

\*\*\*\*\* Act 35 of 1867 THIS ACT IS REPEALED BY ACT 57 OF 2018 EFFECTIVE JANUARY 1, 2019 \*\*\*\*\*

## NONPROFIT STREET RAILWAY ACT

### Act 35 of 1867

AN ACT to provide for the formation of nonprofit street railway companies, defining their powers and duties and authorizing the construction, use, maintenance and ownership of street railways for the transportation of passengers, and for accumulating, storing, manufacturing, conducting, using, selling, furnishing and supplying electricity and electric power, by such companies; to prescribe powers and duties of certain state and local agencies and officials; to provide remedies and penalties; to provide for the establishment of a transit development finance zone; and to authorize the use of tax increment financing.

**History:** 1867, Act 35, Imd. Eff. Mar. 5, 1867;—Am. 1919, Act 179, Eff. Aug. 14, 1919;—Am. 2008, Act 481, Imd. Eff. Jan. 12, 2009;—Am. 2008, Act 486, Imd. Eff. Jan. 12, 2009.

*The People of the State of Michigan enact:*

\*\*\*\*\* 472.1 THIS SECTION IS REPEALED BY ACT 57 OF 2018 EFFECTIVE JANUARY 1, 2019 \*\*\*\*\*

#### 472.1 Short title.

Sec. 1. This act shall be known and may be cited as the "nonprofit street railway act".

**History:** 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2502;—How. 3536;—CL 1897, 6434;—CL 1915, 8532;—CL 1929, 11292;—CL 1948, 472.1;—Am. 2008, Act 481, Imd. Eff. Jan. 12, 2009.

#### 472.2 Repealed. 2008, Act 481, Imd. Eff. Jan. 12, 2009.

**Compiler's note:** The repealed section pertained to incorporation of street railway companies.

\*\*\*\*\* 472.3 THIS SECTION IS REPEALED BY ACT 57 OF 2018 EFFECTIVE JANUARY 1, 2019 \*\*\*\*\*

#### 472.3 Legislative intent.

Sec. 3. The legislature finds and declares that there exists in this state a need to encourage the development of transportation facilities and the provision of public transportation services by authorizing the acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining of nonprofit street railway companies and systems and that public assistance in acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining nonprofit street railway companies and systems in this state is declared to be a public purpose. It is the intent of the legislature that a street railway system constructed by a nonprofit corporation under this act be designed to adapt to or connect with other public transit systems. It is the intent of the legislature that resources expended to construct a street railway system under this act qualify as state and local match funds for transit systems eligible for federal funding.

**History:** 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2504;—How. 3538;—CL 1897, 6436;—CL 1915, 8534;—CL 1929, 11294;—CL 1948, 472.3;—Am. 2008, Act 481, Imd. Eff. Jan. 12, 2009.

#### 472.4 Repealed. 2008, Act 481, Imd. Eff. Jan. 12, 2009.

**Compiler's note:** The repealed section pertained to filing articles of incorporation.

\*\*\*\*\* 472.5 THIS SECTION IS REPEALED BY ACT 57 OF 2018 EFFECTIVE JANUARY 1, 2019 \*\*\*\*\*

#### 472.5 Construction of act.

Sec. 5. (1) This act shall be construed liberally to effectuate the legislative intent and the purpose of the act as complete and independent authorization for the performance of each and every act and thing authorized in this act and all powers granted in this act shall be broadly interpreted to effectuate the intent and purposes of this act and not as a limitation of powers.

(2) The powers conferred in this act upon a street railway shall be in addition to any other powers the street railway possesses under law.

(3) Unless permitted by the state constitution of 1963 or this act or agreed to by a street railway, any restrictions, standards, conditions, or prerequisites of a city, village, or township otherwise applicable only to a street railway and enacted after the effective date of the amendatory act that added section 21 do not apply to a street railway. This subsection is intended to prohibit special local legislation or ordinances applicable exclusively or primarily to a street railway and not to exempt a street railway from laws generally applicable

to other persons or entities.

**History:** 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2506;—How. 3540;—CL 1897, 6438;—CL 1915, 8536;—Am. 1917, Act 313, Imd. Eff. May 10, 1917;—Am. 1923, Act 214, Eff. Aug. 30, 1923;—CL 1929, 11296;—CL 1948, 472.5;—Am. 2008, Act 481, Imd. Eff. Jan. 12, 2009.

