

# HOUSE BILL No. 6303

June 29, 2006, Introduced by Reps. Kooiman, Hildenbrand, Steil, Jones, Moolenaar, LaJoy, Gaffney, Marleau and Green and referred to the Committee on Commerce.

A bill to amend 1996 PA 381, entitled  
"Brownfield redevelopment financing act,"  
by amending section 13 (MCL 125.2663), as amended by 2006 PA 32.

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

1       Sec. 13. (1) Subject to section 15, the board may implement a  
2 brownfield plan. The brownfield plan may apply to 1 or more parcels  
3 of eligible property whether or not those parcels of eligible  
4 property are contiguous and may be amended to apply to additional  
5 parcels of eligible property. Except as otherwise authorized by  
6 this act, if more than 1 parcel of eligible property is included  
7 within the plan, the tax increment revenues under the plan shall be  
8 determined individually for each parcel of eligible property. Each

1 plan or an amendment to a plan shall be approved by the governing  
2 body of the municipality and shall contain all of the following:

3 (a) A description of the costs of the plan intended to be paid  
4 for with the tax increment revenues or, for a plan for eligible  
5 properties qualified on the basis that the property is owned or  
6 under the control of a land bank fast track authority, a listing of  
7 all eligible activities that may be conducted for 1 or more of the  
8 eligible properties subject to the plan.

9 (b) A brief summary of the eligible activities that are  
10 proposed for each eligible property or, for a plan for eligible  
11 properties qualified on the basis that the property is owned or  
12 under the control of a land bank fast track authority, a brief  
13 summary of eligible activities conducted for 1 or more of the  
14 eligible properties subject to the plan.

15 (c) An estimate of the captured taxable value and tax  
16 increment revenues for each year of the plan from each parcel of  
17 eligible property, or from all eligible properties qualified on the  
18 basis that the property is owned or under the control of a land  
19 bank fast track authority, and in the aggregate. The plan may  
20 provide for the use of part or all of the captured taxable value,  
21 including deposits in the local site remediation revolving fund,  
22 but the portion intended to be used shall be clearly stated in the  
23 plan. The plan shall not provide either for an exclusion from  
24 captured taxable value of a portion of the captured taxable value  
25 or for an exclusion of the tax levy of 1 or more taxing  
26 jurisdictions unless the tax levy is excluded from tax increment  
27 revenues in section 2(dd), or unless the tax levy is excluded from

1 capture under section 15.

2 (d) The method by which the costs of the plan will be  
3 financed, including a description of any advances made or  
4 anticipated to be made for the costs of the plan from the  
5 municipality.

6 (e) The maximum amount of note or bonded indebtedness to be  
7 incurred, if any.

8 (f) The duration of the brownfield plan ~~—, which—~~ **FOR ELIGIBLE**  
9 **ACTIVITIES ON ELIGIBLE PROPERTY, INCLUDING THE BEGINNING DATE AND**  
10 **ENDING DATE OF THE CAPTURE OF TAX INCREMENT REVENUES, WHICH**  
11 **BEGINNING DATE SHALL NOT BE LATER THAN 3 YEARS FOLLOWING THE DATE**  
12 **OF THE RESOLUTION THAT ADDED THE ELIGIBLE PROPERTY TO THE**  
13 **BROWNFIELD PLAN AND WHICH DURATION** shall not exceed the lesser of  
14 the period authorized under subsections (4) and (5) or 30 years.

15 (g) An estimate of the impact of tax increment financing on  
16 the revenues of all taxing jurisdictions in which the eligible  
17 property is located.

18 (h) A legal description of each parcel of eligible property to  
19 which the plan applies, a map showing the location and dimensions  
20 of each eligible property, a statement of the characteristics that  
21 qualify the property as eligible property, and a statement of  
22 whether personal property is included as part of the eligible  
23 property. If the project is on property that is functionally  
24 obsolete, the taxpayer shall include, with the application, an  
25 affidavit signed by a level 3 or level 4 assessor, that states that  
26 it is the assessor's expert opinion that the property is  
27 functionally obsolete and the underlying basis for that opinion.

