

# HOUSE BILL No. 5634

January 17, 2008, Introduced by Reps. Emmons, Byrum, Polidori, Opsommer, Johnson, Meadows, Bauer, Farrah, Pavlov, Meekhof, Nitz, Tobocman, Coulouris and Young and referred to the Committee on Intergovernmental, Urban and Regional Affairs.

A bill to amend 1975 PA 197, entitled

"An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials,"

by amending section 1 (MCL 125.1651), as amended by 2006 PA 659.

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

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Sec. 1. As used in this act:  
(a) "Advance" means a transfer of funds made by a municipality

1 to an authority or to another person on behalf of the authority in  
2 anticipation of repayment by the authority. Evidence of the intent  
3 to repay an advance may include, but is not limited to, an executed  
4 agreement to repay, provisions contained in a tax increment  
5 financing plan approved prior to the advance, or a resolution of  
6 the authority or the municipality.

7 (b) "Assessed value" means 1 of the following:

8 (i) For valuations made before January 1, 1995, the state  
9 equalized valuation as determined under the general property tax  
10 act, 1893 PA 206, MCL 211.1 to ~~211.157~~ **211.155**.

11 (ii) For valuations made after December 31, 1994, the taxable  
12 value as determined under section 27a of the general property tax  
13 act, 1893 PA 206, MCL 211.27a.

14 (c) "Authority" means a downtown development authority created  
15 pursuant to this act.

16 (d) "Board" means the governing body of an authority.

17 (e) "Business district" means an area in the downtown of a  
18 municipality zoned and used principally for business.

19 (f) "Captured assessed value" means the amount in any 1 year  
20 by which the current assessed value of the project area, including  
21 the assessed value of property for which specific local taxes are  
22 paid in lieu of property taxes as determined in subdivision (z),  
23 exceeds the initial assessed value. The state tax commission shall  
24 prescribe the method for calculating captured assessed value.

25 (g) "Chief executive officer" means the mayor or city manager  
26 of a city, the president or village manager of a village, or the  
27 supervisor of a township or, if designated by the township board

1 for purposes of this act, the township superintendent or township  
2 manager of a township.

3 (h) "Development area" means that area to which a development  
4 plan is applicable.

5 (i) "Development plan" means that information and those  
6 requirements for a development plan set forth in section 17.

7 (j) "Development program" means the implementation of the  
8 development plan.

9 (k) "Downtown district" means that part of an area in a  
10 business district that is specifically designated by ordinance of  
11 the governing body of the municipality pursuant to this act. A  
12 downtown district may include 1 or more separate and distinct  
13 geographic areas in a business district as determined by the  
14 municipality if the municipality enters into an agreement with a  
15 qualified township under section 3(7) or if the municipality is a  
16 city that surrounds another city and that other city lies between  
17 the 2 separate and distinct geographic areas. If the downtown  
18 district contains more than 1 separate and distinct geographic area  
19 in the downtown district, the separate and distinct geographic  
20 areas shall be considered 1 downtown district.

21 (l) "Eligible advance" means an advance made before August 19,  
22 1993.

23 (m) "Eligible obligation" means an obligation issued or  
24 incurred by an authority or by a municipality on behalf of an  
25 authority before August 19, 1993 and its subsequent refunding by a  
26 qualified refunding obligation. Eligible obligation includes an  
27 authority's written agreement entered into before August 19, 1993

1 to pay an obligation issued after August 18, 1993 and before  
2 December 31, 1996 by another entity on behalf of the authority.

3 (n) "Fire alarm system" means a system designed to detect and  
4 annunciate the presence of fire, or by-products of fire. Fire alarm  
5 system includes smoke detectors.

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

7 (p) "Governing body of a municipality" means the elected body  
8 of a municipality having legislative powers.

9 (q) "Initial assessed value" means the assessed value, as  
10 equalized, of all the taxable property within the boundaries of the  
11 development area at the time the ordinance establishing the tax  
12 increment financing plan is approved, as shown by the most recent  
13 assessment roll of the municipality for which equalization has been  
14 completed at the time the resolution is adopted. Property exempt  
15 from taxation at the time of the determination of the initial  
16 assessed value shall be included as zero. For the purpose of  
17 determining initial assessed value, property for which a specific  
18 local tax is paid in lieu of a property tax shall not be considered  
19 to be property that is exempt from taxation. The initial assessed  
20 value of property for which a specific local tax was paid in lieu  
21 of a property tax shall be determined as provided in subdivision  
22 (z). In the case of a municipality having a population of less than  
23 35,000 that established an authority prior to 1985, created a  
24 district or districts, and approved a development plan or tax  
25 increment financing plan or amendments to a plan, and which plan or  
26 tax increment financing plan or amendments to a plan, and which  
27 plan expired by its terms December 31, 1991, the initial assessed

1 value for the purpose of any plan or plan amendment adopted as an  
2 extension of the expired plan shall be determined as if the plan  
3 had not expired December 31, 1991. For a development area  
4 designated before 1997 in which a renaissance zone has subsequently  
5 been designated pursuant to the Michigan renaissance zone act, 1996  
6 PA 376, MCL 125.2681 to 125.2696, the initial assessed value of the  
7 development area otherwise determined under this subdivision shall  
8 be reduced by the amount by which the current assessed value of the  
9 development area was reduced in 1997 due to the exemption of  
10 property under section 7ff of the general property tax act, 1893 PA  
11 206, MCL 211.7ff, but in no case shall the initial assessed value  
12 be less than zero.