**Compiler's note:** As to repeal of Act 84 of 1921, referred to in this section, see MCL 450.191 and note thereto. For provisions of Act 144 of 1909, referred to in this section, see MCL 460.301 et seq.

#### **472.6 Repealed. 2008, Act 481, Imd. Eff. Jan. 12, 2009.**

**Compiler's note:** The repealed section pertained to election, terms, and qualification of board of directors.

\*\*\*\*\* 472.7 THIS SECTION IS REPEALED BY ACT 57 OF 2018 EFFECTIVE JANUARY 1, 2019 \*\*\*\*\*

#### **472.7 Definitions.**

Sec. 7. As used in this act:

(a) "Department" means the state transportation department.

(b) "Nonprofit corporation" means that term as defined under section 108 of the nonprofit corporation act, 1982 PA 162, MCL 450.2108.

(c) "Public street or highway" means any state trunk line highway, county road, or city or village street maintained by a road authority.

(d) "Railroad" means that term as defined under section 109 of the railroad code of 1993, 1993 PA 354, MCL 462.109.

(e) "Operating license agreement" means an agreement entered into under section 13 by and among a street railway and each road authority with jurisdiction over public streets and highways upon which the street railway operates or seeks to operate a street railway system, including, but not limited to, each city, village, or township road authority in the city, village, or township in which the street railway operates or seeks to operate a street railway system.

(f) "Road authority" means each governmental agency with jurisdiction over public streets and highways. Road authority includes the department, any other state agency, and intergovernmental, county, city, and village governmental agencies responsible for the construction, repair, and maintenance of streets and highways. When a street railway operates or seeks to operate a street railway system over public streets and highways over which more than 1 road authority possesses jurisdiction, road authority includes each road authority with jurisdiction over public streets and highways upon which the street railway operates or seeks to operate a street railway system.

(g) "Street railway" means a nonprofit corporation organized under this act for the purpose of operating a street railway system other than a railroad train for transporting individuals or property. Street railway includes a nonprofit corporation incorporated under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, by a street railway organized under section 11, or by 1 or more members of the board of directors of a street railway for the purpose of assisting the street railway in acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, or maintaining a street railway system or for the purpose of financing a street railway system.

(h) "Street railway system" means the facilities, equipment, and personnel required to provide and maintain a public transportation system operated on rails at grade or above or below ground within a city, village, or township utilizing streetcars, trolleys, light rail vehicles, or trams for the transportation of individuals or property. Street railway system also includes necessary power feeds, signals, and stops or stations within a public right-of-way. Street railway system excludes facilities and improvements that are not required to maintain a public transportation system.

**History:** 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2508;—How. 3542;—CL 1897, 6440;—CL 1915, 8538;—CL 1929, 11298;—CL 1948, 472.7;—Am. 2008, Act 481, Imd. Eff. Jan. 12, 2009;—Am. 2014, Act 486, Imd. Eff. Jan. 13, 2015.

#### **472.8 Repealed. 2008, Act 481, Imd. Eff. Jan. 12, 2009.**

**Compiler's note:** The repealed section pertained to majority of directors as quorum.

\*\*\*\*\* 472.9 THIS SECTION IS REPEALED BY ACT 57 OF 2018 EFFECTIVE JANUARY 1, 2019 \*\*\*\*\*

#### **472.9 Street railway; organization; articles of incorporation; filing; applicability of the nonprofit corporation act.**

Sec. 9. (1) After the effective date of the amendatory act that added this subsection, 1 or more persons may organize a street railway under this act for the purpose of acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway system by signing in ink and

filing articles of incorporation for the street railway. The articles shall include all of the following:

(a) The name of the street railway, which shall include the words "rail", "railway", "street railway", "light rail", or "metro rail".

(b) The purpose for which the corporation is organized, which shall be limited to acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway system.

(c) The city, village, or township in which the street railway system will principally operate.

(2) Articles of incorporation shall be filed with the bureau of commercial services of the department of energy, labor, and economic growth as provided under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(3) The nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, shall apply to a street railway organized under this section unless otherwise provided in or inconsistent with this act.

