

**SUBSTITUTE FOR
SENATE BILL NO. 1487**

A bill to amend 1996 PA 381, entitled
"Brownfield redevelopment financing act,"
by amending section 13 (MCL 125.2663), as amended by 2007 PA 202.

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 eligible property is included within the
7 plan, the tax increment revenues under the plan shall be determined
8 individually for each eligible property. Each plan or an amendment
9 to a plan shall be approved by the governing body of the
10 municipality and shall contain all of the following:

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

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

13 (c) An estimate of the captured taxable value and tax
14 increment revenues for each year of the plan from the eligible
15 property. The plan may provide for the use of part or all of the
16 captured taxable value, including deposits in the local site
17 remediation revolving fund, but the portion intended to be used
18 shall be clearly stated in the plan. The plan shall not provide
19 either for an exclusion from captured taxable value of a portion of
20 the captured taxable value or for an exclusion of the tax levy of 1
21 or more taxing jurisdictions unless the tax levy is excluded from
22 tax increment revenues in section 2(dd), or unless the tax levy is
23 excluded from capture under section 15.

24 (d) The method by which the costs of the plan will be
25 financed, including a description of any advances made or
26 anticipated to be made for the costs of the plan from the
27 municipality.

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

3 (f) The duration of the brownfield plan for eligible
4 activities on **A PARTICULAR** eligible property which shall not exceed
5 ~~35-30~~ years following the **BEGINNING** date of the ~~resolution~~
6 ~~approving the plan amendment related to a~~ **CAPTURE OF TAX INCREMENT**
7 **REVENUES FOR THAT** particular eligible property. Each plan amendment
8 shall also contain the duration of capture of tax increment
9 revenues including the beginning date of the capture of tax
10 increment revenues, which beginning date shall be identified in the
11 brownfield plan and which beginning date shall not be later than 5
12 years following the date of the resolution approving the plan
13 amendment related to a particular eligible property and which
14 duration shall not exceed the lesser of the period authorized under
15 subsections (4) and (5) or 30 years from the beginning date of the
16 capture of tax increment revenues. The date for the beginning of
17 capture of tax increment revenues **FROM A PARTICULAR ELIGIBLE**
18 **PROPERTY** may be amended by the authority but not to a date later
19 than 5 years after the date of the resolution adopting the plan **FOR**
20 **THAT ELIGIBLE PROPERTY. IF A PROJECT FAILS TO OCCUR FOR WHICH**
21 **ELIGIBLE ACTIVITIES ON A PARTICULAR ELIGIBLE PROPERTY WERE**
22 **IDENTIFIED IN A PLAN, THE DATE FOR THE BEGINNING OF CAPTURE OF TAX**
23 **INCREMENT REVENUES FROM THAT ELIGIBLE PROPERTY MAY BE AMENDED BY**
24 **THE AUTHORITY FOR ELIGIBLE ACTIVITIES ASSOCIATED WITH A NEW PROJECT**
25 **BUT NOT TO A DATE LATER THAN 5 YEARS AFTER THE DATE OF THE**
26 **RESOLUTION AMENDING THE PLAN FOR THAT NEW PROJECT.** The authority
27 may not amend the date for the beginning of capture of tax

1 increment revenues **FOR A PARTICULAR ELIGIBLE PROPERTY** if the
2 authority has begun to reimburse eligible activities from the
3 capture of tax increment revenues **FROM THAT ELIGIBLE PROPERTY. ANY**
4 **TAX INCREMENT REVENUES CAPTURED FROM AN ELIGIBLE PROPERTY BEFORE**
5 **THE BEGINNING DATE OF CAPTURE OF TAX INCREMENT REVENUES FOR THAT**
6 **ELIGIBLE PROPERTY SHALL REVERT PROPORTIONATELY TO THE RESPECTIVE**
7 **TAX BODIES.** The authority may not amend the date for the beginning
8 of capture if that amendment would lead to the duration of capture
9 of tax increment revenues being longer than 30 years or the period
10 authorized under subsections (4) and (5). If the date for the
11 beginning of capture of tax increment revenues is amended by the
12 authority and that plan includes the capture of tax increment
13 revenues for school operating purposes, then the authority that
14 amended that plan shall notify the department and the Michigan
15 economic growth authority within 30 days of the approval of the
16 amendment.

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

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

1 assessor's expert opinion that the property is functionally
2 obsolete and the underlying basis for that opinion.

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

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

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

24 (l) A strategy for compliance with 1972 PA 227, MCL 213.321 to
25 213.332.