13 (r) "Municipality" means a city, village, or township.

14 (s) "Obligation" means a written promise to pay, whether  
15 evidenced by a contract, agreement, lease, sublease, bond, or note,  
16 or a requirement to pay imposed by law. An obligation does not  
17 include a payment required solely because of default upon an  
18 obligation, employee salaries, or consideration paid for the use of  
19 municipal offices. An obligation does not include those bonds that  
20 have been economically defeased by refunding bonds issued under  
21 this act. Obligation includes, but is not limited to, the  
22 following:

23 (i) A requirement to pay proceeds derived from ad valorem  
24 property taxes or taxes levied in lieu of ad valorem property  
25 taxes.

26 (ii) A management contract or a contract for professional  
27 services.

1           (iii) A payment required on a contract, agreement, bond, or note  
2 if the requirement to make or assume the payment arose before  
3 August 19, 1993.

4           (iv) A requirement to pay or reimburse a person for the cost of  
5 insurance for, or to maintain, property subject to a lease, land  
6 contract, purchase agreement, or other agreement.

7           (v) A letter of credit, paying agent, transfer agent, bond  
8 registrar, or trustee fee associated with a contract, agreement,  
9 bond, or note.

10           (t) "On behalf of an authority", in relation to an eligible  
11 advance made by a municipality, or an eligible obligation or other  
12 protected obligation issued or incurred by a municipality, means in  
13 anticipation that an authority would transfer tax increment  
14 revenues or reimburse the municipality from tax increment revenues  
15 in an amount sufficient to fully make payment required by the  
16 eligible advance made by the municipality, or eligible obligation  
17 or other protected obligation issued or incurred by the  
18 municipality, if the anticipation of the transfer or receipt of tax  
19 increment revenues from the authority is pursuant to or evidenced  
20 by 1 or more of the following:

21           (i) A reimbursement agreement between the municipality and an  
22 authority it established.

23           (ii) A requirement imposed by law that the authority transfer  
24 tax increment revenues to the municipality.

25           (iii) A resolution of the authority agreeing to make payments to  
26 the incorporating unit.

27           (iv) Provisions in a tax increment financing plan describing

1 the project for which the obligation was incurred.

2 (u) "Operations" means office maintenance, including salaries  
3 and expenses of employees, office supplies, consultation fees,  
4 design costs, and other expenses incurred in the daily management  
5 of the authority and planning of its activities.

6 (v) "Other protected obligation" means:

7 (i) A qualified refunding obligation issued to refund an  
8 obligation described in subparagraph (ii), (iii), or (iv), an  
9 obligation that is not a qualified refunding obligation that is  
10 issued to refund an eligible obligation, or a qualified refunding  
11 obligation issued to refund an obligation described in this  
12 subparagraph.

13 (ii) An obligation issued or incurred by an authority or by a  
14 municipality on behalf of an authority after August 19, 1993, but  
15 before December 31, 1994, to finance a project described in a tax  
16 increment finance plan approved by the municipality in accordance  
17 with this act before December 31, 1993, for which a contract for  
18 final design is entered into by or on behalf of the municipality or  
19 authority before March 1, 1994 or for which a written agreement  
20 with a developer, titled preferred development agreement, was  
21 entered into by or on behalf of the municipality or authority in  
22 July 1993.

23 (iii) An obligation incurred by an authority or municipality  
24 after August 19, 1993, to reimburse a party to a development  
25 agreement entered into by a municipality or authority before August  
26 19, 1993, for a project described in a tax increment financing plan  
27 approved in accordance with this act before August 19, 1993, and

1 undertaken and installed by that party in accordance with the  
2 development agreement.

3 (iv) An obligation incurred by the authority evidenced by or to  
4 finance a contract to purchase real property within a development  
5 area or a contract to develop that property within the development  
6 area, or both, if all of the following requirements are met:

7 (A) The authority purchased the real property in 1993.

8 (B) Before June 30, 1995, the authority enters a contract for  
9 the development of the real property located within the development  
10 area.

11 (C) In 1993, the authority or municipality on behalf of the  
12 authority received approval for a grant from both of the following:

13 (I) The department of natural resources for site reclamation  
14 of the real property.

