

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4991

A bill to amend 1895 PA 3, entitled
"The general law village act,"
by amending section 36 (MCL 68.36), as amended by 2002 PA 276.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 36. (1) The council of a village may provide by
2 resolution for **THE ACQUISITION OR FINANCING OF** energy conservation
3 improvements to be made to village facilities **OR INFRASTRUCTURE** and
4 may pay for the improvements **OR THE FINANCING OR REFUNDING OF THE**
5 **IMPROVEMENTS** from operating funds of the village or from the
6 savings that result from the energy conservation improvements.
7 Energy conservation improvements may include, but are not limited
8 to, heating, **VENTILATING, OR AIR-CONDITIONING** system improvements,

1 fenestration improvements, roof improvements, the installation of
2 any insulation, the installation or repair of heating, **VENTILATING,**
3 or ~~air conditioning~~ **AIR-CONDITIONING** controls, ~~and~~ entrance or exit
4 way closures, **INFORMATION TECHNOLOGY IMPROVEMENTS ASSOCIATED WITH**
5 **AN ENERGY CONSERVATION IMPROVEMENT, AND MUNICIPAL UTILITY**
6 **IMPROVEMENTS ASSOCIATED WITH AN ENERGY CONSERVATION IMPROVEMENT.**

7 (2) The council of a village may acquire, **FINANCE, OR REFUND** 1
8 or more of the energy conservation improvements described in
9 subsection (1) by installment contract, **WHICH MAY INCLUDE A LEASE-**
10 **PURCHASE AGREEMENT DESCRIBED IN SUBSECTION (5),** or may borrow money
11 and issue notes for the purpose of securing funds for the
12 improvements or may enter into contracts in which the cost of the
13 energy conservation improvements is paid from a portion of the
14 savings that result from the energy conservation improvements.
15 These contractual agreements may provide that the cost of the
16 energy conservation improvements are paid only if the energy
17 savings are sufficient to cover their cost. An installment
18 contract, **A LEASE-PURCHASE AGREEMENT DESCRIBED IN SUBSECTION (5),**
19 or notes issued pursuant to this subsection shall extend for a
20 period of time not to exceed ~~10~~ **20** years **FROM THE DATE OF THE FINAL**
21 **COMPLETION OF THE ENERGY CONSERVATION IMPROVEMENTS OR THE USEFUL**
22 **LIFE OF THE AGGREGATE ENERGY CONSERVATION IMPROVEMENTS, WHICHEVER**
23 **IS LESS.** Notes issued pursuant to this subsection shall be full
24 faith and credit, tax limited obligations of the village, payable
25 from tax levies and the general fund as pledged by the council of
26 the village. The notes are subject to the revised municipal finance
27 act, 2001 PA 34, MCL 141.2101 to 141.2821. **A LEASE-PURCHASE**

1 AGREEMENT ISSUED PURSUANT TO THIS SUBSECTION SHALL NOT BE SUBJECT
2 TO THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO
3 141.2821, AND SHALL NOT BE A MUNICIPAL SECURITY OR A DEBT AS THOSE
4 TERMS ARE DEFINED IN THAT ACT. This subsection does not limit in
5 any manner the borrowing or bonding authority of a village as
6 provided by law.

7 (3) ~~IF PRIOR TO ENTERING INTO A CONTRACT FOR~~ energy
8 ~~conservation improvements are made as provided in~~ UNDER this
9 section, the village council shall **DETERMINE THE FOLLOWING**
10 **INFORMATION AND, WITHIN 60 DAYS OF THE COMPLETION OF THE**
11 **IMPROVEMENTS, SHALL** report the following information to the
12 department of treasury: ~~within 60 days of the completion of the~~
13 ~~improvements:~~

14 (a) Name of each facility to which an improvement is made and
15 a description of the **ENERGY** conservation improvement.

16 (b) Actual energy consumption during the 12-month period
17 before ~~completion~~ **COMMENCEMENT** of the improvement.

