



# HOUSE BILL No. 6032

September 28, 2000, Introduced by Reps. Patterson, Raczkowski and Koetje and referred to the Committee on Economic Development.

A bill to amend 1975 PA 197, entitled

"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,"

by amending section 1 (MCL 125.1651), as amended by 1997 PA 202.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 not limited to, an executed agreement to repay, provisions  
2 contained in a tax increment financing plan approved prior to the  
3 advance, or a resolution of the authority or the municipality.

4 (b) "Assessed value" means 1 of the following:

5 (i) For valuations made before January 1, 1995, the state  
6 equalized valuation as determined under the general property tax  
7 act, 1893 PA 206, MCL 211.1 to 211.157.

8 (ii) For valuations made after December 31, 1994, the tax-  
9 able value as determined under section 27a of the general prop-  
10 erty tax act, 1893 PA 206, MCL 211.27a.

11 (c) "Authority" means a downtown development authority cre-  
12 ated pursuant to this act.

13 (d) "Board" means the governing body of an authority.

14 (e) "Business district" means an area in the downtown of a  
15 municipality zoned and used principally for business.

16 (f) "Captured assessed value" means the amount in any 1 year  
17 by which the current assessed value of the project area, includ-  
18 ing the assessed value of property for which specific local taxes  
19 are paid in lieu of property taxes as determined in subdivision  
20 (x), exceeds the initial assessed value. The state tax commis-  
21 sion shall prescribe the method for calculating captured assessed  
22 value.

23 (g) "Chief executive officer" means the mayor or city man-  
24 ager of a city, the president or village manager of a village, or  
25 the supervisor of a township or, if designated by the township  
26 board for purposes of this act, the township superintendent or  
27 township manager of a township.

1       (h) "Development area" means that area to which a  
2 development plan is applicable.

3       (i) "Development plan" means that information and those  
4 requirements for a development set forth in section 17.

5       (j) "Development program" means the implementation of the  
6 development plan.

7       (k) "Downtown district" means an area in a business district  
8 that is specifically designated by ordinance of the governing  
9 body of the municipality pursuant to this act.

10       (l) "Eligible advance" means an advance made before  
11 August 19, 1993.

12       (m) "Eligible obligation" means an obligation issued or  
13 incurred by an authority or by a municipality on behalf of an  
14 authority before August 19, 1993 and its subsequent refunding by  
15 a qualified refunding obligation. Eligible obligation includes  
16 an authority's written agreement entered into before August 19,  
17 1993 to pay an obligation issued after August 18, 1993 and before  
18 December 31, 1996 by another entity on behalf of the authority.

19       (n) "Fiscal year" means the fiscal year of the authority.

20       (o) "Governing body of a municipality" means the elected  
21 body of a municipality having legislative powers.

22       (p) "Initial assessed value" means the assessed value, as  
23 equalized, of all the taxable property within the boundaries of  
24 the development area at the time the ordinance establishing the  
25 tax increment financing plan is approved, as shown by the most  
26 recent assessment roll of the municipality for which equalization  
27 has been completed at the time the resolution is adopted.

1 Property exempt from taxation at the time of the determination of  
2 the initial assessed value shall be included as zero. For the  
3 purpose of determining initial assessed value, property for which  
4 a specific local tax is paid in lieu of a property tax shall not  
5 be considered to be property that is exempt from taxation. The  
6 initial assessed value of property for which a specific local tax  
7 was paid in lieu of a property tax shall be determined as pro-  
8 vided in subdivision (x). In the case of a municipality having a  
9 population of less than 35,000 which established an authority  
10 prior to 1985, created a district or districts, and approved a  
11 development plan or tax increment financing plan or amendments to  
12 a plan, and which plan or tax increment financing plan or amend-  
13 ments to a plan, and which plan expired by its terms December 31,  
14 1991, the initial assessed value for the purpose of any plan or  
15 plan amendment adopted as an extension of the expired plan shall  
16 be determined as if the plan had not expired December 31, 1991.  
17 For a development area designated before 1997 in which a renaiss-  
18 sance zone has subsequently been designated pursuant to the  
19 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
20 125.2696, the initial assessed value of the development area oth-  
21 erwise determined under this subdivision shall be reduced by the  
22 amount by which the current assessed value of the development  
23 area was reduced in 1997 due to the exemption of property under  
24 section 7ff of the general property tax act, 1893 PA 206, MCL  
25 211.7ff, but in no case shall the initial assessed value be less  
26 than zero.

1 (q) "Municipality" means a city, village, or township.