**History:** 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2510;—How. 3544;—CL 1897, 6442;—CL 1915, 8540;—CL 1929, 11300;—CL 1948, 472.9;—Am. 2008, Act 481, Imd. Eff. Jan. 12, 2009.

#### **472.10 Repealed. 2008, Act 481, Imd. Eff. Jan. 12, 2009.**

**Compiler's note:** The repealed section pertained to powers of president and directors.

\*\*\*\*\* 472.11 THIS SECTION IS REPEALED BY ACT 57 OF 2018 EFFECTIVE JANUARY 1, 2019 \*\*\*\*\*

#### **472.11 Nonprofit corporation as street railway; amendment of articles of incorporation required; provisions; adoption; filing; applicability of the nonprofit corporation act.**

Sec. 11. (1) A nonprofit corporation may become a street railway under this act and acquire, own, construct, furnish, equip, complete, operate, improve, and maintain a street railway system in a city if on and after the effective date of the amendatory act that added this subsection the articles of incorporation for the nonprofit corporation are amended to include all of the following provisions:

(a) A provision authorizing the name of the corporation, to include the words "rail", "railway", or "street railway", "light rail", or "metro rail".

(b) A provision detailing the purposes for which the corporation is organized, which shall be limited to purposes related to acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway system.

(c) A provision indicating the city in which the street railway system will principally operate.

(2) Amendments to the articles of incorporation of a nonprofit corporation under this section shall be adopted and filed with the bureau of commercial services of the department of energy, labor, and economic growth as provided under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(3) The nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, shall apply to a street railway organized under this section unless otherwise provided in or inconsistent with this act.

**History:** 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2512;—How. 3546;—CL 1897, 6444;—CL 1915, 8542;—CL 1929, 11302;—CL 1948, 472.11;—Am. 2008, Act 481, Imd. Eff. Jan. 12, 2009.

#### **472.12 Repealed. 2008, Act 481, Imd. Eff. Jan. 12, 2009.**

**Compiler's note:** The repealed section pertained to status, transfer, and issuance of shares of stock.

\*\*\*\*\* 472.13 THIS SECTION IS REPEALED BY ACT 57 OF 2018 EFFECTIVE JANUARY 1, 2019 \*\*\*\*\*

#### **472.13 Acquiring, constructing, operating, and maintaining street railway system on highways of road authority; approval; terms and conditions; operating license agreement; public hearing; decision as final and binding; costs; condition; easements; revoking consent or depriving rights and privileges; powers of street railway; "public transportation provider" defined.**

Sec. 13. (1) A street railway may acquire, own, construct, furnish, equip, complete, operate, improve, and maintain a street railway system in and upon the streets and highways of a road authority with the approval of the road authority, on terms and conditions imposed by the road authority. The approval shall be embodied in an operating license agreement between a street railway and each road authority with jurisdiction over public streets and highways upon which the street railway operates or seeks to operate a street railway system, including, but not limited to, a city, village, or township road authority located in the city, village, or township in which the street railway system operates or seeks to operate. An operating license agreement shall include the terms and conditions for operation of the street railway system. An operating license agreement may

require the street railway to pay the direct administrative costs incurred by the road authority in administering the operating license agreement. An operating license agreement shall not require a street railway to acquire, accept responsibility for, or obligate itself to assume liability for or pay for any legacy costs of a public transportation provider. Before approving a proposed operating license agreement, a road authority shall hold a public hearing on the proposed operating license agreement. The hearing shall be held in the city, village, or township in which the street railway seeks to operate a street railway system and shall be held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Notice of the public hearing shall be provided not less than 20 days before the date of the hearing. One or more road authorities may conduct a joint public hearing under this section. At a public hearing, a street railway and a road authority may present information regarding the proposed operating licensing agreement. When operating in and upon the streets and highways of a road authority, a street railway is subject to rules, regulations, or ordinances imposed by the road authority. A street railway shall not construct a street railway system in and upon the streets and highways of a road authority until the street railway accepts in writing any terms and conditions imposed by the road authority, the operating license agreement is approved under this section, and the agreement is filed with each road authority with jurisdiction over public streets and highways upon which the street railway will operate. A road authority may approve or disapprove an operating license agreement. A decision of a road authority regarding an operating license agreement is final and binding upon a street railway and other interested persons. The street railway shall pay a road authority for all of the road authority's costs incurred in constructing the street railway system, mitigating the impact of the street railway system on road users, the environment, and the surrounding neighborhoods, and modifying the streets or highways impacted by construction of the street railway system, as provided in the operating license agreement. As a condition to obtaining or holding an operating license agreement, a road authority shall not require a street railway to obtain any other license or franchise, assess any other fee or charge, or impose any other licensing, regulatory, or franchise requirement, including a provision regulating schedules or fares of a street railway, unless expressly authorized under this act.

