

HOUSE BILL 1892

By Williams

AN ACT to amend Tennessee Code Annotated, Title 9, Chapter 23 and Title 67, Chapter 5, relative to taxpayer agreements.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 9-23-102, is amended by adding the following language as new, appropriately designated subdivisions:

( ) "Taxpayer agreement" means a contract under which a record owner or owners of property in the plan area agree to guarantee, enhance, or otherwise further secure bonds or lease obligations of a tax increment agency;

( ) "Taxpayer agreement lien" means a lien that is treated in the same manner as property taxes for purposes of § 67-5-2101 after filing and recording the taxpayer agreement in the real property records of the county in which the property in the plan area is located;

( ) "Taxpayer direct payment" means an amount equal to the positive difference, if any, between:

(A) The amount of the next-due debt service payment on tax increment agency bonds or other obligations that financed improvements in the plan area; and

(B) The tax increment revenues actually generated within the plan area for the applicable period available to pay such debt service.

SECTION 2. Tennessee Code Annotated, Title 9, Chapter 23, is amended by adding the following as a new section:

(a) A tax increment agency may enter into a taxpayer agreement relative to a plan area, and the obligation to make payments under a taxpayer agreement that guarantee, enhance, or otherwise further secure bonds or lease obligations of the tax increment agency under this section, including taxpayer direct payments, must be treated in the same manner as property taxes for purposes of § 67-5-2101.

Notwithstanding this section to the contrary, a tax increment agency shall not condition approval of a plan on the execution of a taxpayer agreement.

(b) A taxpayer agreement lien:

(1) Is a first and prior lien against the property on which it is imposed, from the date on which the taxpayer agreement is recorded until the lien, including any interest, penalties, or other required costs are paid;

(2) Takes priority over any existing or subsequent mortgage, other lien, or other encumbrance; and

(3) May be enforced and collected in all respects as real property taxes.

(c)

(1) Notwithstanding this section to the contrary, a taxpayer agreement may include specific requirements related to:

(A) Interest, penalties, and collection and enforcement responsibilities applicable to delinquent taxpayer direct payments; and

(B) Taxpayer agreement lien enforcement proceedings to ensure the fullest protection of bondholders' interests.

(2) The tax increment agency shall send written notification to the county trustee for the county in which the plan area is located of requirements described in subdivision (c)(1) on or before the date of filing and recording the taxpayer agreement. The county trustee shall comply with the requirements in a taxpayer

agreement in connection with any lien enforcement proceedings under a taxpayer agreement, to the extent not prohibited by applicable law.

(d) The taxpayer agreement lien runs with the land, and any taxpayer direct payments not yet due under the terms of the taxpayer agreement must not be accelerated or eliminated by foreclosure of a property tax lien.

(e) A provision of a deed of trust, mortgage, or other agreement between a lienholder and a property owner providing for the acceleration of any payment under the deed of trust, mortgage, or agreement solely as the result of entering into taxpayer agreement is unenforceable.

(f) The tax increment agency that is a party to a taxpayer agreement shall file and record each taxpayer agreement with the register of deeds of the county in which the property is located. The recording must contain:

- (1) The legal description of the property in the plan area;
- (2) The name of each property owner;
- (3) The term of the lien; and
- (4) The executed taxpayer agreement.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it, and applies to contracts and other agreements entered into, amended, or renewed on or after such date.

Amendment No. 1 to HB1892

Crawford  
Signature of Sponsor

**AMEND Senate Bill No. 1760\***

**House Bill No. 1892**

by deleting subsection (a) in the amendatory language of SECTION 2 and substituting:

(a) A tax increment agency may enter into a taxpayer agreement relative to a plan area after obtaining a written statement executed by each holder of an existing, previously recorded mortgage or deed of trust on the property securing indebtedness and in which each holder consents to the taxpayer agreement and indicates that the assessment does not constitute an event of default under the existing mortgage or deed of trust. The obligation to make payments under a taxpayer agreement that guarantee, enhance, or otherwise further secure bonds or lease obligations of the tax increment agency under this section, including taxpayer direct payments, must be treated in the same manner as property taxes for purposes of § 67-5-2101. Notwithstanding this section to the contrary, a tax increment agency shall not condition approval of a plan on the execution of a taxpayer agreement.

**AND FURTHER AMEND** by deleting subdivision (b)(2) in the amendatory language of SECTION 2 and substituting:

(2) Has parity with real estate tax liens, taking priority over any existing or subsequent mortgage, other lien, or other encumbrance; and

**AND FURTHER AMEND** by deleting subdivision (c)(2) in the amendatory language of SECTION 2 and substituting:

(2) On or before the date of filing and recording the taxpayer agreement, the tax increment agency shall send written notification to the county trustee for the county in which the plan area is located of requirements described in subdivision (c)(1), including

certification that the requirements will be administered by a third-party bond trustee.

Upon an event of nonpayment, the third-party bond trustee must coordinate with the county trustee to ensure compliance with the requirements in a taxpayer agreement in connection with any lien enforcement proceedings under a taxpayer agreement, to the extent not prohibited by applicable law.