

# SENATE BILL No. 534

May 24, 2007, Introduced by Senators RICHARDVILLE, PATTERSON, SANBORN, GILBERT, PAPPAGEORGE, JANSEN, ALLEN, BIRKHOLZ, BROWN, GARCIA, THOMAS, JACOBS and HUNTER and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1996 PA 381, entitled  
"Brownfield redevelopment financing act,"  
by amending section 2 (MCL 125.2652), as amended by 2006 PA 32.

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

1       Sec. 2. As used in this act:

2       (a) "Additional response activities" means response activities  
3 identified as part of a brownfield plan that are in addition to  
4 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 environmental  
10 protection act, 1994 PA 451, MCL 324.20101.

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

5 (e) "Blighted" means property that meets any of the following  
6 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 physical  
11 condition, use, or occupancy.

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

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

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

24 (vi) Is property owned or under the control of a land bank fast  
25 track authority under the land bank fast track act, whether or not  
26 located within a qualified local governmental unit. Property  
27 included within a brownfield plan prior to the date it meets the

1 requirements of this subdivision to be eligible property shall be  
2 considered to become eligible property as of the date the property  
3 is determined to have been or becomes qualified as, or is combined  
4 with, other eligible property. The sale, lease, or transfer of the  
5 property by a land bank fast track authority after the property's  
6 inclusion in a brownfield plan shall not result in the loss to the  
7 property of the status as blighted property for purposes of this  
8 act.

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

10 (g) "Brownfield plan" means a plan that meets the requirements  
11 of section 13 and is adopted under section 14.

12 (h) "Captured taxable value" means the amount in 1 year by  
13 which the current taxable value of an eligible property subject to  
14 a brownfield plan, including the taxable value or assessed value,  
15 as appropriate, of the property for which specific taxes are paid  
16 in lieu of property taxes, exceeds the initial taxable value of  
17 that eligible property. The state tax commission shall prescribe  
18 the method for calculating captured taxable value.

19 (i) "Chief executive officer" means the mayor of a city, the  
20 village manager of a village, the township supervisor of a  
21 township, or the county executive of a county or, if the county  
22 does not have an elected county executive, the chairperson of the  
23 county board of commissioners.

24 (j) "Department" means the department of environmental  
25 quality.

26 (k) "Due care activities" means those response activities  
27 identified as part of a brownfield plan that are necessary to allow

1 the owner or operator of an eligible property in the plan to comply  
2 with the requirements of section 20107a of the natural resources  
3 and environmental protection act, 1994 PA 451, MCL 324.20107a.

4 (l) "Economic opportunity zone" means 1 or more parcels of  
5 property that meet all of the following:

6 (i) That together are 40 or more acres in size.

7 (ii) That contain a manufacturing facility that consists of  
8 500,000 or more square feet.

9 (iii) That are located in a municipality that has a population  
10 of 30,000 or less and that is contiguous to a qualified local  
11 governmental unit.

12 (m) "Eligible activities" or "eligible activity" does not  
13 include activities related to multisource commercial hazardous  
14 waste disposal wells as that term is defined in section 62506a of  
15 the natural resources and environmental protection act, 1994 PA  
16 451, MCL 324.62506a, but means 1 or more of the following

17 **REGARDLESS OF WHETHER IT OCCURS BEFORE OR AFTER THE ADOPTION OF THE**  
18 **WORK PLAN:**

19 (i) Baseline environmental assessment activities.

20 (ii) Due care activities.

21 (iii) Additional response activities.

22 (iv) For eligible activities on eligible property that was used  
23 or is currently used for commercial, industrial, or residential  
24 purposes that is in a qualified local governmental unit, that is  
25 owned or under the control of a land bank fast track authority, or  
26 that is located in an economic opportunity zone, and is a facility,  
27 functionally obsolete, or blighted, and except for purposes of

1 section 38d of the single business tax act, 1975 PA 228, MCL  
2 208.38d, the following additional activities:

3 (A) Infrastructure improvements that directly benefit eligible  
4 property.

