

# HOUSE BILL No. 6443

September 24, 2002, Introduced by Rep. O'Neil and referred to the Committee on Commerce.

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending section 2 (MCL 125.2652), as amended by 2002 PA 254.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2. As used in this act:

2       (a) "Additional response activities" means response activi-  
3 ties identified as part of a brownfield plan that are in addition  
4 to baseline environmental assessment activities and due care  
5 activities for an eligible property.

6       (b) "Authority" means a brownfield redevelopment authority  
7 created under this act.

8       (c) "Baseline environmental assessment" means that term as  
9 defined in section 20101 of the natural resources and  
10 environmental protection act, 1994 PA 451, MCL 324.20101.

1 (d) "Baseline environmental assessment activities" means  
2 those response activities identified as part of a brownfield plan  
3 that are necessary to complete a baseline environmental assess-  
4 ment for an eligible property in the brownfield plan.

5 (e) "Blighted" means property that meets any of the follow-  
6 ing criteria:

7 (i) Has been declared a public nuisance in accordance with a  
8 local housing, building, plumbing, fire, or other related code or  
9 ordinance.

10 (ii) Is an attractive nuisance to children because of physi-  
11 cal condition, use, or occupancy.

12 (iii) Is a fire hazard or is otherwise dangerous to the  
13 safety of persons or property.

14 (iv) Has had the utilities, plumbing, heating, or sewerage  
15 permanently disconnected, destroyed, removed, or rendered inef-  
16 fective so that the property is unfit for its intended use.

17 (v) Is tax reverted property owned by a qualified local gov-  
18 ernmental unit, by a county, or by this state. The sale, lease,  
19 or transfer of tax reverted property by a qualified local govern-  
20 mental unit, county, or this state after the property's inclusion  
21 in a brownfield plan shall not result in the loss to the property  
22 of the status as blighted property for purposes of this act.

23 (f) "Board" means the governing body of an authority.

24 (g) "Brownfield plan" means a plan that meets the require-  
25 ments of section 13 and is adopted under section 14.

26 (h) "Captured taxable value" means the amount in 1 year by  
27 which the current taxable value of an eligible property subject

1 to a brownfield plan, including the taxable value or assessed  
2 value, as appropriate, of the property for which specific taxes  
3 are paid in lieu of property taxes, exceeds the initial taxable  
4 value of that eligible property. The state tax commission shall  
5 prescribe the method for calculating captured taxable value.

6 (i) "Chief executive officer" means the mayor of a city, the  
7 village manager of a village, the township supervisor of a town-  
8 ship, or the county executive of a county or, if the county does  
9 not have an elected county executive, the chairperson of the  
10 county board of commissioners.

11 (j) "Department" means the department of environmental  
12 quality.

13 (k) "Due care activities" means those response activities  
14 identified as part of a brownfield plan that are necessary to  
15 allow the owner or operator of an eligible property in the plan  
16 to comply with the requirements of section 20107a of the natural  
17 resources and environmental protection act, 1994 PA 451,  
18 MCL 324.20107a.

19 (l) "Eligible activities" or "eligible activity" does not  
20 include activities related to multisource commercial hazardous  
21 waste disposal wells as that term is defined in section 62506a of  
22 the natural resources and environmental protection act, 1994 PA  
23 451, MCL 324.62506a, but means 1 or more of the following:

24 (i) Baseline environmental assessment activities.

25 (ii) Due care activities.

26 (iii) Additional response activities.

1           (iv) For eligible activities on eligible property that was  
2 used or is currently used for commercial, industrial, or  
3 residential purposes that is in a qualified local governmental  
4 unit and is a facility, functionally obsolete, or blighted, and  
5 except for purposes of section 38d of the single business tax  
6 act, 1975 PA 228, MCL 208.38d, the following additional  
7 activities:

8           (A) Infrastructure improvements that directly benefit eligi-  
9 ble property.