1 (i) Estimates of the number of persons residing on each  
2 eligible property to which the plan applies and the number of  
3 families and individuals to be displaced. If occupied residences  
4 are designated for acquisition and clearance by the authority, the  
5 plan shall include a demographic survey of the persons to be  
6 displaced, a statistical description of the housing supply in the  
7 community, including the number of private and public units in  
8 existence or under construction, the condition of those in  
9 existence, the number of owner-occupied and renter-occupied units,  
10 the annual rate of turnover of the various types of housing and the  
11 range of rents and sale prices, an estimate of the total demand for  
12 housing in the community, and the estimated capacity of private and  
13 public housing available to displaced families and individuals.

14 (j) A plan for establishing priority for the relocation of  
15 persons displaced by implementation of the plan.

16 (k) Provision for the costs of relocating persons displaced by  
17 implementation of the plan, and financial assistance and  
18 reimbursement of expenses, including litigation expenses and  
19 expenses incident to the transfer of title, in accordance with the  
20 standards and provisions of the uniform relocation assistance and  
21 real property acquisition policies act of 1970, Public Law 91-646.

22 (l) A strategy for compliance with 1972 PA 227, MCL 213.321 to  
23 213.332.

24 (m) A description of proposed use of the local site  
25 remediation revolving fund.

26 (n) Other material that the authority or governing body  
27 considers pertinent.

1           (2) The percentage of all taxes levied on a parcel of eligible  
2 property for school operating expenses that is captured and used  
3 under a brownfield plan and all tax increment finance plans under  
4 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance  
5 authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local  
6 development financing act, 1986 PA 281, MCL 125.2151 to 125.2174,  
7 shall not be greater than the combination of the plans' percentage  
8 capture and use of all local taxes levied for purposes other than  
9 for the payment of principal of and interest on either obligations  
10 approved by the electors or obligations pledging the unlimited  
11 taxing power of the local unit of government. This subsection shall  
12 apply only when taxes levied for school operating purposes are  
13 subject to capture under section 15.

14           (3) Except as provided in this subsection and subsections (5),  
15 (15), and (16), tax increment revenues related to a brownfield plan  
16 shall be used only for costs of eligible activities attributable to  
17 the eligible property, the captured taxable value of which produces  
18 the tax increment revenues, including the cost of principal of and  
19 interest on any obligation issued by the authority to pay the costs  
20 of eligible activities attributable to the eligible property, and  
21 the reasonable costs of preparing a work plan or remedial action  
22 plan for the eligible property, including the actual cost of the  
23 review of the work plan or remedial action plan under section 15.  
24 For property owned or under the control of a land bank fast track  
25 authority, tax increment revenues related to a brownfield plan may  
26 be used for eligible activities attributable to any eligible  
27 property owned or under the control of the land bank fast track

1 authority, the cost of principal of and interest on any obligation  
2 issued by the authority to pay the costs of eligible activities,  
3 the reasonable costs of preparing a work plan or remedial action  
4 plan, and the actual cost of the review of the work plan or  
5 remedial action plan under section 15. Tax increment revenues  
6 captured from taxes levied by this state under the state education  
7 tax act, 1993 PA 331, MCL 211.901 to 211.906, or taxes levied by a  
8 local school district shall not be used for eligible activities  
9 described in section 2(m)(iv)(E).

10 (4) Except as provided in subsection (5), a brownfield plan  
11 shall not authorize the capture of tax increment revenue from  
12 eligible property after the year in which the total amount of tax  
13 increment revenues captured is equal to the sum of the costs  
14 permitted to be funded with tax increment revenues under this act.

15 (5) A brownfield plan may authorize the capture of additional  
16 tax increment revenue from an eligible property in excess of the  
17 amount authorized under subsection (4) during the time of capture  
18 for the purpose of paying the costs permitted under subsection (3),  
19 or for not more than 5 years after the time that capture is  
20 required for the purpose of paying the costs permitted under  
21 subsection (3), or both. Excess revenues captured under this  
22 subsection shall be deposited in the local site remediation  
23 revolving fund created under section 8 and used for the purposes  
24 authorized in section 8. If tax increment revenues attributable to  
25 taxes levied for school operating purposes from eligible property  
26 are captured by the authority for purposes authorized under  
27 subsection (3), the tax increment revenues captured for deposit in

1 the local site remediation revolving fund also may include tax  
2 increment revenues attributable to taxes levied for school  
3 operating purposes in an amount not greater than the tax increment  
4 revenues levied for school operating purposes captured from the  
5 eligible property by the authority for the purposes authorized  
6 under subsection (3). Excess tax increment revenues from taxes  
7 levied for school operating purposes for eligible activities  
8 authorized under subsection (15) by the Michigan economic growth  
9 authority shall not be captured for deposit in the local site  
10 remediation revolving fund.

