

Act No. 381  
Public Acts of 1994  
Approved by the Governor  
December 28, 1994  
Filed with the Secretary of State  
December 28, 1994

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1994**

Introduced by Senator Dillingham

# **ENROLLED SENATE BILL No. 917**

AN ACT to amend section 1 of Act No 197 of the Public Acts of 1975 entitled as amended 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 as amended by Act No 330 of the Public Acts of 1994 being section 125 1651 of the Michigan Compiled Laws and to add section 3c

*The People of the State of Michigan enact*

Section 1 Section 1 of Act No 197 of the Public Acts of 1975 as amended by Act No 330 of the Public Acts of 1994 being section 125 1651 of the Michigan Compiled Laws is amended and section 3c is added to read as follows

Sec 1 As used in this act

- (a) Advance means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority Evidence of the intent to repay an advance may include but is not limited to an executed agreement to repay provisions contained in a tax increment financing plan approved prior to the advance or a resolution of the authority or the municipality
- (b) Authority means a downtown development authority created pursuant to this act
- (c) Board means the governing body of an authority
- (d) Business district means an area in the downtown of a municipality zoned and used principally for business
- (e) Captured assessed value means the amount in any 1 year by which the current assessed value of the project area including the assessed value of property for which specific local taxes are paid in lieu of property taxes as determined in subdivision (v) exceeds the initial assessed value The state tax commission shall prescribe the method for calculating captured assessed value
- (f) Chief executive officer means the mayor or city manager of a city the president or village manager of a village or the supervisor of a township or if designated by the township board for purposes of this act the township superintendent or township manager of a township
- (g) Development area means that area to which a development plan is applicable
- (h) Development plan means that information and those requirements for a development set forth in section 17
- (i) Development program means the implementation of the development plan

(j) Downtown district means an area in a business district that is specifically designated by ordinance of the governing body of the municipality pursuant to this act

(k) Eligible advance means an advance made before August 19 1993

(l) Eligible obligation means an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19 1993

(m) Fiscal year means the fiscal year of the authority

(n) Governing body of a municipality means the elected body of a municipality having legislative powers

(o) Initial assessed value means the assessed value as equalized of all the taxable property within the boundaries of the development area at the time the ordinance establishing the tax increment financing plan is approved as shown by the most recent assessment roll of the municipality for which equalization has been completed at the time the resolution is adopted Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero For the purpose of determining initial assessed value property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation The initial assessed value of property for which a specific local tax was paid in lieu of a property tax shall be determined as provided in subdivision (v)

(p) Municipality means a city village or township

(q) Obligation means a written promise to pay whether evidenced by a contract agreement lease sublease bond or note or a requirement to pay imposed by law An obligation does not include a payment required solely because of default upon an obligation employee salaries or consideration paid for the use of municipal offices Obligation includes but is not limited to the following

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

(ii) A management contract or a contract for professional services

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

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

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

(r) On behalf of an authority in relation to an eligible advance made or an eligible obligation issued or incurred by a municipality means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible obligation issued or incurred by the municipality if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following

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

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

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

(iv) Provisions in a tax increment financing plan describing the project for which the obligation was incurred

(s) Operations means office maintenance including salaries and expenses of employees office supplies consultation fees design costs and other expenses incurred in the daily management of the authority and planning of its activities

(t) Other protected obligation means

(i) An obligation issued to refund a bond or note that is an eligible obligation

(ii) An obligation issued or incurred by an authority or by a municipality on behalf of an authority after August 19 1993 but before December 31 1994 to finance a project described in a tax increment finance plan approved by the municipality in accordance with this act before December 31 1993 for which a contract for final design is entered into by or on behalf of the municipality or authority before March 1 1994

(iii) An obligation incurred by an authority or municipality after August 19 1993 to reimburse a party to a development agreement entered into by a municipality or authority before August 19 1993 for a project described in a tax increment financing plan approved in accordance with this act before August 19 1993 and undertaken and installed by that party in accordance with the development agreement An obligation incurred by the authority evidenced by or to finance a contract to purchase real property within a development area or a contract to develop that property within the development area or both if all of the following requirements are met

(A) The authority purchased the real property in 1993

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

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

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

(II) The department of commerce for development of the real property

(u) Public facility means a street plaza pedestrian mall and any improvements to a street plaza or pedestrian mall including street furniture and beautification park parking facility recreational facility right of way structure waterway bridge lake pond canal utility line or pipe building and access routes to any of the foregoing designed and dedicated to use by the public generally or used by a public agency Public facility includes an improvement to a facility used by the public or a public facility as those terms are defined in section 1 of Act No 1 of the Public Acts of 1966 being section 125 1351 of the Michigan Compiled Laws which improvement is made to comply with the barrier free design requirements of the state construction code promulgated under the state construction code act of 1972 Act No 230 of the Public Acts of 1972 being sections 125 1501 to 125 1531 of the Michigan Compiled Laws

(v) Specific local tax means a tax levied under Act No 198 of the Public Acts of 1974 being sections 207 551 to 207 572 of the Michigan Compiled Laws the commercial redevelopment act Act No 255 of the Public Acts of 1978 being sections 207 651 to 207 668 of the Michigan Compiled Laws the technology park development act Act No 385 of the Public Acts of 1984 being sections 207 701 to 207 718 of the Michigan Compiled Laws and Act No 189 of the Public Acts of 1953 being sections 211 181 to 211 182 of the Michigan Compiled Laws The initial assessed value or current assessed value of property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate However after 1993 the state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax

(w) State fiscal year means the annual period commencing October 1 of each year

(x) Tax increment revenues means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the capture assessed value of real and personal property in the development area subject to the following requirements

(i) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions other than the state pursuant to the state education tax act Act No 331 of the Public Acts of 1993 being sections 211 901 to 211 906 of the Michigan Compiled Laws and local or intermediate school districts upon the captured assessed value of real and personal property in the development area for any purpose authorized by this act

(ii) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of the state pursuant to the state education tax act Act No 331 of the Public Acts of 1993 and local or intermediate school districts upon the captured assessed value of real and personal property in the development area in an amount equal to the amount necessary without regard to subparagraph (i) to repay eligible advances eligible obligations and other protected obligations

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

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

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

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

(iv) The amount of tax increment revenues authorized to be included under subparagraph (ii) and required to be transmitted to the authority under section 14(1) from ad valorem property taxes and specific local taxes attributable to the application of the levy of the state education tax act Act No 331 of the Public Acts of 1993 a local school district or an intermediate school district upon the captured assessed value of real and personal property in a development area shall be determined separately for the levy by the state each school district and each intermediate school district as the product of sub subparagraphs (A) and (B)

(A) The percentage which the total ad valorem taxes and specific local taxes available for distribution by law to the state local school district or intermediate school district respectively bears to the aggregate amount of ad valorem millage taxes and specific taxes available for distribution by law to the state each local school district and each intermediate school district

(B) The maximum amount of ad valorem property taxes and specific local taxes considered tax increment revenues under subparagraph (1)

Sec 3c The validity of the proceedings or findings establishing an authority or of the procedure adequacy of notice or findings with respect to the approval of a development plan or tax increment financing plan is conclusive with respect to the capture of tax increment revenues for an other protected obligation that is a bond issued after October 1 1994

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor