the levy and collection of special assessments on certain property to defray the costs of essential services equipment and essential services; and to authorize the issuance of bonds and other obligations in anticipation of the collection of special assessments.

History: 2012, Act 406, Eff. (pending).

Compiler's note: Enacting section 1 of Act 406 of 2012 provides:

"Enacting section 1. This act does not take effect unless House Bill No. 6026 of the 96th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014."

Enacting section 1 of Act 92 of 2014 provides:

"Enacting section 1. The local unit of government essential services special assessment act, 2012 PA 406, MCL 123.1241 to 123.1247, is repealed."

Enacting section 2 of Act 92 of 2014 provides:

"Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014."

The People of the State of Michigan enact:

***** 123.1241.new THIS NEW SECTION IS EFFECTIVE WHEN CONDITIONS APPLIED BY ENACTING SECTION 1 OF ACT 406 OF 2012 ARE MET: See enacting section 1 of Act 406 of 2012 *****
123.1241.new THIS SECTION IS REPEALED BY ACT 92 OF 2014 EFFECTIVE WHEN THE CONDITION APPLIED BY ENACTING SECTION 2 IS MET: See enacting sections 1 and 2 of Act 92 of 2014 *****

123.1241.new Short title.

Sec. 1. This act shall be known and may be cited as the "local unit of government essential services special assessment act".

History: 2012, Act 406, Eff. (pending).

Compiler's note: Enacting section 1 of Act 406 of 2012 provides:

"Enacting section 1. This act does not take effect unless House Bill No. 6026 of the 96th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014."

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123.1242.new Definitions.

Sec. 2. As used in this act:

(a) "Commercial personal property" means personal property classified as commercial personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(b) "Commercial real property" means real property classified as commercial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(c) "Essential services" means all of the following:

(i) Ambulance services.

(ii) Fire services.

(iii) Police services.

(iv) Jail operations.

(d) "Essential services equipment" means motor vehicles, apparatus, equipment, housing, and other items needed to provide essential services.

(e) "General property tax act" means the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(f) "Industrial personal property" means personal property classified as industrial personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(g) "Industrial real property" means real property classified as industrial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(h) "Local unit of government" means a county, township, village, or city or any authority created to provide essential services.

(i) "Taxable value" means that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

History: 2012, Act 406, Eff. (pending).

Compiler's note: Enacting section 1 of Act 406 of 2012 provides:

"Enacting section 1. This act does not take effect unless House Bill No. 6026 of the 96th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014."

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123.1243.new Industrial real property and commercial real property; essential services equipment and essential services; special assessment; creation of special assessment district; resolution; hearing; resolution to determine boundaries; modification of boundaries.

Sec. 3. (1) Beginning January 1, 2016, the legislative body of a local unit of government may by resolution propose that all or a portion of the cost of essential services equipment, the cost for maintenance of the essential services equipment, and the cost for provision of essential services be defrayed by a special assessment levied on industrial real property and commercial real property located in that local unit of government, which industrial real property and commercial real property is conclusively presumed to be benefited by the provision of the essential services equipment and the essential services.

(2) The local unit of government shall schedule a hearing on the question of creating a special assessment district, and on the question of defraying all or a portion of the cost of the essential services equipment, the cost for maintenance of the essential services equipment, and the cost for provision of essential services by special assessment on the industrial real property and commercial real property to be especially benefited.

(3) The hearing required under subsection (2) shall be a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. In addition, the local unit of government shall publish in a newspaper of general circulation in the proposed special assessment district a notice stating the time, place, and purpose of the meeting. If there is not a newspaper of general circulation in the proposed special assessment district, notices shall be posted in not less than 3 public places in the proposed special assessment district. This notice shall be published or posted not less than 5 days before the hearing. On the day appointed for the hearing, the legislative body of the local unit of government shall be in session to hear objections that may be offered against the creation of the special assessment district and on the question of defraying the cost of the essential services equipment, the cost for maintenance of the essential services equipment, and the cost for provision of essential services by special assessment.

