

BROWNFIELD REDEVELOPMENT FINANCING ACT (EXCERPT)
Act 381 of 1996

***** 125.2664.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 5, 2017 *****

125.2664.amended Brownfield plan; approval; public hearing; record; notice; public purpose; determination; amendments to plan; validity of procedure, notice, and findings; presumption; abolishment or termination of plan.

Sec. 14. (1) Before approving a brownfield plan for an eligible property, the governing body shall hold a public hearing on the brownfield plan. By resolution, the governing body may delegate the public hearing process to the authority or to a subcommittee of the governing body subject to final approval by the governing body.

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

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

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

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

(3) At the time set for the hearing on the brownfield plan required under subsection (1), the governing body shall ensure that interested persons have an opportunity to be heard and that written communications with reference to the brownfield plan are received and considered. The governing body shall ensure that a record of the public hearing is made and preserved, including all data presented at the hearing.

(4) Not less than 10 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the taxing jurisdictions that levy taxes subject to capture under this act. The authority shall notify the taxing jurisdictions of the proposed brownfield plan. At that hearing, an official from a taxing jurisdiction with millage that would be subject to capture under this act has the right to be heard in regard to the adoption of the brownfield plan. Not less than 10 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the department if the brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities that require the approval of a combined brownfield plan or a work plan by the department under section 13b(6)(c) and the Michigan strategic fund, or its designee, if the brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities subject to section 13b(4).

(5) Not less than 10 days after notice of the proposed brownfield plan is provided to the taxing jurisdictions, the governing body shall determine whether the plan constitutes a public purpose. If the governing body determines that the plan does not constitute a public purpose, the governing body shall reject the plan. If the governing body determines that the plan constitutes a public purpose, the governing body may then approve or reject the plan, or approve it with modification, by resolution, based on the following considerations:

(a) Whether the plan meets the requirements of sections 13 and 13b.

(b) Whether the proposed method of financing the costs of eligible activities is feasible and the authority has the ability to arrange the financing.

(c) Whether the costs of eligible activities proposed are reasonable and necessary to carry out the purposes of this act.

(d) Whether the amount of captured taxable value estimated to result from adoption of the plan is reasonable.

(6) Except as provided in this subsection, amendments to an approved brownfield plan must be submitted by the authority to the governing body for approval or rejection following the same notice necessary for approval or rejection of the original plan. Notice is not required for revisions in the estimates of captured taxable value or tax increment revenues.

(7) The procedure, adequacy of notice, and findings with respect to purpose and captured taxable value shall be presumptively valid unless contested in a court of competent jurisdiction within 60 days after adoption of the resolution adopting the brownfield plan. An amendment, adopted by resolution, to a conclusive plan shall likewise be conclusive unless contested within 60 days after adoption of the resolution adopting the amendment. If a resolution adopting an amendment to the plan is contested, the original resolution adopting the plan is not therefore open to contest.

(8) A brownfield plan or plan amendment may be abolished or terminated according to this subsection subject to all of the following:

(a) The governing body may abolish a brownfield plan when it finds that the purposes for which the plan was established are accomplished.

(b) The governing body may terminate a brownfield plan or plan amendment for an eligible property if the project for which eligible activities were identified in the brownfield plan or plan amendment fails to occur with respect to the eligible property for at least 2 years following the date of the resolution approving the brownfield plan or plan amendment, provided that the governing body first does both of the following:

(i) Gives 30 days' prior written notice to the developer at its last known address by certified mail or other method that documents proof of delivery attempted.

(ii) Provides the developer an opportunity to be heard at a public meeting.

(c) If a brownfield plan or plan amendment is terminated under subdivision (b), the governing body may approve a new brownfield plan or plan amendment for the eligible property under which tax increment revenues may be captured for up to the period of time provided under section 13(5).

(d) Notwithstanding anything in this subsection to the contrary, a brownfield plan or plan amendment shall not be abolished or terminated until the principal and interest on bonds issued under section 17 and all other obligations to which the tax increment revenues are pledged have been paid or funds sufficient to make the payment have been identified or segregated.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2016, Act 471, Eff. Apr. 5, 2017.