11 (6) An authority shall not expend tax increment revenues to  
12 acquire or prepare eligible property, unless the acquisition or  
13 preparation is an eligible activity.

14 (7) Costs of eligible activities attributable to eligible  
15 property include all costs that are necessary or related to a  
16 release from the eligible property, including eligible activities  
17 on properties affected by a release from the eligible property. For  
18 purposes of this subsection, "release" means that term as defined  
19 in section 20101 of the natural resources and environmental  
20 protection act, 1994 PA 451, MCL 324.20101.

21 (8) Costs of a response activity paid with tax increment  
22 revenues that are captured pursuant to subsection (3) may be  
23 recovered from a person who is liable for the costs of eligible  
24 activities at an eligible property. This state or an authority may  
25 undertake cost recovery for tax increment revenue captured. Before  
26 an authority or this state may institute a cost recovery action, it  
27 must provide the other with 120 days' notice. This state or an

1 authority that recovers costs under this subsection shall apply  
2 those recovered costs to the following, in the following order of  
3 priority:

4 (a) The reasonable attorney fees and costs incurred by this  
5 state or an authority in obtaining the cost recovery.

6 (b) One of the following:

7 (i) If an authority undertakes the cost recovery action, the  
8 authority shall deposit the remaining recovered funds into the  
9 local site remediation fund created pursuant to section 8, if such  
10 a fund has been established by the authority. If a local site  
11 remediation fund has not been established, the authority shall  
12 disburse the remaining recovered funds to the local taxing  
13 jurisdictions in the proportion that the local taxing  
14 jurisdictions' taxes were captured.

15 (ii) If this state undertakes a cost recovery action, this  
16 state shall deposit the remaining recovered funds into the  
17 revitalization revolving loan fund established under section 20108a  
18 of the natural resources and environmental protection act, 1994 PA  
19 451, MCL 324.20108a.

20 (iii) If this state and an authority each undertake a cost  
21 recovery action, undertake a cost recovery action jointly, or 1 on  
22 behalf of the other, the amount of any remaining recovered funds  
23 shall be deposited pursuant to subparagraphs (i) and (ii) in the  
24 proportion that the tax increment revenues being recovered  
25 represent local taxes and taxes levied for school operating  
26 purposes, respectively.

27 (9) Approval of the brownfield plan or an amendment to a



1 brownfield plan shall be in accordance with the notice and approval  
2 provisions of this section and section 14.

3 (10) Before approving a brownfield plan for an eligible  
4 property, the governing body shall hold a public hearing on the  
5 brownfield plan. Notice of the time and place of the hearing shall  
6 be given by publication twice in a newspaper of general circulation  
7 designated by the municipality, the first of which shall be not  
8 less than 20 or more than 40 days before the date set for the  
9 hearing.

10 (11) Notice of the time and place of the hearing on a  
11 brownfield plan shall contain all of the following:

12 (a) A description of the property to which the plan applies in  
13 relation to existing or proposed highways, streets, streams, or  
14 otherwise.

15 (b) A statement that maps, plats, and a description of the  
16 brownfield plan are available for public inspection at a place  
17 designated in the notice and that all aspects of the brownfield  
18 plan are open for discussion at the public hearing required by this  
19 section.

20 (c) Any other information that the governing body considers  
21 appropriate.

22 (12) At the time set for the hearing on the brownfield plan  
23 required under subsection (10), the governing body shall provide an  
24 opportunity for interested persons to be heard and shall receive  
25 and consider communications in writing with reference to the  
26 brownfield plan. The governing body shall make and preserve a  
27 record of the public hearing, including all data presented at the

1 hearing.