2 (r) "Obligation" means a written promise to pay, whether  
3 evidenced by a contract, agreement, lease, sublease, bond, or  
4 note, or a requirement to pay imposed by law. An obligation does  
5 not include a payment required solely because of default upon an  
6 obligation, employee salaries, or consideration paid for the use  
7 of municipal offices. An obligation does not include those bonds  
8 that have been economically defeased by refunding bonds issued  
9 under this act. Obligation includes, but is not limited to, the  
10 following:

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

14 (ii) A management contract or a contract for professional  
15 services.

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

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

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

25 (s) "On behalf of an authority", in relation to an eligible  
26 advance made by a municipality, or an eligible obligation or  
27 other protected obligation issued or incurred by a municipality,

1 means in anticipation that an authority would transfer tax  
2 increment revenues or reimburse the municipality from tax incre-  
3 ment revenues in an amount sufficient to fully make payment  
4 required by the eligible advance made by the municipality, or  
5 eligible obligation or other protected obligation issued or  
6 incurred by the municipality, if the anticipation of the transfer  
7 or receipt of tax increment revenues from the authority is pursu-  
8 ant to or evidenced by 1 or more of the following:

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

11       (ii) A requirement imposed by law that the authority trans-  
12 fer tax increment revenues to the municipality.

13       (iii) A resolution of the authority agreeing to make pay-  
14 ments to the incorporating unit.

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

17       (t) "Operations" means office maintenance, including sala-  
18 ries and expenses of employees, office supplies, consultation  
19 fees, design costs, and other expenses incurred in the daily man-  
20 agement of the authority and planning of its activities.

21       (u) "Other protected obligation" means:

22       (i) A qualified refunding obligation issued to refund an  
23 obligation described in subparagraph (ii), (iii), or (iv), an  
24 obligation that is not a qualified refunding obligation that is  
25 issued to refund an eligible obligation, or a qualified refunding  
26 obligation issued to refund an obligation described in this  
27 subparagraph.

1       (ii) An obligation issued or incurred by an authority or by  
2 a municipality on behalf of an authority after August 19, 1993,  
3 but before December 31, 1994, to finance a project described in a  
4 tax increment finance plan approved by the municipality in  
5 accordance with this act before December 31, 1993, for which a  
6 contract for final design is entered into by or on behalf of the  
7 municipality or authority before March 1, 1994 OR FOR WHICH A  
8 WRITTEN AGREEMENT WITH A DEVELOPER WAS ENTERED INTO BY OR ON  
9 BEHALF OF THE MUNICIPALITY OR AUTHORITY BEFORE AUGUST 1, 1993.

10       (iii) An obligation incurred by an authority or municipality  
11 after August 19, 1993, to reimburse a party to a development  
12 agreement entered into by a municipality or authority before  
13 August 19, 1993, for a project described in a tax increment  
14 financing plan approved in accordance with this act before August  
15 19, 1993, and undertaken and installed by that party in accord-  
16 ance with the development agreement.

17       (iv) An obligation incurred by the authority evidenced by or  
18 to finance a contract to purchase real property within a develop-  
19 ment area or a contract to develop that property within the  
20 development area, or both, if all of the following requirements  
21 are met:

22       (A) The authority purchased the real property in 1993.

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

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

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

6 (II) The department of consumer and industry services for  
7 development of the real property.

8 (v) An ongoing management or professional services contract  
9 with the governing body of a county which was entered into before  
10 March 1, 1994 and which was preceded by a series of limited term  
11 management or professional services contracts with the governing  
12 body of the county, the last of which was entered into before  
13 August 19, 1993.

14 (vi) A loan from a municipality to an authority if the loan  
15 was approved by the legislative body of the municipality on April  
16 18, 1994.

17 (vii) Funds expended to match a grant received by a munici-  
18 pality on behalf of an authority for sidewalk improvements from  
19 the Michigan department of transportation if the legislative body  
20 of the municipality approved the grant application on April 5,  
21 1993 and the grant was received by the municipality in June  
22 1993.

23 (viii) For taxes captured in 1994, an obligation described  
24 in this subparagraph issued or incurred to finance a project. An  
25 obligation is considered issued or incurred to finance a project  
26 described in this subparagraph only if all of the following are  
27 met:



1 (A) The obligation requires raising capital for the project  
2 or paying for the project, whether or not a borrowing is  
3 involved.

4 (B) The obligation was part of a development plan and the  
5 tax increment financing plan was approved by a municipality on  
6 May 6, 1991.

7 (C) The obligation is in the form of a written memorandum of  
8 understanding between a municipality and a public utility dated  
9 October 27, 1994.

10 (D) The authority or municipality captured school taxes  
11 during 1994.

