

AN ACT

RELATING TO FINANCE; ENACTING THE MINOR LEAGUE BASEBALL STADIUM FUNDING ACT; AUTHORIZING MUNICIPALITIES TO REQUIRE VENDORS TO COLLECT A STADIUM SURCHARGE ON REVENUES ARISING FROM ACTIVITIES AT A MINOR LEAGUE BASEBALL STADIUM; PROVIDING LEGISLATIVE AUTHORIZATION FOR THE NEW MEXICO FINANCE AUTHORITY TO MAKE A LOAN FOR A MINOR LEAGUE BASEBALL STADIUM FROM THE PUBLIC PROJECT REVOLVING FUND; EXEMPTING THE STADIUM SURCHARGE FROM THE GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- Sections 1 through 11 of this act may be cited as the "Minor League Baseball Stadium Funding Act".

Section 2. FINDINGS AND PURPOSE. --

A. The legislature finds that:

(1) the costs of land for and of designing, purchasing, constructing, remodeling, rehabilitating, renovating, improving, equipping, furnishing, operating and maintaining minor league baseball stadiums have increased to a level that local financial resources are inadequate to meet all of the costs;

(2) functional and modern minor league baseball stadiums are essential in retaining and attracting

minor league baseball teams to the state; and

(3) even after utilizing local financial resources, municipalities need additional means to provide complete funding for functional and modern minor league baseball stadiums.

B. The purpose of the Minor League Baseball Stadium Funding Act is to provide an additional method of accessing the capital markets with the assistance of the New Mexico finance authority to meet the need for a complete funding package for functional and modern minor league baseball stadiums.

Section 3. DEFINITIONS.--As used in the Minor League Baseball Stadium Funding Act:

A. "authority" means the New Mexico finance authority;

B. "chief executive officer" means the mayor or chief administrative officer of a municipality when designated in writing by the mayor to perform duties required by the Minor League Baseball Stadium Funding Act;

C. "governing body" means the council, commission or other group of elected officials of a municipality in which is vested the legislative authority of a municipality;

D. "loan" means a loan or other financial arrangement pursuant to which money is lent or otherwise made available by the authority to a municipality to pay for some

or all of the costs of land for and designing, purchasing, constructing, remodeling, rehabilitating, renovating, improving, equipping and furnishing a minor league baseball stadium;

E. "loan payments" means all payments of principal, interest, premiums, charges, expenses or other obligations required to be paid by a municipality to the authority to repay the loan;

F. "minor league baseball stadium" means a stadium, including land, buildings and related improvements, primarily designed and intended for use by minor league baseball teams as a venue for playing baseball games;

G. "municipality" means a municipality located in a class A county with a population of more than two hundred thousand according to the 1990 federal decennial census;

H. "stadium surcharge" means a surcharge on tickets, parking, souvenirs, concessions, programs, advertising, merchandise, corporate suites or boxes, broadcast revenues and all other products or services sold at or related to the minor league baseball stadium or related to activities occurring at the stadium;

I. "vendor" means every person, corporation, partnership or other entity, including a division or department of a municipality, providing products or services sold at or related to the minor league baseball stadium; and

J. "vendor contract" means a contract, agreement or other written arrangement between a municipality and a vendor pursuant to which the vendor provides products or services sold at or related to the minor league baseball stadium.

Section 4. AUTHORIZATION OF SURCHARGE--USE OF PROCEEDS. --

A. A municipality may impose a stadium surcharge by majority vote of the governing body. If a stadium surcharge has been imposed, the municipality shall include a stadium surcharge in each vendor contract, and each vendor contract shall be signed by the chief executive officer.

B. Before establishing the amount of the stadium surcharge to be included in each vendor contract, the municipality shall notify the authority in writing of the proposed amount of the loan requested for the minor league baseball stadium and of the proposed amount of the surcharge to be included in each vendor contract. The authority shall review the proposed amount of the stadium surcharge and shall make a written recommendation to a municipality setting forth the minimum amount of the surcharge to be set forth in the loan and related documents. The minimum amount of the stadium surcharge shall never be less than five percent and may be any higher percentage recommended by the authority or otherwise established by the municipality.

C. After receipt of the written recommendation from the authority, a municipality shall establish the amount of the stadium surcharge to be included in each vendor contract, provided that the amount of the surcharge to be set forth in the loan and related documents shall be at least the minimum amount recommended by the authority.

D. The receipts from the stadium surcharge may be used by the municipality for all or any portion of:

(1) loan payments;

(2) costs of constructing, renovating, operating, maintaining or improving the minor league baseball stadium; or

(3) costs of collecting and otherwise administering the surcharge.

