

BROWNFIELD REDEVELOPMENT FINANCING ACT (EXCERPT)
Act 381 of 1996

125.2663c Transformational brownfield plan.

Sec. 13c.

(1) Subject to the approval of the governing body and Michigan strategic fund under section 14a, the board may implement a transformational brownfield plan. The transformational brownfield plan may consist of a single development on eligible property or a series of developments on eligible property that are part of a related program of investment, whether or not located on contiguous parcels, and may be amended to apply to additional parcels of eligible property. Each amendment to a transformational brownfield plan must be approved by the governing body of the municipality in which it is located and the Michigan strategic fund and must be consistent with the approval requirements in this section.

(2) A transformational brownfield plan may authorize the use of construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, tax increment revenues, and sales and use tax capture revenues for eligible activities described in section 2(o)(v). Except as otherwise provided in section 13b(6)(d), tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues must be used only for the costs of eligible activities included within the transformational brownfield plan to which the revenues are attributable, including the cost of principal of and interest on any obligation to pay the cost of the eligible activities.

(3) A transformational brownfield plan is a brownfield plan and, except as otherwise provided, is subject to sections 13, 13a, 13b, 14, and 15. In addition to the information required under section 13(2), a transformational brownfield plan must contain all of the following:

(a) The basis for designating the plan as a transformational brownfield plan under section 2(hhh).

(b) A description of the costs of the transformational brownfield plan intended to be paid for with construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues.

(c) An estimate of the amount of construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues expected to be generated for each year of the transformational brownfield plan from the eligible property.

(d) The beginning date and duration of capture of construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues for each eligible property as determined under subsections (8) and (11).

(4) Subject to section 14a(7), the transformational brownfield plan may provide for the use of part or all of the tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues. The portion of tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues to be used may vary over the duration of the transformational brownfield plan, but the portion intended to be used must be clearly stated in the transformational brownfield plan.

(5) Approval of a transformational brownfield plan, or an amendment to a transformational brownfield plan, must be in accordance with the notice, approval, and public hearing requirements of sections 14 and 14a, except that the governing body shall provide notice to the Michigan strategic fund not less than 30 days before the hearing on a transformational brownfield plan.

(6) If a transformational brownfield plan authorizes the use of construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, or sales and use tax capture revenues, approval of a combined brownfield plan or work plan by the Michigan strategic fund and a written development or reimbursement agreement between the owner or developer of the eligible property, the authority, and the Michigan strategic fund are required. If a plan authorizes the use of tax increment revenues for eligible activities under section 2(o)(v) other than eligible activities described in section 13b, approval of a work plan or combined brownfield plan by the Michigan strategic fund to use tax increment revenues for those additional eligible activities is required. A work plan or combined brownfield plan under this subsection must be consolidated with a work plan or combined brownfield plan under section 13b(4). The eligible activities to be conducted must be consistent with the work plan submitted by the authority to the Michigan strategic fund.

(7) On approval of the transformational brownfield plan by the governing body and Michigan strategic fund, and the execution of the written development or reimbursement agreement, the transfer and distribution of construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues as specified in this act and in the plan are binding on this state and the collection and transmission of the amount of tax increment revenues as specified in this act and in the plan are binding on all taxing units levying ad valorem property taxes or specific taxes against property subject to the transformational brownfield plan.

(8) A transformational brownfield plan must not authorize the capture or use of tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, or sales and use tax capture revenues after the year in which the total amount of the revenue captured under the transformational brownfield plan is equal to the sum of the costs permitted to be funded with the revenue under the transformational brownfield plan.

(9) The brownfield authority and Michigan strategic fund may reimburse advances, with or without interest, made by a municipality under section 7(3), a land bank fast track authority, or any other person or entity for costs of eligible activities included within a transformational brownfield plan using tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, or sales and use tax capture revenues attributable to that plan. On approval of the Michigan strategic fund, the amount of tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues authorized to be captured under a transformational brownfield plan may include amounts required for the payment of interest under this subsection. A written development or reimbursement agreement must be entered into under subsection (6) before any reimbursement or payment using tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, or sales and use tax capture revenues may commence. A reimbursement agreement for these purposes and the obligations under that reimbursement agreement are not subject to section 12 or the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(10) Eligible activities conducted on eligible property before approval of the transformational brownfield plan may be reimbursed from tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues if those costs and the eligible property are subsequently included in a transformational brownfield plan approved by the governing body and Michigan strategic fund, a combined brownfield plan or work plan approved by the Michigan strategic fund, and a written development or reimbursement agreement under subsection (6). Reimbursement under this subsection is limited to eligible expenses incurred within 90 days of the approval of the transformational brownfield plan by the Michigan strategic fund.

