

MICHIGAN TOBACCO SETTLEMENT FINANCE AUTHORITY ACT (EXCERPT)
Act 226 of 2005

129.263 Definitions.

Sec. 3.

As used in this act:

(a) "Ancillary facility" means any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange or similar agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure, or similar agreements, investment agreements, float agreements, forward agreements or other investment arrangements, insurance contract, surety bond, commitment to purchase or sell securities, purchase or sale agreements or commitments or other contracts or agreements and other security agreements approved by the authority, including without limitation any arrangements referred to in this act.

(b) "Authority" means the Michigan tobacco settlement finance authority created under section 4.

(c) "Benefited parties" means persons, firms, or corporations that enter into ancillary facilities with the authority according to the provisions of this act.

(d) "Board" means the board of directors of the authority.

(e) "Bond" means a bond, note, or other obligation issued by the authority under this act.

(f) "Code" means the United States internal revenue code of 1986, as amended, and any successor provision of law.

(g) "Encumbered tobacco revenues" means that portion of the TSRs that is pledged by the authority to the repayment of any bonds under the terms of the applicable authority resolution, trust agreement, or trust indenture.

(h) "Federal bankruptcy code" means the federal bankruptcy code, 11 USC 101 to 1330.

(i) "Financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office in this state under the laws of this state or the United States.

(j) "Financing costs" means all capitalized interest, operating and debt service reserves, costs of issuance, fees for credit and liquidity enhancements, any item of expense directly or indirectly payable or reimbursable by the authority and related to the authorization, sale, or issuance of bonds, including without limitation underwriting fees, counsel fees, fees of the attorney general and fees and expenses of consultants and fiduciaries, and other costs as the authority determines to be desirable in issuing, securing, and marketing the bonds.

(k) "Interest rate exchange or similar agreement" means a written contract with a counterparty to provide for an exchange of payments based upon fixed or variable interest rates, or both fixed and variable interest rates.

(l) "Master settlement agreement" means the settlement agreement and related documents entered into on November 23, 1998, and incorporated into a consent decree and final judgment entered into on December 7, 1998, in *Kelley Ex Rel. Michigan v Philip Morris Incorporated, et al.*, Ingham county circuit court, docket no. 96-84281CZ.

(m) "Net proceeds" means the amount of proceeds remaining following each sale of bonds which are not required by the authority to establish and fund reserve or escrow funds or termination or settlement payments under ancillary facilities and to provide the financing costs and other expenses and fees directly related to the authorization and issuance of bonds.

(n) "Operating expenses" means the reasonable operating expenses of the authority, including without limitation the cost of preparation of accounting and other reports, costs of maintenance of the ratings on the bonds, insurance premiums, and costs of authority meetings or other required activities of the authority, counsel fees, including the fees of the attorney general, and fees and expenses incurred for consultants and fiduciaries and any other costs described in section 4(12).

(o) "Outstanding" means, when used with respect to bonds, all bonds other than bonds that shall have been paid in full at maturity or that may be considered not outstanding under the applicable authority resolution, trust indenture or trust agreement authorizing the issuance of the bonds and when used with respect to ancillary facilities, all ancillary facilities other than ancillary facilities that have been paid in full or that may be considered not outstanding under such ancillary facilities.

(p) "Person" means an individual, corporation, limited or general partnership, association, joint venture, limited liability company, or a governmental entity, including this state.

(q) "Qualifying statute" means that term as defined in the master settlement agreement, which is 1999 PA 244, MCL 445.2051 to 445.2052.

(r) "Residual interests" means 1 or more of the following as provided in any sale agreement:

(i) The unencumbered tobacco revenues.

- (ii) The net proceeds not previously paid to this state.
- (iii) The income of the authority that is in excess of the authority's requirements to pay its operating expenses, debt service, sinking fund requirements, reserve fund or escrow fund requirements, and any other contractual obligations to the owners of the bonds or benefited parties, or that may be incurred in connection with the issuance or repayment of the bonds or the execution or repayment of ancillary facilities.
- (iv) Contractual rights, if any, as shall be provided to this state in accordance with the terms of any sale agreements.
- (s) "Sale agreement" means any agreement authorized under this act in which this state provides for the sale of all or a portion of the state's tobacco receipts under section 8.
- (t) "State treasurer" means the state treasurer of this state or his or her designee who shall be designated by a written instrument signed by the state treasurer and maintained in a permanent file and whose signature shall have the same force and effect as the signature of the state treasurer for all purposes under this act.
- (u) "State's tobacco receipts" means:
 - (i) All tobacco settlement revenue that is received by this state that is required to be made, under the terms of the master settlement agreement, by tobacco manufacturers to this state.
 - (ii) This state's rights to receive the tobacco settlement revenue under the master settlement agreement.
- (v) "TSRs" means the portion, which may include any or all, of this state's tobacco receipts sold to the authority under this act and any sale agreement.
- (w) "Unencumbered tobacco revenues" means that portion of the TSRs that are not encumbered tobacco revenues.
- (x) "Uniform commercial code" means the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102.

History: 2005, Act 226, Imd. Eff. Nov. 21, 2005