

COMMUNITY AND ECONOMIC IMPROVEMENT ACT - SPECIAL FINANCING
ASSESSMENTS

Act of May. 24, 2016, P.L. 231, No. 32

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Session of 2016

No. 2016-32

HB 1788

AN ACT

Amending the act of December 21, 1998 (P.L.1307, No.174), entitled "An act relating to cities of the first class, establishing Neighborhood Improvement Districts; conferring powers and duties on municipal corporations and Neighborhood Improvement Districts; and providing for annual audits and for tourism and marketing," providing for special financing assessments.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of December 21, 1998 (P.L.1307, No.174), known as the Community and Economic Improvement Act, is amended by adding a section to read:

Section 11.3. Special financing assessments.

(a) Applicability.--

(1) This section shall apply to any NID that is located within, in whole or in part, a tax increment district created under the Tax Increment Financing Act and to any related NIDMA that has included in its neighborhood improvement district plan or an amendment to its plan, duly authorized under section 5, the authority to levy a special financing assessment.

(2) With respect to any NID and related NIDMA to which this section applies, the provisions of this section shall be in addition to the provisions contained in the remainder of this act, except that any conflicts between this section and the remainder of this act shall be controlled by this section.

(b) Additional powers of municipal corporation.--With respect to an NID, in addition to the powers enumerated under section 4, a municipal corporation shall have the power:

(1) To establish or designate an NIDMA to administer the NID under sections 6 and 7.

(2) To appropriate and expend, in accordance with the specific provisions of the municipal enabling ordinance, municipal funds as may be required to prepare or have prepared preliminary planning or feasibility studies to determine needed improvements with respect to an NID, including, but not limited to, neighborhood improvements, graffiti removal, security, marketing, promotions, advertising, business retention and recruitment activities, master leasing and property management, joint advertising, research and planning as well as the provision of additional services to supplement, not replace, existing municipal services or the existing services of a previously authorized special services district provided within the NID.

(3) To advance funds to an authority as may be required to carry out the purposes of this act.

(4) To issue bonds, notes or guarantees, in accordance with the provisions of general laws in the amounts and for

the periods necessary, to finance or refinance costs of improvements, projects and services authorized under this act.

(5) To levy special financing assessments authorized under this section on affected property owners needed to finance or refinance costs of improvements, neighborhood improvements and projects and any additional supplemental programs, services and improvements to be provided or made pursuant to this act and to establish procedures allowing for the prepayment of the special financing assessments.

(6) To pledge special financing assessments authorized under this section as security for and in repayment of bonds or notes issued pursuant to the Tax Increment Financing Act in connection with a related tax increment district. Any pledge of funds by a municipality under this section to secure, in whole or in part, payment of bonds or notes issued by an authority shall be made pursuant to a written agreement authorized by an ordinance of the municipality, which agreement shall benefit, and be enforceable on behalf of, the holders of the indebtedness secured by the special financing assessments.

(c) Individual consent.--In the event that the municipal corporation provides in the neighborhood improvement district plan a provision that special financing assessments authorized under this section shall be imposed and pledged as security for and in repayment of bonds or notes issued pursuant to the Tax Increment Financing Act, an affected property owner whose property is not located in the related tax increment district may be assessed for those purposes only if the affected property owner elects to be subject to the assessment. An election by an affected property owner to be subject to a special financing assessment for purposes of this section shall remain binding and run with the property in the event of a future disposition or transfer of the property.

(d) Neighborhood improvement district plan.--For purposes of section 5, a neighborhood improvement district plan that is comprised of a project plan for such tax increment district shall be deemed to satisfy the requirements of section 5(c).

(e) Administration of neighborhood improvement district management association.--

(1) Notwithstanding section 6(b), if an NIDMA is created pursuant to this act, the NID may be administered by an NIDMA that is an authority.

(2) Notwithstanding section 6(d), an NIDMA that is an authority may not be required to have an administrative board. The board shall be appointed pursuant to the authority's applicable authorizing statute.

(f) Additional powers of neighborhood improvement district management association.--In addition to the powers enumerated under section 7 and any other powers provided pursuant to its applicable authorizing statute, an NIDMA shall have the power:

(1) To appropriate and expend, in accordance with the specific provisions of the municipal enabling ordinance, municipal funds as may be required to acquire by purchase or lease real or personal property to effectuate the purposes of this act, including making neighborhood improvements.

(2) To invest or reinvest all funds and revenues of the NID, including special financing assessments if provided in and subject to the ordinance establishing the NID.

