

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1788 Session of
2015

INTRODUCED BY WHITE, COHEN, D. COSTA, W. KELLER, THOMAS, HELM,
GINGRICH, TAYLOR, EVERETT, TOPPER AND LEWIS, JANUARY 21, 2016

REFERRED TO COMMITTEE ON URBAN AFFAIRS, JANUARY 21, 2016

AN ACT

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

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

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

13 Section 11.3. Special financing assessments.

14 (a) Applicability.--

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

1 assessment.

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

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

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

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

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

28 (4) To issue bonds, notes or guarantees, in accordance
29 with the provisions of general laws in the amounts and for
30 the periods necessary, to finance or refinance costs of

1 improvements, projects and services authorized under this
2 act.

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

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

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

1 assessment for purposes of this section shall remain binding and
2 run with the property in the event of a future disposition or
3 transfer of the property.

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

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

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

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

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

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

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

29 (3) Exercise all rights and powers necessary or
30 incidental to or implied from the specific powers granted to

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

3 (g) Payment of special financing assessments.--

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

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

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

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

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

1 under this section.

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

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

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

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

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

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

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

30 (3) otherwise authorized to issue tax increment bonds

1 and notes under the Tax Increment Financing Act in connection
2 with a tax increment district in which an NID or portion of
3 an NID is located.

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

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

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

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

30 "Neighborhood improvement district plan." The term includes a

1 project plan as defined in the Tax Increment Financing Act, for
2 the related tax increment district.

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

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

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

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

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

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