(11) The duration of the capture of withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues under a transformational brownfield plan for a particular eligible property must not exceed the lesser of the period authorized under subsection (8) or 20 years from the beginning date of the capture of withholding tax capture revenues income tax capture revenues, and sales and use tax capture revenues for that eligible property. The beginning date for the capture of tax increment revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues for an eligible property must not be later than 5 years following the date the Michigan strategic fund approves the inclusion of the eligible property in a transformational brownfield plan. Subject to the approval of the governing body and Michigan strategic fund, the authority may amend the beginning date of capture of tax increment revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues to a date not later than 5 years following the date the Michigan strategic fund approved inclusion of the eligible property in the transformational brownfield plan if capture of the revenues under the transformational brownfield plan has not yet commenced. Solely with respect to a related program of investment as defined in subsection (12), subject to the approval of the governing body and Michigan strategic fund, the authority may amend the beginning date of capture of tax increment revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues for an eligible property included within a related program of investment to a date later than 5 years following the date the Michigan strategic fund approved inclusion of the eligible property in the transformational brownfield plan if the governing body and Michigan strategic fund determine that the developer of the related program of investment has proceeded in good faith and made reasonable and substantial progress in the implementation of the related program of investment.

(12) For purposes of subsection (1), a series of developments on parcels that are not contiguous is considered a related program of investment if all of the following are met:

(a) The developments are proposed to be undertaken concurrently or in reasonable succession.

(b) For developments under affiliated ownership, the developments are reasonably contiguous and are part of a program of investment in a logically defined geography, including, but not limited to, a downtown district as defined in section 201 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4201, or a principal shopping district or business improvement district as defined in section 1 of 1961 PA 120, MCL 125.981, and including areas that are logically related to those districts and that will promote infill development.

(c) For developments under unrelated ownership, in addition to the criteria described in subdivisions (a) and (b), the developments are part of a master development plan, area plan, sub-area plan, or similar development plan that has been approved or adopted by resolution of the governing body.

(d) The designation of the developments as a related program of investment is consistent with the purposes of this act and is not a combination of unrelated or minimally related projects calculated to meet the minimum investment threshold.

(13) If undeveloped property included in a transformational brownfield plan has been designated as a renaissance

zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, on the request of the owner or developer of the eligible property and the local governmental unit that designated the zone, the Michigan strategic fund, and a city levying a tax under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, may elect under section 9(4) of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2689, to terminate the exemptions, deductions, or credits provided for in section 9(1)(b) and (c) of that act, and reimburse the authority, or owner or developer of the eligible property, an annual amount equal to the revenue collected for each tax year as a result of the termination of the exemptions, deductions, or credits that would otherwise be in effect. In implementing this subsection, all of the following apply:

(a) The authority and Michigan strategic fund shall include amounts anticipated to be collected under this subsection in the income tax capture revenues authorized to be used under the transformational brownfield plan and associated work plan or combined brownfield plan.

(b) The state treasurer shall calculate for each tax year the amount of revenue this state collected as a result of the operation of this subsection and shall deposit that amount as income tax capture revenues into the state brownfield redevelopment fund, where the funds must be transmitted in the manner provided for in sections 8a(4) and 16(8).

(c) A city levying a city income tax under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, shall calculate for each tax year the amount of revenue the city collected as a result of the operation of this subsection and shall enter into a binding reimbursement agreement with the authority, and owner or developer of the eligible property, providing for the payment of the amounts to the authority, or the owner or developer of the eligible property, for eligible activities as provided in the transformational brownfield plan. City income taxes administered by the department of treasury pursuant to the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, are subject to the procedures of subdivision (b) regarding the calculation and deposit of any revenue collected as a result of the operation of this subsection.

(d) The department of treasury may require the owner or developer to submit any information necessary for the calculation of revenue collected pursuant to the operation of this subsection. This state has no obligation for calculating revenues to be collected pursuant to the operation of this subsection if the required information is not reported.

(14) The authority and governing body are solely responsible for deciding whether to seek approval of a brownfield plan as a transformational brownfield plan. Nothing in this section or section 14a operates to prejudice or limit consideration of a brownfield plan under sections 13 and 14, including a decision by the Michigan strategic fund not to approve a plan as a transformational brownfield plan.

(15) This act does not preclude an authority established by a county from seeking approval of a brownfield plan as a transformational brownfield plan. In the event that an authority established by a county seeks approval of a plan that extends into more than 1 of its component local units of government and that plan includes eligible property in more than 1 municipality that is not a county, the minimum investment requirements of section 2(hhh) must be established with reference to combined population of the municipalities that are not a county in which the eligible property is located.

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