

HOUSE BILL No. 5357

December 9, 2003, Introduced by Reps. Huizenga, Sheen, Taub, Brandenburg, Stewart, Newell, Wenke, Vander Veen, Shaffer, Palmer, Shackleton, DeRoche, Kooiman, Voorhees and Farhat 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
3 activities identified as part of a brownfield plan that are in
4 addition to baseline environmental assessment activities and due
5 care 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.

11 (d) "Baseline environmental assessment activities" means

1 those response activities identified as part of a brownfield plan
2 that are necessary to complete a baseline environmental
3 assessment for an eligible property in the brownfield plan.

4 (e) "Blighted" means property that meets any of the following
5 criteria:

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

9 (ii) Is an attractive nuisance to children because of
10 physical condition, use, or occupancy.

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

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

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

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

24 (g) "Brownfield plan" means a plan that meets the
25 requirements 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
8 township, or the county executive of a county or, if the county
9 does 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.

27 (iv) For eligible activities on eligible property that was

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

7 (A) Infrastructure improvements that directly benefit
8 eligible property.

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

12 (C) Lead or asbestos abatement.

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

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

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

1 property. Eligible property includes, to the extent included in
2 the brownfield plan, personal property located on the property.
3 Eligible property does not include qualified agricultural
4 property exempt under section 7ee of the general property tax
5 act, 1893 PA 206, MCL 211.7ee, from the tax levied by a local
6 school district for school operating purposes to the extent
7 provided under section 1211 of the revised school code, 1976
8 PA 451, MCL 380.1211.

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

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

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

20 (q) "Governing body" means the elected body having
21 legislative powers of a municipality creating an authority under
22 this act.

23 (r) "Infrastructure improvements" means a street, road,
24 sidewalk, parking facility, pedestrian mall, alley, bridge,
25 sewer, sewage treatment plant, property designed to reduce,
26 eliminate, or prevent the spread of identified soil or
27 groundwater contamination, drainage system, waterway, waterline,

1 water storage facility, rail line, utility line or pipeline, or
2 other similar or related structure or improvement, together with
3 necessary easements for the structure or improvement, owned or
4 used by a public agency or functionally connected to similar or
5 supporting property owned or used by a public agency, or designed
6 and dedicated to use by, for the benefit of, or for the
7 protection of the health, welfare, or safety of the public
8 generally, whether or not used by a single business entity,
9 provided that any road, street, or bridge shall be continuously
10 open to public access and that other property shall be located in
11 public easements or rights-of-way and sized to accommodate
12 reasonably foreseeable development of eligible property in
13 adjoining areas.

14 (s) "Initial taxable value" means the taxable value of an
15 eligible property identified in and subject to a brownfield plan
16 at the time the resolution adding that eligible property in the
17 brownfield plan is adopted, as shown **either** by the most recent
18 assessment roll for which equalization has been completed at the
19 time the resolution is adopted **or, if provided by the brownfield**
20 **plan, by the next assessment roll for which equalization will be**
21 **completed following the date the resolution adding that eligible**
22 **property in the brownfield plan is adopted.** Property exempt from
23 taxation at the time the initial taxable value is determined
24 shall be included with the initial taxable value of zero.
25 Property for which a specific tax is paid in lieu of property tax
26 shall not be considered exempt from taxation. The state tax
27 commission shall prescribe the method for calculating the initial

1 taxable value of property for which a specific tax was paid in
2 lieu of property tax.

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

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

6 (i) A city.

7 (ii) A village.

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

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

13 (v) A county.

14 (v) "Qualified local governmental unit" means that term as
15 defined in the obsolete property rehabilitation act, **2000 PA 146,**
16 **MCL 125.2781 to 125.2797.**

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
24 protection 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
3 protection 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
11 enterprise zone act, 1992 PA 147, MCL 207.771 to ~~207.787~~
12 **207.786**.

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

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

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

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

7 (i) The taxes levied by a local school district for operating
8 purposes.

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

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

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

16 (ee) "Zone" means, for an authority established before ~~the~~
17 ~~effective date of the amendatory act that added subdivision (r)~~
18 **June 6, 2000**, a brownfield redevelopment zone designated under
19 this act.