E. A municipality shall establish a fund for construction, renovation, operation, maintenance and improvement of a minor league baseball stadium for deposit of all receipts from the stadium surcharge that exceed the required loan payments, and all receipts deposited in that fund shall be used for such purposes and may also be used for the costs of collection and otherwise administering the surcharge.

Section 5. COLLECTION OF SURCHARGE--REMITTANCE TO THE MUNICIPALITY.--

A. Every vendor shall collect the stadium

surcharge on behalf of the municipality and shall act as a trustee therefor.

B. The stadium surcharge shall be collected by vendors from the users of products or services subject to the surcharge. Users shall be charged separately for the stadium surcharge from the cost of the product or service subject to the surcharge or the vendor shall institute accounting controls or procedures sufficient to identify the amount of the surcharge owed to a municipality for each sale, transaction or exchange subject to the surcharge.

C. All receipts from the stadium surcharge shall be remitted by vendors to the treasurer of the municipality no later than the tenth day of the month following collection of the receipts. The treasurer of the municipality shall deposit the receipts in a separate account and shall act as trustee of the receipts on behalf of the authority so long as any loan is unpaid.

Section 6. AUDITS.--A municipality shall provide by ordinance a method to either audit or otherwise ensure that vendors subject to the stadium surcharge collect and remit to the treasurer of the municipality the full amount of the surcharge receipts due to the municipality.

Section 7. ENFORCEMENT--PENALTIES.--

A. An action to enforce the imposition and collection of a stadium surcharge by a vendor may be brought

by a municipality.

B. A district court may issue an appropriate judgment, order or remedy to enforce the provisions of a vendor contract.

C. Any judgment issued by a district court requiring stadium surcharge receipts to be paid to a municipal treasurer by a vendor shall also award interest at twelve percent on past-due amounts, attorney fees and costs to a municipality.

Section 8. AUTHORIZATION OF PROJECT. --

A. Pursuant to the provisions of Section 6-21-6 NMSA 1978, the legislature authorizes the authority to make a loan from the public project revolving fund to a municipality to acquire land for and to design, purchase, construct, remodel, renovate, rehabilitate, improve, equip or furnish a minor league baseball stadium on terms and conditions established by the authority.

B. Prior to receiving the loan, the governing body shall approve the loan and related documents by an ordinance to be adopted by a majority of the members of the governing body. The ordinance shall pledge the stadium surcharge receipts to make the loan payments. In addition to pledging stadium surcharge receipts for making loan payments, the ordinance shall pledge legally available gross receipts tax revenues distributed to a municipality pursuant to

Section 7-1-6.4 or 7-1-6.12 NMSA 1978 in an amount satisfactory to the authority and in an amount at least sufficient to make the loan payments. No action shall be brought questioning the legality of the pledge of receipts and revenues, the ordinance, the loan, the proceedings, the stadium surcharge or any other matter concerning the loan after thirty days from the date of publication of the ordinance approving the loan and related documents and pledging stadium surcharge receipts and gross receipts tax revenues of the municipality to make the loan payments.

C. The legislature or a municipality shall not repeal, amend or otherwise modify any law or ordinance that adversely affects or impairs the stadium surcharge or any loan from the authority secured by a pledge of the stadium surcharge and gross receipts tax revenues, unless the loan has been paid in full or provisions have been made for full payment.

Section 9. CUMULATIVE AND COMPLETE AUTHORITY. --The Minor League Baseball Stadium Funding Act shall be deemed to provide an additional and alternative method for obtaining funding for a minor league baseball stadium, establishing the stadium surcharge and completing the acts authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws of the state, without reference to such other laws of the state, and shall

constitute full authority for the exercise of powers granted herein, including but not limited to the pledging of stadium surcharge receipts and gross receipts tax revenues by the governing body to make loan payments to the authority.

Section 10. LIBERAL INTERPRETATION. --The Minor League Baseball Stadium Funding Act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes of the act.

Section 11. SEVERABILITY. --If any part or application of the Minor League Baseball Stadium Funding Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Section 12. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"EXEMPTION--GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX--STADIUM SURCHARGE. --Exempted from the gross receipts tax and from the governmental gross receipts tax are the receipts from selling tickets, parking, souvenirs, concessions, programs, advertising, merchandise, corporate suites or boxes, broadcast revenues and all other products, services or activities sold at, related to or occurring at a minor league baseball stadium on which a stadium surcharge is imposed pursuant to the Minor League Baseball Stadium Funding Act. "

Section 13. EMERGENCY. --It is necessary for the public

peace, health and safety that this act take effect
immediately. _____