26 (m) A description of proposed use of the local site
27 remediation revolving fund.

1 (n) Other material that the authority or governing body
2 considers pertinent.

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

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

1 attributable to any eligible property owned or under the control of
2 the land bank fast track authority, the cost of principal of and
3 interest on any obligation issued by the authority to pay the costs
4 of eligible activities, the reasonable costs of preparing a work
5 plan, and the actual cost of the review of the work plan under
6 section 15. Except as provided in subsection (18), tax increment
7 revenues captured from taxes levied by this state under the state
8 education tax act, 1993 PA 331, MCL 211.901 to 211.906, or taxes
9 levied by a local school district shall not be used for eligible
10 activities described in section 2(m)(iv)(E).

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

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

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

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

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

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

1 must provide the other with 120 days' notice. This state or an
2 authority that recovers costs under this subsection shall apply
3 those recovered costs to the following, in the following order of
4 priority:

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

7 (b) One of the following:

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

16 (ii) If this state undertakes a cost recovery action, this
17 state shall deposit the remaining recovered funds into the
18 revitalization revolving loan fund established under section 20108a
19 of the natural resources and environmental protection act, 1994 PA
20 451, MCL 324.20108a.

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

1 (9) Approval of the brownfield plan or an amendment to a
2 brownfield plan shall be in accordance with the notice and approval
3 provisions of this section and section 14.

4 (10) Before approving a brownfield plan for an eligible
5 property, the governing body shall hold a public hearing on the
6 brownfield plan. By resolution, the governing body may delegate the
7 public hearing process to the authority or to a subcommittee of the
8 governing body subject to final approval by the governing body.
9 Notice of the time and place of the hearing shall be given by
10 publication twice in a newspaper of general circulation designated
11 by the municipality, not less than 10 or more than 40 days before
12 the date set for the hearing.

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

15 (a) A description of the property to which the plan applies in
16 relation to existing or proposed highways, streets, streams, or
17 otherwise.

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

23 (c) Any other information that the governing body considers
24 appropriate.

25 (12) At the time set for the hearing on the brownfield plan
26 required under subsection (10), the governing body shall ensure
27 that interested persons have an opportunity to be heard and that

1 written communications with reference to the brownfield plan are
2 received and considered. The governing body shall ensure that a
3 record of the public hearing is made and preserved, including all
4 data presented at the hearing.

5 (13) Not less than 10 days before the hearing on the
6 brownfield plan, the governing body shall provide notice of the
7 hearing to the taxing jurisdictions that levy taxes subject to
8 capture under this act. The authority shall fully inform the taxing
9 jurisdictions about the fiscal and economic implications of the
10 proposed brownfield plan. At that hearing, an official from a
11 taxing jurisdiction with millage that would be subject to capture
12 under this act has the right to be heard in regard to the adoption
13 of the brownfield plan. Not less than 10 days before the hearing on
14 the brownfield plan, the governing body shall provide notice of the
15 hearing to the department if the brownfield plan involves the use
16 of taxes levied for school operating purposes to pay for eligible
17 activities that require the approval of a work plan by the
18 department under section 15(1)(a) and the Michigan economic growth
19 authority, or its designee, if the brownfield plan involves the use
20 of taxes levied for school operating purposes to pay for eligible
21 activities subject to subsection (15) or (18).

22 (14) The authority shall not enter into agreements with the
23 taxing jurisdictions and the governing body of the municipality to
24 share a portion of the captured taxable value of an eligible
25 property. Upon adoption of the plan, the collection and
26 transmission of the amount of tax increment revenues as specified
27 in this act shall be binding on all taxing units levying ad valorem

1 property taxes or specific taxes against property located in the
2 zone.

3 (15) Except as provided by subsection (18), if a brownfield
4 plan includes the capture of taxes levied for school operating
5 purposes approval of a work plan by the Michigan economic growth
6 authority before January 1, 2013 to use taxes levied for school
7 operating purposes and a development agreement or reimbursement
8 agreement between the municipality or authority and an owner or
9 developer of eligible property are required if the taxes levied for
10 school operating purposes will be used for infrastructure
11 improvements that directly benefit eligible property, demolition of
12 structures that is not response activity under part 201 of the
13 natural resources and environmental protection act, 1994 PA 451,
14 MCL 324.20101 to 324.20142, lead or asbestos abatement, site
15 preparation that is not response activity under section 20101 of
16 the natural resources and environmental protection act, 1994 PA
17 451, MCL 324.20101, relocation of public buildings or operations
18 for economic development purposes, or acquisition of property by a
19 land bank fast track authority if acquisition of the property is
20 for economic development purposes. The eligible activities to be
21 conducted described in this subsection shall be consistent with the
22 work plan submitted by the authority to the Michigan economic
23 growth authority. The department's approval is not required for the
24 capture of taxes levied for school operating purposes for eligible
25 activities described in this subsection.