18 (c) Project costs and expenditures, **INCLUDING THE TOTAL OF ALL**
19 **LEASE PAYMENTS OVER THE DURATION OF THE LEASE-PURCHASE AGREEMENT.**

20 (d) Estimated annual energy savings, **INCLUDING PROJECTED**
21 **SAVINGS OVER THE DURATION OF THE INSTALLMENT CONTRACT.**

22 (4) If energy conservation improvements are made as provided
23 in this section, the village council shall report to the department
24 of treasury, by July 1 of each of the 5 years after the
25 improvements are completed, only the actual annual energy
26 consumption of each facility to which improvements are made. The
27 forms for the reports required by this section shall be furnished

1 by the department of treasury.

2 (5) AN INSTALLMENT CONTRACT DESCRIBED IN THIS SECTION MAY
3 INCLUDE A LEASE-PURCHASE AGREEMENT, WHICH MAY BE A MULTIYEAR
4 CONTRACTUAL OBLIGATION THAT PROVIDES FOR AUTOMATIC RENEWAL UNLESS
5 POSITIVE ACTION IS TAKEN BY THE LEGISLATIVE BODY TO TERMINATE THAT
6 CONTRACT. PAYMENTS UNDER A LEASE-PURCHASE AGREEMENT SHALL BE A
7 CURRENT OPERATING EXPENSE SUBJECT TO ANNUAL APPROPRIATIONS OF FUNDS
8 BY THE LEGISLATIVE BODY AND SHALL OBLIGATE THE LEGISLATIVE BODY
9 ONLY FOR THOSE SUMS PAYABLE DURING THE FISCAL YEAR OF CONTRACT
10 EXECUTION OR ANY RENEWAL YEAR THEREAFTER. THE LEGISLATIVE BODY MAY
11 MAKE PAYMENTS UNDER A LEASE-PURCHASE AGREEMENT FROM ANY LEGALLY
12 AVAILABLE FUNDS OR FROM A COMBINATION OF ENERGY OR OPERATIONAL
13 SAVINGS, CAPITAL CONTRIBUTIONS, FUTURE REPLACEMENT COSTS AVOIDED,
14 OR BILLABLE REVENUE ENHANCEMENTS THAT RESULT FROM ENERGY
15 CONSERVATION IMPROVEMENTS, PROVIDED THAT THE LEGISLATIVE BODY HAS
16 DETERMINED THAT THOSE FUNDS ARE SUFFICIENT TO COVER, IN AGGREGATE
17 OVER THE FULL TERM OF THE CONTRACTUAL AGREEMENT, THE COST OF THE
18 ENERGY CONSERVATION IMPROVEMENTS. THE LEASE-PURCHASE AGREEMENT WILL
19 TERMINATE IMMEDIATELY AND ABSOLUTELY AND WITHOUT FURTHER OBLIGATION
20 ON THE PART OF THE LEGISLATIVE BODY AT THE CLOSE OF THE FISCAL YEAR
21 IN WHICH IT WAS EXECUTED OR RENEWED OR AT SUCH TIME AS APPROPRIATED
22 AND OTHERWISE UNOBLIGATED FUNDS ARE NO LONGER AVAILABLE TO SATISFY
23 THE OBLIGATIONS OF THE LEGISLATIVE BODY UNDER THE LEASE-PURCHASE
24 AGREEMENT. DURING THE TERM OF THE LEASE-PURCHASE AGREEMENT, THE
25 LEGISLATIVE BODY SHALL BE THE VESTED OWNER OF THE ENERGY
26 CONSERVATION IMPROVEMENTS AND MAY GRANT A SECURITY INTEREST IN THE
27 ENERGY CONSERVATION IMPROVEMENTS TO THE PROVIDER OF THE LEASE-

1 PURCHASE AGREEMENT. UPON THE TERMINATION OF THE LEASE-PURCHASE
2 AGREEMENT AND THE SATISFACTION OF THE OBLIGATIONS OF THE
3 LEGISLATIVE BODY, THE PROVIDER OF THE LEASE-PURCHASE AGREEMENT
4 SHALL RELEASE ITS SECURITY INTEREST IN THE ENERGY CONSERVATION
5 IMPROVEMENTS.

6 Enacting section 1. This amendatory act takes effect 90 days
7 after the date it is enacted into law.