2 (13) Not less than 20 days before the hearing on the  
3 brownfield plan, the governing body shall provide notice of the  
4 hearing to the taxing jurisdictions that levy taxes subject to  
5 capture under this act. The authority shall fully inform the taxing  
6 jurisdictions about the fiscal and economic implications of the  
7 proposed brownfield plan. At that hearing, an official from a  
8 taxing jurisdiction with millage that would be subject to capture  
9 under this act has the right to be heard in regard to the adoption  
10 of the brownfield plan.

11 (14) The authority shall not enter into agreements with the  
12 taxing jurisdictions and the governing body of the municipality to  
13 share a portion of the captured taxable value of an eligible  
14 property. Upon adoption of the plan, the collection and  
15 transmission of the amount of tax increment revenues as specified  
16 in this act shall be binding on all taxing units levying ad valorem  
17 property taxes or specific taxes against property located in the  
18 zone.

19 (15) Except as provided by subsection (18), if a brownfield  
20 plan includes the capture of taxes levied for school operating  
21 purposes or the use of tax increment revenues related to a  
22 brownfield plan for the cost of eligible activities attributable to  
23 more than 1 eligible property that is adjacent and contiguous to  
24 all other eligible properties covered by the development agreement,  
25 whether or not the captured taxes are levied for school operating  
26 purposes, approval of a work plan by the Michigan economic growth  
27 authority before January 1, 2008 to use school operating taxes and

1 a development agreement between the municipality and an owner or  
2 developer of eligible property are required if the revenues will be  
3 used for infrastructure improvements that directly benefit eligible  
4 property, demolition of structures that is not response activity  
5 under part 201 of the natural resources and environmental  
6 protection act, 1994 PA 451, MCL 324.20101 to 324.20142, lead or  
7 asbestos abatement, or site preparation that is not response  
8 activity under section 20101 of the natural resources and  
9 environmental protection act, 1994 PA 451, MCL 324.20101. The  
10 eligible activities to be conducted described in this subsection  
11 shall be consistent with the work plan submitted by the authority  
12 to the Michigan economic growth authority. The department's  
13 approval is not required for the capture of taxes levied for school  
14 operating purposes for eligible activities described in this  
15 subsection.

16 (16) The limitations of section 15(1) upon use of tax  
17 increment revenues by an authority shall not apply to the following  
18 costs and expenses:

19 (a) In each fiscal year of the authority, \$75,000.00 for the  
20 following purposes for tax increment revenues attributable to local  
21 taxes:

22 (i) Reasonable and actual administrative and operating expenses  
23 of the authority.

24 (ii) Baseline environmental assessments, due care activities,  
25 and additional response activities related directly to work  
26 conducted on prospective eligible properties prior to approval of  
27 the brownfield plan.

1 (b) Reasonable costs of preparing a work plan or remedial  
2 action plan or the cost of the review of a work plan for which tax  
3 increment revenues may be used under section 13(3).

4 (17) A brownfield authority may reimburse advances, with or  
5 without interest, made by a municipality under section 7(3), a land  
6 bank fast track authority, or any other person or entity for costs  
7 of eligible activities with any source of revenue available for use  
8 of the brownfield authority under this act and may enter into  
9 agreements related to those reimbursements. A reimbursement  
10 agreement for these purposes and the obligations under that  
11 reimbursement agreement shall not be subject to section 12 or the  
12 revised municipal finance act, 2001 PA 34, MCL 141.2101 to  
13 141.2821.

14 (18) If a brownfield plan includes the capture of taxes levied  
15 for school operating purposes, approval of a work plan by the  
16 Michigan economic growth authority in the manner required under  
17 section 15(14) to (16) is required in order to use tax increment  
18 revenues attributable to taxes levied for school operating purposes  
19 for purposes of eligible activities described in section 2(m)(iv)(E)  
20 for 1 or more parcels of eligible property. The work plan to be  
21 submitted to the Michigan economic growth authority under this  
22 subsection shall be in a form prescribed by the Michigan economic  
23 growth authority. The eligible activities to be conducted and  
24 described in this subsection shall be consistent with the work plan  
25 submitted by the authority to the Michigan economic growth  
26 authority. The department's approval is not required for the  
27 capture of taxes levied for school operating purposes for eligible

1 activities described in this section.