

## Michigan Governor Signs Law Excluding Library Taxes from Capture by Tax Increment Financing Entities

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On Jan. 9, 2017, Michigan Governor Snyder signed into law a package of bills, all with immediate effect, that would exempt certain taxes levied for library purposes from being captured by tax increment financing authorities, including downtown development authorities (DDAs), tax increment finance authorities (TIFAs), local development finance authorities (LDFAs), and corridor improvement authorities (CIAs), (collectively, the "TIF Authorities"). The new laws do not affect the ability of brownfield redevelopment authorities to capture library millages.

The law automatically exempts taxes levied pursuant to library millages passed after Dec. 31, 2016, from capture by the TIF Authorities. Taxes collected pursuant to library millages levied before Jan. 1, 2017 are also exempt from capture under the law so long as all other obligations of the TIF Authority have been paid. A library board (or commission) may, however, allow the capture of all or a portion of the taxes levied by a millage passed before Jan. 1, 2017 pursuant to an agreement with the TIF Authority.

Libraries may also exempt taxes collected pursuant to library millages levied before Jan. 1, 2017 if the TIF Authority alters or amends the boundaries of the authority district or extends the duration of the existing finance plan. In order to exempt these millages, the library board (or commission) must adopt a resolution declaring all or a portion of its taxes exempt from capture within 60 days following the public hearing, and the resolution must be filed with the clerk of the municipality.

This change is notable for two reasons. First, when deciding whether to amend the boundaries of the authority district or extend the duration of the existing financing plan, TIF Authorities will need to consider the possibility that all of the taxes collected pursuant to library millages may be exempt from capture should the TIF Authority choose to make those changes.

Second, this change creates internal inconsistencies in the amended acts. There are two public hearing provisions in each of the amended acts that deal separately with amendments to the boundaries of the TIF Authorities and amendments to the financing plans. The language in the DDA, TIFA, and LDFA statutes was added to the sections that govern amendments to the boundaries of those TIF Authorities. This is problematic because the language also allows a library to opt-out of capture if the authority amends the duration of a *financing plan* "not later than 60 days after a public hearing is held *under this subsection*." Those sections, however, do not govern amendments to financing plans. The opposite problem exists in the CIA statute. The same language was added to the section of the CIA statute governing amendments to the financing plan, but that section does not govern amendments to the boundary of a CIA. Given these discrepancies, it is unclear what standard the legislature intended to apply.

Finally, certain city libraries are subject to additional restrictions in that any of the above described actions by the library board must also be approved by the chief executive officer of the city.

For more information about these changes to the law, contact any of the authors or your Miller Canfield attorney.

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