(2) A street railway may acquire, own, construct, furnish, equip, complete, operate, improve, and maintain a street railway system upon public or private rights of way, and obtain easements when necessary for a street railway to acquire and use private property for acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway system.

(3) After a road authority consents to the acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining of a street railway system on the streets or highways of the road authority or grants a right or privilege to the street railway by entering into an operating license agreement with the street railway, the road authority may not revoke the consent or deprive the street railway of the rights and privileges conferred without affording the street railway procedural due process of law if and to the extent provided in the operating license agreement.

(4) A street railway may do 1 or more of the following:

(a) Acquire by gift, devise, transfer, exchange, purchase, lease, or otherwise on terms and conditions and in a manner the street railway considers proper property or rights or interests in property relating to the operation of the street railway or street railway system.

(b) Take, transport, or carry and convey individuals and property on a street railway system and receive just and fair compensation from users of the street railway system for that purpose.

(c) Erect and maintain all necessary and convenient buildings, structures, stations, depots, fixtures, and machinery for the accommodation and use of individuals and property transported by the street railway.

(d) Regulate the time and manner in which individuals and property are transported by the street railway and fares or other compensation are paid for that purpose. A street railway may charge just and fair compensation for the use of its street railway system.

(e) Borrow money and issue bonds and notes for any indebtedness incurred and mortgage street railway property and rights to secure the payment of bonds, notes, money borrowed, and any and all debts and liabilities incurred by the street railway. A street railway shall not use tax increments to repay bonds and notes.

(f) Transfer a street railway system to a public entity operating a public transportation system, with the consent of the public entity, if the transfer is authorized by a law enacted after January 12, 2009.

(5) As used in this section, "public transportation provider" means that term as defined in section 2 of the regional transit authority act, 2012 PA 387, MCL 124.542.

**History:** 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2514;—How. 3548;—Am. 1893, Act 12, Imd. Eff. Mar. 4, 1893;—CL 1897, 6446;—Am. 1901, Act 234, Eff. Sept. 5, 1901;—Am. 1905, Act 101, Imd. Eff. May 10, 1905;—Am. 1905, Act 133, Imd. Eff. May 18, 1905;—CL 1915, 8544;—Am. 1919, Act 179, Eff. Aug. 14, 1919;—CL 1929, 11304;—CL 1948, 472.13;—Am. 2008, Act 481, Imd. Eff. Jan. 12, 2009;—Am. 2014, Act 487, Imd. Eff. Jan. 13, 2015.

**472.14 Repealed. 2008, Act 481, Imd. Eff. Jan. 12, 2009.**

**Compiler's note:** The repealed section pertained to consent for construction and maintenance of street railway.

\*\*\*\*\* 472.15 THIS SECTION IS REPEALED BY ACT 57 OF 2018 EFFECTIVE JANUARY 1, 2019 \*\*\*\*\*

**472.15 Use or consumption of electricity and electric power by street railway and street railway system; relocation and modification of public utility facilities; sound utility practice; costs; agreement; exemption from taxation; enforcement action; definitions.**

Sec. 15. (1) Subject to applicable law and applicable regulations of this state, a city, a township, or a village, a street railway may generate, store, transmit, distribute, dispense, furnish, or use electricity and electric power for use or consumption by the street railway and the street railway system.

(2) For a street railway that constructs, expands, or modifies a street railway system outside of a qualified city, if the street railway requests a public utility to modify or relocate facilities of the public utility that lie within a public street or highway right of way, or if, in response to the construction, expansion, or modification of a street railway system a public utility determines that the public utility should modify or relocate the public utility's facilities, consistent with law, regulation, or sound utility practice and unless the street railway and the public utility agree otherwise, the street railway shall pay all costs of the relocation and modification of the facilities to the public utility.