10           (B) Demolition of structures that is not response activity  
11 under section ~~201~~ 20101 of the natural resources and environ-  
12 mental protection act, 1994 PA 451, MCL 324.20101.

13           (C) Lead or asbestos abatement.

14           (D) Site preparation that is not response activity under  
15 section ~~201~~ 20101 of the natural resources and environmental  
16 protection act, 1994 PA 451, MCL 324.20101.

17           (v) Relocation of public buildings or operations for eco-  
18 nomic development purposes with prior approval of the Michigan  
19 economic development authority.

20           (m) "Eligible property" means property for which eligible  
21 activities are identified under a brownfield plan that was used  
22 or is currently used for commercial, industrial, or residential  
23 purposes that is either in a qualified local governmental unit  
24 and is a facility, functionally obsolete, or blighted or is not  
25 in a qualified local governmental unit and is a facility, and  
26 includes parcels that are adjacent or contiguous to that property  
27 if the development of the adjacent and contiguous parcels is

1 estimated to increase the captured taxable value of that  
2 property. Eligible property includes, to the extent included in  
3 the brownfield plan, personal property located on the property.  
4 Eligible property does not include qualified agricultural prop-  
5 erty exempt under section 7ee of the general property tax act,  
6 1893 PA 206, MCL 211.7ee, from the tax levied by a local school  
7 district for school operating purposes to the extent provided  
8 under section 1211 of the revised school code, 1976 PA 451,  
9 MCL 380.1211. ELIGIBLE PROPERTY DOES NOT INCLUDE A PLANT OR  
10 OTHER PROPERTY THAT HAS AS ITS PRIMARY PURPOSE THE PACKAGING,  
11 PRODUCTION, OR BOTTLING OF WATER INTENDED FOR HUMAN CONSUMPTION  
12 IN SEALED CONTAINERS LESS THAN 1 GALLON IN SIZE AND THAT HAS NO  
13 ADDITIONAL ADDED INGREDIENTS.

14 (n) "Facility" means that term as defined in section 20101  
15 of the natural resources and environmental protection act, 1994  
16 PA 451, MCL 324.20101.

17 (o) "Fiscal year" means the fiscal year of the authority.

18 (p) "Functionally obsolete" means that the property is  
19 unable to be used to adequately perform the function for which it  
20 was intended due to a substantial loss in value resulting from  
21 factors such as overcapacity, changes in technology, deficiencies  
22 or superadequacies in design, or other similar factors that  
23 affect the property itself or the property's relationship with  
24 other surrounding property.

25 (q) "Governing body" means the elected body having legisla-  
26 tive powers of a municipality creating an authority under this  
27 act.

1           (r) "Infrastructure improvements" means a street, road,  
2 sidewalk, parking facility, pedestrian mall, alley, bridge,  
3 sewer, sewage treatment plant, property designed to reduce, elim-  
4 inate, or prevent the spread of identified soil or groundwater  
5 contamination, drainage system, waterway, waterline, water stor-  
6 age facility, rail line, utility line or pipeline, or other simi-  
7 lar or related structure or improvement, together with necessary  
8 easements for the structure or improvement, owned or used by a  
9 public agency or functionally connected to similar or supporting  
10 property owned or used by a public agency, or designed and dedi-  
11 cated to use by, for the benefit of, or for the protection of the  
12 health, welfare, or safety of the public generally, whether or  
13 not used by a single business entity, provided that any road,  
14 street, or bridge shall be continuously open to public access and  
15 that other property shall be located in public easements or  
16 rights-of-way and sized to accommodate reasonably foreseeable  
17 development of eligible property in adjoining areas.

18           (s) "Initial taxable value" means the taxable value of an  
19 eligible property identified in and subject to a brownfield plan  
20 at the time the resolution adding that eligible property in the  
21 brownfield plan is adopted, as shown by the most recent assess-  
22 ment roll for which equalization has been completed at the time  
23 the resolution is adopted. Property exempt from taxation at the  
24 time the initial taxable value is determined shall be included  
25 with the initial taxable value of zero. Property for which a  
26 specific tax is paid in lieu of property tax shall not be  
27 considered exempt from taxation. The state tax commission shall

1 prescribe the method for calculating the initial taxable value of  
2 property for which a specific tax was paid in lieu of property  
3 tax.

