

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,
9 fenestration improvements, roof improvements, the installation of
10 any insulation, the installation or repair of heating, **VENTILATING,**

1 or ~~air conditioning~~ **AIR-CONDITIONING** controls, and ~~entrance or exit~~
2 way closures, **INFORMATION TECHNOLOGY IMPROVEMENTS ASSOCIATED WITH**
3 **AN ENERGY CONSERVATION IMPROVEMENT, AND MUNICIPAL UTILITY**
4 **IMPROVEMENTS ASSOCIATED WITH AN ENERGY CONSERVATION IMPROVEMENT.**

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

1 **ACT.** This subsection does not limit in any manner the borrowing or
2 bonding authority of a village as provided by law.

3 (3) If energy conservation improvements are made as provided
4 in this section, the village council shall report the following
5 information to the department of treasury within 60 days of the
6 completion of the improvements:

7 (a) Name of each facility to which an improvement is made and
8 a description of the conservation improvement.

9 (b) Actual energy consumption during the 12-month period
10 before completion of the improvement.

11 (c) Project costs and expenditures.

12 (d) Estimated annual energy savings.

13 (4) If energy conservation improvements are made as provided
14 in this section, the village council shall report to the department
15 of treasury, by July 1 of each of the 5 years after the
16 improvements are completed, only the actual annual energy
17 consumption of each facility to which improvements are made. The
18 forms for the reports required by this section shall be furnished
19 by the department of treasury.

20 (5) **AN INSTALLMENT CONTRACT DESCRIBED IN THIS SECTION MAY**
21 **INCLUDE A LEASE-PURCHASE AGREEMENT, WHICH MAY BE A MULTIYEAR**
22 **CONTRACTUAL OBLIGATION THAT PROVIDES FOR AUTOMATIC RENEWAL UNLESS**
23 **POSITIVE ACTION IS TAKEN BY THE LEGISLATIVE BODY TO TERMINATE THAT**
24 **CONTRACT. PAYMENTS UNDER A LEASE-PURCHASE AGREEMENT SHALL BE A**
25 **CURRENT OPERATING EXPENSE SUBJECT TO ANNUAL APPROPRIATIONS OF FUNDS**
26 **BY THE LEGISLATIVE BODY AND SHALL OBLIGATE THE LEGISLATIVE BODY**
27 **ONLY FOR THOSE SUMS PAYABLE DURING THE FISCAL YEAR OF CONTRACT**

1 EXECUTION OR ANY RENEWAL YEAR THEREAFTER. THE LEGISLATIVE BODY MAY
2 MAKE PAYMENTS UNDER A LEASE-PURCHASE AGREEMENT FROM ANY LEGALLY
3 AVAILABLE FUNDS OR FROM A COMBINATION OF ENERGY OR OPERATIONAL
4 SAVINGS, CAPITAL CONTRIBUTIONS, FUTURE REPLACEMENT COSTS AVOIDED,
5 OR BILLABLE REVENUE ENHANCEMENTS THAT RESULT FROM ENERGY
6 CONSERVATION IMPROVEMENTS, PROVIDED THAT THE LEGISLATIVE BODY HAS
7 DETERMINED THAT THOSE FUNDS ARE SUFFICIENT TO COVER, IN AGGREGATE
8 OVER THE FULL TERM OF THE CONTRACTUAL AGREEMENT, THE COST OF THE
9 ENERGY CONSERVATION IMPROVEMENTS. THE LEASE-PURCHASE AGREEMENT WILL
10 TERMINATE IMMEDIATELY AND ABSOLUTELY AND WITHOUT FURTHER OBLIGATION
11 ON THE PART OF THE LEGISLATIVE BODY AT THE CLOSE OF THE FISCAL YEAR
12 IN WHICH IT WAS EXECUTED OR RENEWED OR AT SUCH TIME AS APPROPRIATED
13 AND OTHERWISE UNOBLIGATED FUNDS ARE NO LONGER AVAILABLE TO SATISFY
14 THE OBLIGATIONS OF THE LEGISLATIVE BODY UNDER THE LEASE-PURCHASE
15 AGREEMENT. DURING THE TERM OF THE LEASE-PURCHASE AGREEMENT, THE
16 LEGISLATIVE BODY SHALL BE THE VESTED OWNER OF THE ENERGY
17 CONSERVATION IMPROVEMENTS AND MAY GRANT A SECURITY INTEREST IN THE
18 ENERGY CONSERVATION IMPROVEMENTS TO THE PROVIDER OF THE LEASE-
19 PURCHASE AGREEMENT. UPON THE TERMINATION OF THE LEASE-PURCHASE
20 AGREEMENT AND THE SATISFACTION OF THE OBLIGATIONS OF THE
21 LEGISLATIVE BODY, THE PROVIDER OF THE LEASE-PURCHASE AGREEMENT
22 SHALL RELEASE ITS SECURITY INTEREST IN THE ENERGY CONSERVATION
23 IMPROVEMENTS.

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