(3) A street railway that constructs, expands, or modifies a street railway system in a qualified city shall protect and keep in place the facilities of a public utility affected by the construction, expansion, or modification of the street railway system in a public highway, street, or right-of-way unless sound utility practice requires modification or relocation of the facilities. If sound utility practice requires modification or relocation of the facilities, the street railway shall pay the cost of the modification or relocation, unless 1 or both of the following apply:

(a) Modification or relocation of the public utility's facilities is required because the facilities are at an unauthorized location in the public highway, street, or right-of-way. If the facilities are located anywhere in a public highway, street, or right-of-way, there is a rebuttable presumption that the public utility's facilities are at an authorized location in the public highway, street, or right-of-way.

(b) The street railway and the public utility agree to an alternative cost allocation.

(4) Notwithstanding subsection (3), a qualified city and a street railway may agree that the street railway pay the cost of modifying or relocating a public utility's facilities in the qualified city if the modification or relocation is required by the modification or relocation of a street railway system by the street railway in a public highway, street, or right-of-way in the qualified city.

(5) The property of a street railway and its income and operations are exempt from all taxation by this state or a political subdivision of this state.

(6) A public utility or a street railway may bring an action in circuit court to enforce the provisions of this section. This remedy is in addition to any other remedy that may exist at law.

(7) As used in this section:

(a) "Public utility" includes a provider of communications, data, cable television, electricity, heat, natural or manufactured gas, steam, sewage, video, water, or other similar services. Public utility also includes a telecommunications provider and a video service provider.

(b) "Qualified city" means a city that has incorporated an authority under the municipal lighting authority act, 2012 PA 392, MCL 123.1261 to 123.1295.

(c) "Telecommunications provider" means that term as defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

(d) "Video service provider" means that term as defined in section 1 of the uniform video services local franchise act, 2006 PA 480, MCL 484.3301.

**History:** 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2516;—How. 3550;—CL 1897, 6448;—Am. 1905, Act 97, Imd. Eff. May 4, 1905;—CL 1915, 8546;—Am. 1929, Act 284, Imd. Eff. May 22, 1929;—CL 1929, 11306;—CL 1948, 472.15;—Am. 2008, Act 481, Imd. Eff. Jan. 12, 2009;—Am. 2014, Act 487, Imd. Eff. Jan. 13, 2015.

**Compiler's note:** Act 209 of 1923, referred to in this section, was repealed by Act 254 of 1933. See now MCL 475.1 et seq.

The public utilities commission, referred to in this section, was abolished and its powers and duties transferred to the public service commission by MCL 460.4.

**472.16 Repealed. 2008, Act 481, Imd. Eff. Jan. 12, 2009.**

**Compiler's note:** The repealed section pertained to borrowing money and issuing bonds.

\*\*\*\*\* 472.17 THIS SECTION IS REPEALED BY ACT 57 OF 2018 EFFECTIVE JANUARY 1, 2019 \*\*\*\*\*

**472.17 Street or highway grades; conformance by company; alteration or change; consent required; manner of laying and maintaining track.**

Sec. 17. (1) In constructing a street railway system, a street railway shall conform to grades established by a road authority for a public street or highway traversed by the street railway.

(2) A street railway shall not alter or change the grade or line of any public street or highway, without the consent of the road authority with public jurisdiction over the public street or highway.

(3) A street railway shall lay and maintain the track of a street railway system in a manner and with the type of track to keep the track and the pavement of the public street or highway adjacent to the track in a state of condition and repair as prescribed by the road authority with jurisdiction over the public street or highway.

**History:** 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2518;—How. 3552;—Am. 1893, Act 12, Imd. Eff. Mar. 4, 1893;—CL 1897, 6450;—CL 1915, 8548;—CL 1929, 11308;—CL 1948, 472.17;—Am. 2008, Act 481, Imd. Eff. Jan. 12, 2009.