5 (B) Demolition of structures that is not response activity  
6 under section 20101 of the natural resources and environmental  
7 protection act, 1994 PA 451, MCL 324.20101.

8 (C) Lead or asbestos abatement.

9 (D) Site preparation that is not response activity under  
10 section 20101 of the natural resources and environmental protection  
11 act, 1994 PA 451, MCL 324.20101.

12 (E) Assistance to a land bank fast track authority in clearing  
13 or quieting title to, or selling or otherwise conveying, property  
14 owned or under the control of a land bank fast track authority.

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

18 (vi) For eligible activities on eligible property that is a  
19 qualified facility that is not located in a qualified local  
20 governmental unit and that is a facility, functionally obsolete, or  
21 blighted, the following additional activities:

22 (A) Infrastructure improvements that directly benefit eligible  
23 property.

24 (B) Demolition of structures that is not response activity  
25 under section 20101 of the natural resources and environmental  
26 protection act, 1994 PA 451, MCL 324.20101.

27 (C) Lead or asbestos abatement.

1 (D) Site preparation that is not response activity under  
2 section 20101 of the natural resources and environmental protection  
3 act, 1994 PA 451, MCL 324.20101.

4 (vii) FOR ELIGIBLE ACTIVITIES ON ELIGIBLE PROPERTY THAT IS NOT  
5 LOCATED IN A QUALIFIED LOCAL GOVERNMENTAL UNIT AND THAT IS A  
6 FACILITY, FUNCTIONALLY OBSOLETE, OR BLIGHTED, AS DETERMINED BY THE  
7 GOVERNING BODY BY RESOLUTION, THE FOLLOWING ADDITIONAL ACTIVITIES:

8 (A) DEMOLITION OF STRUCTURES THAT IS NOT RESPONSE ACTIVITY  
9 UNDER SECTION 20101 OF THE NATURAL RESOURCES AND ENVIRONMENTAL  
10 PROTECTION ACT, 1994 PA 451, MCL 324.20101.

11 (B) LEAD OR ASBESTOS ABATEMENT.

12 (viii) REASONABLE COSTS FOR PREPARATION AND ADMINISTRATION OF  
13 BROWNFIELD PLANS AND WORK PLANS.

14 (n) "Eligible property" means property for which eligible  
15 activities are identified under a brownfield plan that was used or  
16 is currently used for commercial, industrial, or residential  
17 purposes that is either in a qualified local governmental unit and  
18 is a facility, functionally obsolete, or blighted or is not in a  
19 qualified local governmental unit and is a facility, and includes  
20 parcels that are adjacent or contiguous to that property if the  
21 development of the adjacent and contiguous parcels is estimated to  
22 increase the captured taxable value of that property or tax  
23 reverted property owned or under the control of a land bank fast  
24 track authority. Eligible property includes, to the extent included  
25 in the brownfield plan, personal property located on the property.  
26 Eligible property **ALSO INCLUDES QUALIFIED AGRICULTURAL PROPERTY**  
27 **EXEMPT UNDER SECTION 7EE OF THE GENERAL PROPERTY TAX ACT, 1893 PA**

1 206, MCL 211.7EE, THAT IS A FACILITY OR IS OTHERWISE CONTAMINATED,  
2 IS SERVICED BY MUNICIPAL SEWER AND WATER INFRASTRUCTURE, IS  
3 INCLUDED IN A MASTER PLAN, AND IS ZONED RESIDENTIAL, COMMERCIAL, OR  
4 INDUSTRIAL. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION,  
5 ELIGIBLE PROPERTY does not include qualified agricultural property  
6 exempt under section 7ee of the general property tax act, 1893 PA  
7 206, MCL 211.7ee, from the tax levied by a local school district  
8 for school operating purposes to the extent provided under section  
9 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

10 (o) "Facility" means that term as defined in section 20101 of  
11 the natural resources and environmental protection act, 1994 PA  
12 451, MCL 324.20101.