15 (II) The department of consumer and industry services for  
16 development of the real property.

17 (v) An ongoing management or professional services contract  
18 with the governing body of a county which was entered into before  
19 March 1, 1994 and which was preceded by a series of limited term  
20 management or professional services contracts with the governing  
21 body of the county, the last of which was entered into before  
22 August 19, 1993.

23 (vi) A loan from a municipality to an authority if the loan was  
24 approved by the legislative body of the municipality on April 18,  
25 1994.

26 (vii) Funds expended to match a grant received by a  
27 municipality on behalf of an authority for sidewalk improvements



1 from the Michigan department of transportation if the legislative  
2 body of the municipality approved the grant application on April 5,  
3 1993 and the grant was received by the municipality in June 1993.

4 (viii) For taxes captured in 1994, an obligation described in  
5 this subparagraph issued or incurred to finance a project. An  
6 obligation is considered issued or incurred to finance a project  
7 described in this subparagraph only if all of the following are  
8 met:

9 (A) The obligation requires raising capital for the project or  
10 paying for the project, whether or not a borrowing is involved.

11 (B) The obligation was part of a development plan and the tax  
12 increment financing plan was approved by a municipality on May 6,  
13 1991.

14 (C) The obligation is in the form of a written memorandum of  
15 understanding between a municipality and a public utility dated  
16 October 27, 1994.

17 (D) The authority or municipality captured school taxes during  
18 1994.

19 (ix) An obligation incurred by an authority on October 1, 2001  
20 that was used to finance streetscape capital projects, to the  
21 extent taxes described in subdivision (bb)(ii) were captured in 2002  
22 through 2004, if a plan for the subsequent repayment of those taxes  
23 has been approved by the state tax commission and that plan  
24 provides for the payment of interest on those taxes at a rate  
25 described in section 23(2) of 1941 PA 122, MCL 205.23.

26 (w) "Public facility" means a street, plaza, pedestrian mall,  
27 and any improvements to a street, plaza, or pedestrian mall

1 including street furniture and beautification, park, parking  
2 facility, recreational facility, right-of-way, structure, waterway,  
3 bridge, lake, pond, canal, utility line or pipe, building, and  
4 access routes to any of the foregoing, designed and dedicated to  
5 use by the public generally, or used by a public agency. Public  
6 facility includes an improvement to a facility used by the public  
7 or a public facility as those terms are defined in section 1 of  
8 1966 PA 1, MCL 125.1351, which improvement is made to comply with  
9 the barrier free design requirements of the state construction code  
10 promulgated under the Stille-DeRossett-Hale single state  
11 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

12 (x) "Qualified refunding obligation" means an obligation  
13 issued or incurred by an authority or by a municipality on behalf  
14 of an authority to refund an obligation if ~~the~~ **1 OR MORE OF THE**  
15 **FOLLOWING APPLY:**

16 (i) **THE** obligation is issued to refund a qualified refunding  
17 obligation issued **ON MAY 15, 1997 OR** in November 1997 and any  
18 subsequent refundings of that obligation issued before January 1,  
19 2010. ~~or the~~ **QUALIFIED REFUNDING OBLIGATIONS ISSUED UNDER THIS**  
20 **SUBPARAGRAPH ARE NOT SUBJECT TO THE REQUIREMENTS OF SECTION 611 OF**  
21 **THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2611, IF**  
22 **ISSUED BEFORE JANUARY 1, 2010. THE DURATION OF THE DEVELOPMENT**  
23 **PROGRAM DESCRIBED IN THE TAX INCREMENT FINANCING PLAN RELATING TO**  
24 **THE QUALIFIED REFUNDING OBLIGATIONS ISSUED UNDER THIS SUBPARAGRAPH**  
25 **IS HEREBY EXTENDED TO 1 YEAR AFTER THE FINAL DATE OF MATURITY OF**  
26 **THE QUALIFIED REFUNDING OBLIGATIONS.**

27 (ii) **THE** refunding obligation meets both of the following:

1           (A) ~~(i)~~—The net present value of the principal and interest to  
2 be paid on the refunding obligation, including the cost of  
3 issuance, will be less than the net present value of the principal  
4 and interest to be paid on the obligation being refunded, as  
5 calculated using a method approved by the department of treasury.

6           (B) ~~(ii)~~—The net present value of the sum of the tax increment  
7 revenues described in subdivision (bb) (ii) and the distributions  
8 under section 13b to repay the refunding obligation will not be  
9 greater than the net present value of the sum of the tax increment  
10 revenues described in subdivision (bb) (ii) and the distributions  
11 under section 13b to repay the obligation being refunded, as  
12 calculated using a method approved by the department of treasury.