**472.18 Repealed. 2008, Act 481, Imd. Eff. Jan. 12, 2009.**

**Compiler's note:** The repealed section pertained to laying of track and repair of roadbed.

\*\*\*\*\* 472.19 THIS SECTION IS REPEALED BY ACT 57 OF 2018 EFFECTIVE JANUARY 1, 2019 \*\*\*\*\*

**472.19 Rules and regulations; establishment by road authority.**

Sec. 19. A road authority may establish and prescribe rules and regulations applicable to a street railway operating in or upon a public street or highway under the jurisdiction of a road authority relating to 1 or more of the following subjects:

(a) Grading, paving, obstruction, or repairing of a street or highway.

(b) Construction, maintenance, or obstruction of public service facilities and infrastructure, including water, light, heat, power, sewage disposal, and transportation.

(c) Construction, maintenance, or obstruction of traffic control and parking control facilities and infrastructure.

**History:** 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2520;—How. 3554;—CL 1897, 6452;—CL 1915, 8550;—CL 1929, 11310;—CL 1948, 472.19;—Am. 2008, Act 481, Imd. Eff. Jan. 12, 2009.

**472.20 Repealed. 2008, Act 481, Imd. Eff. Jan. 12, 2009.**

**Compiler's note:** The repealed section pertained to fares.

\*\*\*\*\* 472.21 THIS SECTION IS REPEALED BY ACT 57 OF 2018 EFFECTIVE JANUARY 1, 2019 \*\*\*\*\*

**472.21 Refusal of person to pay fare or obey regulations; removal of person; placement of impediment upon track as felony; throwing stone, brick, or other missile as misdemeanor.**

Sec. 21. (1) If a person refuses to pay a fare owed to a street railway or refuses to obey regulations established by the street railway for the convenience and safety of passengers, the street railway may remove the person from the streetcar, tram, or trolley at a usual stopping place.

(2) A person who causes or attempts to cause the derailment of a streetcar, tram, or trolley of a street railway by the placing of an impediment upon the track of a street railway, whether the streetcar, tram, or trolley is dislodged from the track or not, or who by any other means whatsoever willfully endangers or attempts to endanger the life of any person engaged in the work of the street railway, or any person traveling on the streetcar, tram, or trolley of the street railway, is guilty of a felony punishable by imprisonment for life or any number of years. Proof that the person intended to injure or endanger the life of any particular person is not required to prove a violation of this section.

(3) A person who throws a stone, brick, or other missile at a streetcar, tram, or trolley of a street railway is guilty of a misdemeanor punishable by a fine of not less than \$100.00 or more than \$500.00 or imprisonment for not less than 10 days or more than 90 days, or both.

**History:** Add. 2008, Act 481, Imd. Eff. Jan. 12, 2009.

**472.22 Repealed. 2008, Act 481, Imd. Eff. Jan. 12, 2009.**

**Compiler's note:** The repealed section pertained to stockholder liability.

\*\*\*\*\* 472.23 THIS SECTION IS REPEALED BY ACT 57 OF 2018 EFFECTIVE JANUARY 1, 2019 \*\*\*\*\*

**472.23 Transit operations finance zone.**

Sec. 23. (1) At the request of a street railway, and with the consent of the department, a city, village, or township in which a street railway system is located may establish a transit operations finance zone for a

street railway system if the city, village, or township and the department determine that it is necessary for the best interests of the public to promote and finance transit operations in a zone. A parcel shall not be included in more than 1 zone created under this section.

(2) The boundaries of a zone shall be established by the city, village, or township and may include parcels that are in whole or in part up to 1/4 mile in distance from the street railway system. Before establishing a zone, the city, village, or township shall consult with the street railway, the department, affected taxing jurisdictions, and any other person or entity that the city, village, or township considers necessary. The city, village, or township may conduct a planning study and may designate a zone before implementation of street railway system service within the zone.

(3) If the city, village, or township and the department determine that it is necessary for the best interests of the public to promote and finance transit operations in a zone under subsection (1), the city, village, or township shall enter into an agreement with the street railway and the department for the creation of a zone. The agreement shall include, but not be limited to, all of the following:

(a) The geographic boundaries of the zone, including both of the following:

(i) The designation of boundaries of the zone in relation to highways, streets, streams, lakes, other bodies of water, or otherwise.

(ii) The location and extent of existing streets and other public facilities within the zone, designating the location, character, and extent of the categories of public and private land uses then existing in the zone, including residential, recreational, commercial, industrial, educational, and other uses, and including a legal description of the zone.