4 (t) "Local taxes" means all taxes levied other than taxes  
5 levied for school operating purposes.

6 (u) "Municipality" means all of the following:

7 (i) A city.

8 (ii) A village.

9 (iii) A township in those areas of the township that are  
10 outside of a village.

11 (iv) A township in those areas of the township that are in a  
12 village upon the concurrence by resolution of the village in  
13 which the zone would be located.

14 (v) A county.

15 (v) "Qualified local governmental unit" means that term as  
16 defined in the obsolete property rehabilitation act.

17 (w) "Qualified taxpayer" means that term as defined in  
18 sections 38d and 38g of the single business tax act, 1975 PA 228,  
19 MCL 208.38d and 208.38g.

20 (x) "Remedial action plan" means a plan that meets both of  
21 the following requirements:

22 (i) Is a remedial action plan as that term is defined in  
23 section 20101 of the natural resources and environmental protec-  
24 tion act, 1994 PA 451, MCL 324.20101.

25 (ii) Describes each individual activity to be conducted to  
26 complete eligible activities and the associated costs of each  
27 individual activity.

1 (y) "Response activity" means that term as defined in  
2 section 20101 of the natural resources and environmental protec-  
3 tion act, 1994 PA 451, MCL 324.20101.

4 (z) "Specific taxes" means a tax levied under 1974 PA 198,  
5 MCL 207.551 to 207.572; the commercial redevelopment act, 1978  
6 PA 255, MCL 207.651 to 207.668; the enterprise zone act, 1985  
7 PA 224, MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to  
8 211.182; the technology park development act, 1984 PA 385,  
9 MCL 207.701 to 207.718; the obsolete property rehabilitation act,  
10 2000 PA 146, MCL 125.2781 to 125.2797; or the neighborhood enter-  
11 prise zone act, 1992 PA 147, MCL 207.771 to ~~207.787~~ 207.786.

12 (aa) "Tax increment revenues" means the amount of ad valorem  
13 property taxes and specific taxes attributable to the application  
14 of the levy of all taxing jurisdictions upon the captured taxable  
15 value of each parcel of eligible property subject to a brownfield  
16 plan and personal property located on that property. Tax incre-  
17 ment revenues exclude ad valorem property taxes specifically  
18 levied for the payment of principal of and interest on either  
19 obligations approved by the electors or obligations pledging the  
20 unlimited taxing power of the local governmental unit, and spe-  
21 cific taxes attributable to those ad valorem property taxes. Tax  
22 increment revenues attributable to eligible property also exclude  
23 the amount of ad valorem property taxes or specific taxes cap-  
24 tured by a downtown development authority, tax increment finance  
25 authority, or local development finance authority if those taxes  
26 were captured by these other authorities on the date that



1 eligible property became subject to a brownfield plan under this  
2 act.

3 (bb) "Taxable value" means the value determined under sec-  
4 tion 27a of the general property tax act, 1893 PA 206,  
5 MCL 211.27a.

6 (cc) "Taxes levied for school operating purposes" means all  
7 of the following:

8 (i) The taxes levied by a local school district for operat-  
9 ing purposes.

10 (ii) The taxes levied under the state education tax act,  
11 1993 PA 331, MCL 211.901 to 211.906.

12 (iii) That portion of specific taxes attributable to taxes  
13 described under subparagraphs (i) and (ii).

14 (dd) "Work plan" means a plan that describes each individual  
15 activity to be conducted to complete eligible activities and the  
16 associated costs of each individual activity.

17 (ee) "Zone" means, for an authority established before the  
18 effective date of the amendatory act that added subdivision (r),  
19 a brownfield redevelopment zone designated under this act.