13 (p) "Fiscal year" means the fiscal year of the authority.

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

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

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

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

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



1 (u) "Land bank fast track authority" means an authority  
2 created under the land bank fast track act, 2003 PA 258, MCL  
3 124.751 to 124.774.

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

6 (w) "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 outside  
10 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 which  
13 the zone would be located.

14 (v) A county.

15 (x) "Owned or under the control of" means that a land bank  
16 fast track authority has 1 or more of the following:

17 (i) An ownership interest in the property.

18 (ii) A tax lien on the property.

19 (iii) A tax deed to the property.

20 (iv) A contract with this state or a political subdivision of  
21 this state to enforce a lien on the property.

22 (v) A right to collect delinquent taxes, penalties, or  
23 interest on the property.

24 (vi) The ability to exercise its authority over the property.

25 (y) "Qualified facility" means a landfill facility area of 140  
26 or more contiguous acres that is located in a city and that  
27 contains a landfill, a material recycling facility, and an asphalt

1 plant that are no longer in operation.

2 (z) "Qualified local governmental unit" means that term as  
3 defined in the obsolete property rehabilitation act, 2000 PA 146,  
4 MCL 125.2781 to 125.2797.

5 (aa) "Qualified taxpayer" means that term as defined in  
6 sections 38d and 38g of the single business tax act, 1975 PA 228,  
7 MCL 208.38d and 208.38g.

8 (bb) "Remedial action plan" means a plan that meets both of  
9 the following requirements:

10 (i) Is a remedial action plan as that term is defined in  
11 section 20101 of the natural resources and environmental protection  
12 act, 1994 PA 451, MCL 324.20101.

13 (ii) Describes each individual activity to be conducted to  
14 complete eligible activities and the associated costs of each  
15 individual activity.

16 (cc) "Response activity" means that term as defined in section  
17 20101 of the natural resources and environmental protection act,  
18 1994 PA 451, MCL 324.20101.

19 (dd) "Specific taxes" means a tax levied under 1974 PA 198,  
20 MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA  
21 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224,  
22 MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the  
23 technology park development act, 1984 PA 385, MCL 207.701 to  
24 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL  
25 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA  
26 147, MCL 207.771 to 207.786; or that portion of the tax levied  
27 under the tax reverted clean title act, 2003 PA 260, MCL 211.1021

1 to 211.1026, that is not required to be distributed to a land bank  
2 fast track authority.

3 (ee) "Tax increment revenues" means the amount of ad valorem  
4 property taxes and specific taxes attributable to the application  
5 of the levy of all taxing jurisdictions upon the captured taxable  
6 value of each parcel of eligible property subject to a brownfield  
7 plan and personal property located on that property. Tax increment  
8 revenues exclude ad valorem property taxes specifically levied for  
9 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 governmental unit, and specific taxes  
12 attributable to those ad valorem property taxes. Tax increment  
13 revenues attributable to eligible property also exclude the amount  
14 of ad valorem property taxes or specific taxes captured by a  
15 downtown development authority, tax increment finance authority, or  
16 local development finance authority if those taxes were captured by  
17 these other authorities on the date that eligible property became  
18 subject to a brownfield plan under this act.

19 (ff) "Taxable value" means the value determined under section  
20 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

21 (gg) "Taxes levied for school operating purposes" means all of  
22 the following:

23 (i) The taxes levied by a local school district for operating  
24 purposes.

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

27 (iii) That portion of specific taxes attributable to taxes

1 described under subparagraphs (i) and (ii).

2 (hh) "Work plan" means a plan that describes each individual  
3 activity to be conducted to complete eligible activities and the  
4 associated costs of each individual activity.

5 (ii) "Zone" means, for an authority established before June 6,  
6 2000, a brownfield redevelopment zone designated under this act.