(3) To exercise all rights and powers necessary or incidental to or implied from the specific powers granted

to NIDMAs in this act to carry out the purposes and intent of this act.

(g) Payment of special financing assessments.--

(1) Notwithstanding section 7(c), a governing body may by ordinance authorize the payment of special financing assessments authorized under this section in annual or more frequent installments, which need not be equal.

(2) Notwithstanding section 7(d), in the case of default in the payment of an installment and interest for a period of 90 days after the payment becomes due, the ordinance authorizing the special financing assessment shall provide solely for the enforcement of the claim as to the overdue installment, with interest and penalties, which installment, with accrued interest and penalties, shall become a lien from the due date of the installment.

(3) Claims to secure the special financing assessments authorized under this section shall be entered in the prothonotary's office of the county at the same time and in the same form and collected in the same manner as municipal tax claims are filed and collected, provided special financing assessment liens shall not take priority over real estate tax liens.

(h) Dissolution of neighborhood improvement district management association and neighborhood improvement district.--

(1) The reference to "bonds" in section 8(a) shall be deemed to include bonds issued pursuant to this act or the Tax Increment Financing Act in connection with a related tax increment district, which together with the interest due thereon shall have been secured, in whole or in part, by a pledge of any of the special financing assessments authorized under this section.

(2) A request for termination of an NID and NIDMA pursuant to section 8(b) shall not be accepted, considered or approved by a governing body unless all bonds issued pursuant to this act or the Tax Increment Financing Act in connection with the related tax increment district have finally been paid and discharged.

(i) Authority bonds.--An authority may issue bonds in accordance with its applicable authorizing statute in the amounts and for the periods necessary to finance or refinance costs of improvements, projects and services authorized under this act, provided the bonds are secured, in whole or in part, by the pledge of special financing assessments in accordance with the provisions of this section.

(j) Tax Increment Financing Act.--With respect to bonds issued by an authority in connection with a related tax increment district, any conflict between the Tax Increment Financing Act and this act that affect the applicable NID shall be controlled by the Tax Increment Financing Act.

(k) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Authority." The term shall include a body politic and corporate, that is:

(1) established under the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law;

(2) established under the act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law; or

(3) otherwise authorized to issue tax increment bonds and notes under the Tax Increment Financing Act in connection

with a tax increment district in which an NID or portion of an NID is located.

"Bonds." The term shall include the notes, bonds and other evidence of indebtedness or obligations which any authority is authorized to issue under subsection (i).

"Costs of improvements." The term shall include property and right-of-way acquisition costs, entitlements, costs of development and construction, including any redevelopment, reconstruction and renovation, capitalized interest, costs of issuance, operating expense, debt service and other reserves, any other expenditures necessary and incidental to the development, construction or completion of a project and any project costs as defined in the Tax Increment Financing Act.

"Neighborhood improvement." The term shall include capital improvements, traditional streetscape and building renovations, clearing and grading of land, roads, bridges, traffic lights, parking garages, utility lines and connections including electric, gas, telecommunications and other utilities servicing the NID, and all neighborhood improvements that are capital in nature or repairs to neighborhood improvements, located outside the boundaries of an NID and directly benefit the designated properties located within the NID.

"Neighborhood improvement district management association." The term shall include the authority serving as administrator of related tax increment financing district appointed pursuant to either the project plan, as defined in the Tax Increment Financing Act, or a separate agreement among the municipal corporation, other taxing bodies and the administrator.

"Neighborhood improvement district plan." The term includes a project plan, as defined in the Tax Increment Financing Act, for the related tax increment district.

"Project." The term shall include the acquisition, development, construction, improvement, rehabilitation, demolition, operation or maintenance of a neighborhood improvement and any project, as defined in the Tax Increment Financing Act, with respect to the related tax increment district.

"Rational nexus." Requiring a rational, definable benefit that accrues to a property owner assessed a fee for the benefit in a neighborhood improvement district created under this act. All property owners within a designated neighborhood improvement district paying a special assessment fee for designated improvements, facilities or services pursuant to this act must benefit directly or indirectly from such improvements, facilities or services, provided, however, that property owners need not benefit equally.

"Related tax increment district." A tax increment district created pursuant to the Tax Increment Financing Act in which an NID or portion of an NID is located.

"Special financing assessments." Assessment fees imposed upon affected property owners that are used for the express purposes provided in subsection (b) (5) and (6).

"Tax Increment Financing Act." The act of July 11, 1990 (P.L.465, No.113), known as the Tax Increment Financing Act.

Section 2. This act shall take effect in 60 days.

APPROVED--The 24th day of May, A.D. 2016.

TOM WOLF