(b) A tax increment financing plan for the zone as provided under subsection (4).

(c) A description of specific actions to be taken by the parties under the agreement to help establish the zone.

(d) The requirement that amendments to the agreement must be approved by the city, village, or township, the department, and the street railway.

(e) Any other material that the city, village, or township, the department, or the street railway consider necessary or appropriate.

(4) A tax increment financing plan for a zone established under this section shall include a description of the tax increment financing procedure, the distribution of tax increment financing revenue to the street railway, and a statement of the estimated impact of tax increment financing on the assessed value of property in each taxing jurisdiction in the zone. The plan may exclude from captured assessed value growth in property value resulting solely from inflation and, if so, shall include the method for excluding that growth. The plan shall require that tax increment revenue received by a street railway under the plan be used only for the expenses of operating the street railway system. If the street railway subject to an agreement designating a zone under this section ceases to operate a street railway system in the city, village, or township that established the zone, the plan shall terminate and the zone shall be abolished. The plan shall restrict the revenue distributed to a street railway for any tax year to the lesser of 25% of any operating deficit of the street railway for the prior fiscal year or \$4,000,000.00. Before including a tax increment financing plan in an agreement, the city, village, or township shall provide taxing jurisdictions in the zone levying taxes subject to capture under the plan an opportunity to meet with the city, village, or township. The city, village, or township shall fully inform the taxing jurisdictions of the fiscal and economic implications of the plan and the taxing jurisdictions may present recommendations to the city, village, or township on the tax increment financing plan.

(5) Before entering into an agreement for the creation of a zone under this section, the city, village, or township shall conduct a public hearing on the proposed agreement. Notice of the public hearing shall be published twice in a newspaper of general circulation in the city, village, or township, not less than 20 or more than 40 days before the date of the hearing. The notice shall state the date, time, and place of the hearing and shall describe the proposed boundaries of the zone. A citizen, taxpayer, or property owner of the city, village, or township, or an official from a taxing jurisdiction within the zone has the right to be heard on the agreement and the proposed boundaries of the zone. The agreement shall not include in the zone land not included in the description contained in the notice of public hearing, but the agreement may exclude described land from the zone in the final determination of the boundaries of the zone. A city, village, or township shall not execute an agreement for the creation of a zone under this section unless the city, village, or township finds that it is necessary for the best interests of the public to promote and finance transit operations in a zone.

(6) An agreement designating a zone and establishing its boundaries under this section and any amendments to the agreement shall be filed by the city, village, or township with the secretary of state.

(7) The municipal and county treasurers shall transmit tax increment revenues to the treasurer for the city, village, or township in which the street railway system is located for distribution to the street railway

according to the tax increment financing plan and the agreement. The street railway shall expend the tax increment revenues only under the terms of the tax increment financing plan and the agreement under this section. Unused funds shall revert proportionately to the respective taxing jurisdictions. Tax increment revenues shall not be used to circumvent existing property tax limitations. The city, village, or township and the department may abolish the zone if the city, village, or township and the department find that the purposes for which the zone was established are accomplished. Annually, the city, village, or township, with assistance from the street railway, shall submit to the department and the state tax commission a report on the status of the tax increment financing revenue. The report shall include all of the following:

- (a) The amount and source of tax increment revenue received by the street railway.
- (b) The amount and purpose of expenditures from tax increment revenue.
- (c) The initial assessed value of the zone.
- (d) The captured assessed value retained within the zone.
- (e) A description of operating expenditures of the street railway.

(8) The state tax commission may institute proceedings to compel enforcement of this section. The state tax commission may promulgate rules necessary for the administration of this section under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(9) As used in this section:

(a) "Assessed value" means the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(b) "Captured assessed value" means the amount in any 1 year by which the current assessed value of a zone, including the assessed value of property for which specific local taxes are paid in lieu of property taxes, exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(c) "Initial assessed value" means the assessed value of all the taxable property within the boundaries of a zone at the time the tax increment financing plan is approved, as shown by the most recent equalized assessment roll of the city, village, or township at the time an agreement is approved under this section. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation.

(d) "Parcel" means an identifiable unit of land that is treated as separate for valuation or zoning purposes.