(4) Following the hearing under subsection (3), if the legislative body of the local unit of government determines to create a special assessment district, it shall by resolution determine the boundaries of the special assessment district, which shall be coterminous with the boundaries of the local unit of government.

(5) A local unit of government is not required to establish a special assessment district under this section more than once. A local unit of government shall modify the boundaries of the special assessment district if the boundaries of the local unit of government change after the special assessment district is established.

History: 2012, Act 406, Eff. (pending).

Compiler's note: Enacting section 1 of Act 406 of 2012 provides:

"Enacting section 1. This act does not take effect unless House Bill No. 6026 of the 96th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014."

Enacting section 1 of Act 92 of 2014 provides:

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Enacting section 2 of Act 92 of 2014 provides:

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123.1244.new Creation of special assessment district; calculation of special assessment amount; limitation; affidavit; time and manner of assessment and collection; legislative intent that assessment results in proportionate allocation.

Sec. 4. (1) If a local unit of government creates a special assessment district under section 3, that local unit of government shall calculate the amount of the special assessment levy on each parcel of industrial real property and commercial real property located in the special assessment district in the following manner, subject to the limitation provided under subsection (2):

(a) Calculate the total taxable value of all industrial personal property and commercial personal property in the local unit of government in 2013.

(b) From the amount determined in subdivision (a), subtract the total taxable value of all industrial personal property and commercial personal property in the local unit of government in the current year.

(c) Multiply the result of the calculation in subdivision (b) by the lowest general operating millage rate levied by the local unit of government in the period between 2012 and the year immediately preceding the current year.

(d) Subtract from the result of the calculation in subdivision (c) the reduction in revenue in 2014 resulting from the exemption of personal property under section 9o of the general property tax act, 1893 PA 206, MCL 211.9o, from general operating millage.

(e) Multiply the result of the calculation in subdivision (d) by the percentage of the local unit of government's general operating millage used to fund essential services and essential services equipment in fiscal year 2012.

(f) Add to the result of the calculation in subdivision (e) an amount calculated as follows:

(i) Multiply the result of the calculation in subdivision (b) by the lowest millage rate for a millage dedicated solely for essential services and essential services equipment levied by the local unit of government in the period between 2012 and the year immediately preceding the current year. If a local unit of government has levied more than 1 millage dedicated solely for essential services and essential services equipment, perform the calculation under this subparagraph for each individual dedicated millage and add the results of each calculation to determine a total sum.

(ii) Subtract from the result of the calculation in subparagraph (i) the reduction in revenue in 2014 resulting from the exemption of personal property under section 9o of the general property tax act, 1893 PA 206, MCL 211.9o, from the millages included in the calculation in subparagraph (i).

(g) Divide the result of the calculation in subdivision (f) by the total taxable value of all industrial real property and commercial real property in the local unit of government on which is located personal property exempt under sections 9m and 9n of the general property tax act, 1893 PA 206, MCL 211.9m and 211.9n.

(h) Multiply the essential services millage rate calculated in subdivision (g) by the taxable value of each parcel of industrial real property and commercial real property in the local unit of government on which is located personal property exempt under sections 9m and 9n of the general property tax act, 1893 PA 206, MCL 211.9m and 211.9n, in the current year.

(2) Subject to subsection (3), for each parcel of industrial real property and commercial real property subject to the special assessment levy calculated under subsection (1), the amount of the special assessment levy calculated under subsection (1) shall not exceed an amount calculated as follows:

(a) Multiply the lowest general operating millage rate levied by the local unit of government in the period between 2012 and the year immediately preceding the current year by the percentage of the local unit of government's general operating millage used to fund essential services and essential services equipment in the 2012 fiscal year.

(b) Add to the result of the calculation under subdivision (a) the lowest millage rate for a millage dedicated solely for essential services and essential services equipment levied by the local unit of government in the

period between 2012 and the year immediately preceding the current year. If a local unit of government has levied more than 1 millage dedicated solely for essential services and essential services equipment, perform the calculation under this subparagraph for each individual dedicated millage and add the results of each calculation to determine a total sum.