13           (y) "Qualified township" means a township that meets all of  
14 the following requirements:

15           (i) Was not eligible to create an authority prior to January 3,  
16 2005.

17           (ii) Adjoins a municipality that previously created an  
18 authority.

19           (iii) Along with the adjoining municipality that previously  
20 created an authority, is a member of the same joint planning  
21 commission under the joint municipal planning act, 2003 PA 226, MCL  
22 125.131 to 125.143.

23           (z) "Specific local tax" means a tax levied under 1974 PA 198,  
24 MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA  
25 255, MCL 207.651 to 207.668, the technology park development act,  
26 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL 211.181  
27 to 211.182. The initial assessed value or current assessed value of

1 property subject to a specific local tax shall be the quotient of  
2 the specific local tax paid divided by the ad valorem millage rate.  
3 However, after 1993, the state tax commission shall prescribe the  
4 method for calculating the initial assessed value and current  
5 assessed value of property for which a specific local tax was paid  
6 in lieu of a property tax.

7 (aa) "State fiscal year" means the annual period commencing  
8 October 1 of each year.

9 (bb) "Tax increment revenues" means the amount of ad valorem  
10 property taxes and specific local taxes attributable to the  
11 application of the levy of all taxing jurisdictions upon the  
12 captured assessed value of real and personal property in the  
13 development area, subject to the following requirements:

14 (i) Tax increment revenues include ad valorem property taxes  
15 and specific local taxes attributable to the application of the  
16 levy of all taxing jurisdictions other than the state pursuant to  
17 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,  
18 and local or intermediate school districts upon the captured  
19 assessed value of real and personal property in the development  
20 area for any purpose authorized by this act.

21 (ii) Tax increment revenues include ad valorem property taxes  
22 and specific local taxes attributable to the application of the  
23 levy of the state pursuant to the state education tax act, 1993 PA  
24 331, MCL 211.901 to 211.906, and local or intermediate school  
25 districts upon the captured assessed value of real and personal  
26 property in the development area in an amount equal to the amount  
27 necessary, without regard to subparagraph (i), to repay eligible

1 advances, eligible obligations, and other protected obligations.

2 (iii) Tax increment revenues do not include any of the  
3 following:

4 (A) Ad valorem property taxes attributable either to a portion  
5 of the captured assessed value shared with taxing jurisdictions  
6 within the jurisdictional area of the authority or to a portion of  
7 value of property that may be excluded from captured assessed value  
8 or specific local taxes attributable to such ad valorem property  
9 taxes.

10 (B) Ad valorem property taxes excluded by the tax increment  
11 financing plan of the authority from the determination of the  
12 amount of tax increment revenues to be transmitted to the authority  
13 or specific local taxes attributable to such ad valorem property  
14 taxes.

15 (C) Ad valorem property taxes exempted from capture under  
16 section 3(3) or specific local taxes attributable to such ad  
17 valorem property taxes.

18 (iv) The amount of tax increment revenues authorized to be  
19 included under subparagraph (ii) or (v), and required to be  
20 transmitted to the authority under section 14(1), from ad valorem  
21 property taxes and specific local taxes attributable to the  
22 application of the levy of the state education tax act, 1993 PA  
23 331, MCL 211.901 to 211.906, a local school district or an  
24 intermediate school district upon the captured assessed value of  
25 real and personal property in a development area shall be  
26 determined separately for the levy by the state, each school  
27 district, and each intermediate school district as the product of

1 sub-subparagraphs (A) and (B):

2 (A) The percentage that the total ad valorem taxes and  
3 specific local taxes available for distribution by law to the  
4 state, local school district, or intermediate school district,  
5 respectively, bears to the aggregate amount of ad valorem millage  
6 taxes and specific taxes available for distribution by law to the  
7 state, each local school district, and each intermediate school  
8 district.

9 (B) The maximum amount of ad valorem property taxes and  
10 specific local taxes considered tax increment revenues under  
11 subparagraph (ii) or (v).

12 (v) Tax increment revenues include ad valorem property taxes  
13 and specific local taxes, in an annual amount and for each year  
14 approved by the state treasurer, attributable to the levy by this  
15 state under the state education tax act, 1993 PA 331, MCL 211.901  
16 to 211.906, and by local or intermediate school districts, upon the  
17 captured assessed value of real and personal property in the  
18 development area of an authority established in a city with a  
19 population of 750,000 or more to pay for, or reimburse an advance  
20 for, not more than \$8,000,000.00 for the demolition of buildings or  
21 structures on public or privately owned property within a  
22 development area that commences in 2005, or to pay the annual  
23 principal of or interest on an obligation, the terms of which are  
24 approved by the state treasurer, issued by an authority, or by a  
25 city on behalf of an authority, to pay not more than \$8,000,000.00  
26 of the costs to demolish buildings or structures on public or  
27 privately owned property within a development area that commences

1 in 2005.