(e) "Specific local tax" means a tax levied under 1974 PA 198, 1976 PA 430, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, the commercial rehabilitation act, 2005 PA 210, MCL 207.841 to 207.856, the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786, the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797, or 1953 PA 189, MCL 211.181 to 211.182. The initial assessed value or current assessed value of property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate. The state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(f) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the zone. Tax increment revenues do not include any of the following:

- (i) Taxes under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.
- (ii) Taxes levied by local or intermediate school districts.
- (iii) Taxes levied by a library established by 1901 LA 359.

(iv) Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to the ad valorem property taxes.

(v) Ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority or specific local taxes attributable to the ad valorem property taxes.

(vi) Ad valorem property taxes exempted from capture under this section or specific local taxes attributable to the ad valorem property taxes.

(vii) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific taxes attributable to those ad valorem property taxes.

(viii) Ad valorem taxes captured on property in a zone by any of the following authorities if the taxes were captured on the date that the property became subject to a tax increment financing plan under this section by



any of the following authorities:

- (A) A downtown development authority created under 1975 PA 197, MCL 125.1651 to 125.1681.
- (B) A water resource improvement tax increment finance authority created under the water resource improvement tax increment finance authority act, 2008 PA 94, MCL 125.1771 to 125.1794.
- (C) A tax increment finance authority under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.
- (D) A local development finance authority created under the local development finance authority act, 1986 PA 281, MCL 125.2151 to 125.2174.
- (E) A brownfield redevelopment finance authority created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.
- (F) A historical neighborhood tax increment finance authority created under the historical neighborhood tax increment finance authority act, 2004 PA 530, MCL 125.2841 to 125.2866.
- (G) A corridor improvement authority created under the corridor improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899.
- (H) A neighborhood improvement authority created under the neighborhood improvement authority act, 2007 PA 61, MCL 125.2911 to 125.2932.
- (ix) Ad valorem property taxes levied under 1 or more of the following or specific local taxes attributable to those ad valorem property taxes:
  - (A) The zoological authorities act, 2008 PA 49, MCL 123.1161 to 123.1183.
  - (B) The art institute authorities act, 2010 PA 296, MCL 123.1201 to 123.1229.
  - (g) "Zone" means a transit operations finance zone established under this section.

**History:** 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2524;—How. 3558;—CL 1897, 6456;—CL 1915, 8553;—CL 1929, 11313;—CL 1948, 472.23;—Am. 2008, Act 486, Imd. Eff. Jan. 12, 2009;—Am. 2013, Act 63, Imd. Eff. June 18, 2013.

**472.24, 472.25 Repealed. 2008, Act 481, Imd. Eff. Jan. 12, 2009.**

**Compiler's note:** The repealed sections pertained to suits against stockholders and submission of an annual report.

\*\*\*\*\* 472.27 THIS SECTION IS REPEALED BY ACT 57 OF 2018 EFFECTIVE JANUARY 1, 2019 \*\*\*\*\*

**472.27 Transfer of records to bureau of commercial services; organization of entity; street railway not subject to railroad code of 1993.**

Sec. 27. (1) Within 30 days of the effective date of the amendatory act that added section 21, the secretary of state or any other agency having records of a street railway formed under this act prior to the effective date of the amendatory act that added section 21 shall certify and transfer the records to the bureau of commercial services of the department of energy, labor, and economic growth.

(2) Any entity formed on or after the effective date of the amendatory act that added section 21 for the purpose of acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway or street railway system shall be organized under this act.

(3) A street railway is not subject to the railroad code of 1993, 1993 PA 354, MCL 462.101 to 462.451.

**History:** 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2528;—How. 3562;—CL 1897, 6459;—CL 1915, 8556;—CL 1929, 11316;—CL 1948, 472.27;—Am. 2008, Act 481, Imd. Eff. Jan. 12, 2009.

**472.28-472.36 Repealed. 2008, Act 481, Imd. Eff. Jan. 12, 2009.**

**Compiler's note:** The repealed sections pertained to injury to railway property; powers, rights, and liabilities of existing companies; organization of street railways; precedence at railway crossings; elevated railways; cars required to stop at railroad crossing; express and light freight; control by commissioner of railroads; and penalties for track obstruction.