(c) Multiply the result of the calculation under subdivision (b) by 50% of the true cash value of all personal property exempt under sections 9m and 9n of the general property tax act, 1893 PA 206, MCL 211.9m and 211.9n, located on that industrial real property or commercial real property in the current year.

(3) The limitation under subsection (2) on the special assessment levied under this section does not apply unless an owner of the industrial real property or commercial real property subject to the special assessment submits an affidavit claiming the limitation with the local unit of government within 30 days after the special assessment is assessed. The affidavit shall be in a form prescribed by the department of treasury. The affidavit shall include, but is not limited to, a statement of the estimated true cash value of all personal property exempt under sections 9m and 9n of the general property tax act, 1893 PA 206, MCL 211.9m and 211.9n, located on that industrial real property or commercial real property in the year in which the limitation is claimed.

(4) The special assessment calculated under this section shall be assessed and collected at the same time and in the same manner as taxes collected in the July levy under the general property tax act.

(5) It is the intent of the legislature that the special assessment levied under this section results in a proportionate allocation of the financial cost of essential services and essential services equipment across all classes of real property and that the amount of the special assessment levied under this section accurately corresponds to the benefit received by the industrial real property and commercial real property that is conclusively presumed to be benefited by the essential services equipment and the essential services provided under this act.

History: 2012, Act 406, Eff. (pending).

Compiler's note: Enacting section 1 of Act 406 of 2012 provides:

"Enacting section 1. This act does not take effect unless House Bill No. 6026 of the 96th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014."

Enacting section 1 of Act 92 of 2014 provides:

"Enacting section 1. The local unit of government essential services special assessment act, 2012 PA 406, MCL 123.1241 to 123.1247, is repealed."

Enacting section 2 of Act 92 of 2014 provides:

"Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014."

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123.1245.new Bonds or other obligations.

Sec. 5. (1) A local unit of government may issue bonds or other obligations in anticipation of the collection of a special assessment authorized under this act.

(2) Bonds or other obligations issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) If authorized by a majority vote of the qualified electors of the local unit of government, the local unit of government may, at the time of issuance, pledge the full faith and credit of the local unit of government for the payment of bonds or other obligations issued under this act.

History: 2012, Act 406, Eff. (pending).

Compiler's note: Enacting section 1 of Act 406 of 2012 provides:

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123.1246.new Replacement of tax amount.

Sec. 6. From the amounts collected under this act, a municipality shall first replace the amount of ad valorem property taxes used for the payment of principal and interest of essential service obligations incurred before 2013 pledging the unlimited or limited taxing power of the municipality, that are lost from the exemptions provided by sections 9m, 9n, and 9o of the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and 211.9o. A municipality shall not collect assessments under this act if it has increased a millage rate for essential service obligations incurred before 2013 pledging the unlimited or limited taxing power of the municipality as a result of the exemptions provided by sections 9m, 9n, and 9o of the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and 211.9o.

History: 2012, Act 406, Eff. (pending).

Compiler's note: Enacting section 1 of Act 406 of 2012 provides:

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123.1247.new *THIS SECTION IS REPEALED BY ACT 92 OF 2014 EFFECTIVE WHEN THE CONDITION APPLIED BY ENACTING SECTION 2 IS MET: See enacting sections 1 and 2 of Act 92 of 2014* *****

123.1247.new Provisions of act not subject to local referendum.

Sec. 7. Any charter provision of the local unit of government notwithstanding, the creation of a special assessment district, the levy of a special assessment, and the exercise of other powers under this act shall not be subject to a referendum vote of the electors of that local unit of government.

History: 2012, Act 406, Eff. (pending).

Compiler's note: Enacting section 1 of Act 406 of 2012 provides:

"Enacting section 1. This act does not take effect unless House Bill No. 6026 of the 96th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014."

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