26 (16) The limitations of section 15(1) upon use of tax
27 increment revenues by an authority shall not apply to the following

1 costs and expenses:

2 (a) In each fiscal year of the authority, the amount described
3 in subsection (19) for the following purposes for tax increment
4 revenues attributable to local taxes:

5 (i) Reasonable and actual administrative and operating expenses
6 of the authority.

7 (ii) Baseline environmental assessments, due care activities,
8 and additional response activities conducted by or on behalf of the
9 authority related directly to work conducted on prospective
10 eligible properties prior to approval of the brownfield plan.

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

14 (c) For tax increment revenues attributable to local taxes,
15 reasonable costs of site investigations described in section
16 15(1)(a)(i), baseline environmental assessments, and due care
17 activities incurred by a person other than the authority related
18 directly to work conducted on eligible property or prospective
19 eligible properties prior to approval of the brownfield plan, if
20 those costs and the eligible property are included in a brownfield
21 plan approved by the authority.

22 (17) A brownfield authority may reimburse advances, with or
23 without interest, made by a municipality under section 7(3), a land
24 bank fast track authority, or any other person or entity for costs
25 of eligible activities with any source of revenue available for use
26 of the brownfield authority under this act. If an authority
27 reimburses a person or entity under this section for an advance for

1 the payment or reimbursement of the cost of eligible activities and
2 interest thereon, the authority may capture local taxes for the
3 payment of that interest. If an authority reimburses a person or
4 entity under this section for an advance for the payment or
5 reimbursement of the cost of baseline environmental assessments,
6 due care, and additional response activities and interest thereon
7 included in a work plan approved by the department, the authority
8 may capture taxes levied for school operating purposes and local
9 taxes for the payment of that interest. If an authority reimburses
10 a person or entity under this section for an advance for the
11 payment or reimbursement of the cost of eligible activities that
12 are not baseline environmental assessments, due care, and
13 additional response activities and interest thereon included in a
14 work plan approved by the Michigan economic growth authority, the
15 authority may capture taxes levied for school operating purposes
16 and local taxes for the payment of that interest provided that the
17 Michigan economic growth authority grants an approval for the
18 capture of taxes levied for school operating purposes to pay such
19 interest. An authority may enter into agreements related to these
20 reimbursements and payments. A reimbursement agreement for these
21 purposes and the obligations under that reimbursement agreement
22 shall not be subject to section 12 or the revised municipal finance
23 act, 2001 PA 34, MCL 141.2101 to 141.2821.

24 (18) If a brownfield plan includes the capture of taxes levied
25 for school operating purposes, approval of a work plan by the
26 Michigan economic growth authority in the manner required under
27 section 15(14) to (16) is required in order to use tax increment

1 revenues attributable to taxes levied for school operating purposes
2 for purposes of eligible activities described in section 2(m) (iv) (E)
3 for 1 or more parcels of eligible property. The work plan to be
4 submitted to the Michigan economic growth authority under this
5 subsection shall be in a form prescribed by the Michigan economic
6 growth authority. The eligible activities to be conducted and
7 described in this subsection shall be consistent with the work plan
8 submitted by the authority to the Michigan economic growth
9 authority. The department's approval is not required for the
10 capture of taxes levied for school operating purposes for eligible
11 activities described in this section.

12 (19) In each fiscal year of the authority, the amount of tax
13 increment revenues attributable to local taxes that an authority
14 can use for the purposes described in subsection (16) (a) shall be
15 determined as follows:

16 (a) For authorities that have 5 or fewer active projects,
17 \$100,000.00.

18 (b) For authorities that have 6 or more but fewer than 11
19 active projects, \$125,000.00.

20 (c) For authorities that have 11 or more but fewer than 16
21 active projects, \$150,000.00.

22 (d) For authorities that have 16 or more but fewer than 21
23 active projects, \$175,000.00.

24 (e) For authorities that have 21 or more but fewer than 26
25 active projects, \$200,000.00.

26 (f) For authorities that have 26 or more active projects,
27 \$300,000.00.

1 (20) As used in subsection (19), "active project" means a
2 project in which the authority is currently capturing taxes under
3 this act.