

Act 425 Conditional Land Transfers

Introduction

In 1984, legislation was adopted in Michigan to promote economic development within the state by providing a method by which cities, villages, and townships may agree to engage in cooperative economic development projects for their mutual benefit. (PA 425 of 1984, MCL 124.21 et seq.)

The legislation recognizes that economic growth of communities is often constrained or thwarted by lack of public infrastructure services within an area targeted for growth. A proposed area of economic growth is faced with the dilemma of investing in the development of the needed services or contracting, at a premium, for the services. The threat of annexation by an adjacent unit of government to provide the services to the proposed area of growth does little to promote cooperative economic expansion.

What are the basic provisions of Act 425?

The basic provision of an Act 425 agreement is the conditional transfer of land from one unit of government to another for a limited period of time, not to exceed 50 years. The agreement must involve an economic development project—defined by the Act as “land and existing or planned improvements suitable for use by an industrial or commercial enterprise, or housing development, or the protection of the environment, including, but not limited to, groundwater or surface water.”

Requirements of an Act 425 transfer include:

1. Written agreement
2. Consideration of various factors including:
 - population density
 - land area and land uses
 - assessed valuation
 - past and probable future growth, including population increase and business, commercial, and industrial development
 - comparative data of the local units of government
 - need for organized community services
 - cost and adequacy of governmental services
 - probable change in taxes
 - financial ability of the local unit responsible for services in the area to provide and maintain those services
 - general effect on the local units of the proposed action
3. Public hearing and opportunity for referendum
4. Contractual provisions including:
 - authorization for sharing of taxes and revenues
 - methods of enforcement of contract and
 - indication of which unit has jurisdiction upon termination of agreement