12 (ix) FOR A MUNICIPALITY HAVING A POPULATION OF LESS THAN  
13 15,000, AN AGREEMENT BETWEEN AN AUTHORITY OR BY A MUNICIPALITY ON  
14 BEHALF OF AN AUTHORITY AND A CONTRACTOR ENTERED INTO AFTER AUGUST  
15 19, 1993, BUT BEFORE DECEMBER 31, 1994, TO PERFORM WORK ON A  
16 PROJECT DESCRIBED IN A TAX INCREMENT FINANCE PLAN APPROVED BY THE  
17 MUNICIPALITY UNDER THIS ACT BEFORE DECEMBER 31, 1994, WHICH  
18 AGREEMENT PROVIDES THAT THE WORK CONTRACTED FOR SHALL BE SUBSTAN-  
19 Tially COMPLETED NOT LATER THAN JUNE 30, 1995.

20 (v) "Public facility" means a street, plaza, pedestrian  
21 mall, and any improvements to a street, plaza, or pedestrian mall  
22 including street furniture and beautification, park, parking  
23 facility, recreational facility, right of way, structure, water-  
24 way, bridge, lake, pond, canal, utility line or pipe, building,  
25 and access routes to any of the foregoing, designed and dedicated  
26 to use by the public generally, or used by a public agency.  
27 Public facility includes an improvement to a facility used by the

1 public or a public facility as those terms are defined in section  
2 1 of 1966 PA 1, MCL 125.1351, which improvement is made to comply  
3 with the barrier free design requirements of the state construc-  
4 tion code promulgated under the ~~state construction code act of~~  
5 ~~1972~~ STILLE-DEROSSETT-HALE SINGLE STATE CONSTRUCTION CODE ACT,  
6 1972 PA 230, MCL 125.1501 to 125.1531.

7 (w) "Qualified refunding obligation" means an obligation  
8 issued or incurred by an authority or by a municipality on behalf  
9 of an authority to refund an obligation if the refunding obliga-  
10 tion meets both of the following:

11 (i) The net present value of the principal and interest to  
12 be paid on the refunding obligation, including the cost of issu-  
13 ance, will be less than the net present value of the principal  
14 and interest to be paid on the obligation being refunded, as cal-  
15 culated using a method approved by the department of treasury.

16 (ii) The net present value of the sum of the tax increment  
17 revenues described in subdivision (z)(ii) and the distributions  
18 under section 13b to repay the refunding obligation will not be  
19 greater than the net present value of the sum of the tax incre-  
20 ment revenues described in subdivision (z)(ii) and the distribu-  
21 tions under section 13b to repay the obligation being refunded,  
22 as calculated using a method approved by the department of  
23 treasury.

24 (x) "Specific local tax" means a tax levied under 1974 PA  
25 198, MCL 207.551 to 207.572, the commercial redevelopment act,  
26 1978 PA 255, MCL 207.651 to 207.668, the technology park  
27 development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA

1 189, MCL 211.181 to 211.182. The initial assessed value or  
2 current assessed value of property subject to a specific local  
3 tax shall be the quotient of the specific local tax paid divided  
4 by the ad valorem millage rate. However, after 1993, the state  
5 tax commission shall prescribe the method for calculating the  
6 initial assessed value and current assessed value of property for  
7 which a specific local tax was paid in lieu of a property tax.

8 (y) "State fiscal year" means the annual period commencing  
9 October 1 of each year.

10 (z) "Tax increment revenues" means the amount of ad valorem  
11 property taxes and specific local taxes attributable to the  
12 application of the levy of all taxing jurisdictions upon the cap-  
13 tured assessed value of real and personal property in the devel-  
14 opment area, subject to the following requirements:

15 (i) Tax increment revenues include ad valorem property taxes  
16 and specific local taxes attributable to the application of the  
17 levy of all taxing jurisdictions other than the state pursuant to  
18 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,  
19 and local or intermediate school districts upon the captured  
20 assessed value of real and personal property in the development  
21 area for any purpose authorized by this act.

22 (ii) Tax increment revenues include ad valorem property  
23 taxes and specific local taxes attributable to the application of  
24 the levy of the state pursuant to the state education tax act,  
25 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate  
26 school districts upon the captured assessed value of real and  
27 personal property in the development area in an amount equal to

1 the amount necessary, without regard to subparagraph (i), to  
2 repay eligible advances, eligible obligations, and other pro-  
3 tected obligations.

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

6 (A) Ad valorem property taxes attributable either to a por-  
7 tion of the captured assessed value shared with taxing jurisdic-  
8 tions within the jurisdictional area of the authority or to a  
9 portion of value of property that may be excluded from captured  
10 assessed value or specific local taxes attributable to such ad  
11 valorem property taxes.

12 (B) Ad valorem property taxes excluded by the tax increment  
13 financing plan of the authority from the determination of the  
14 amount of tax increment revenues to be transmitted to the author-  
15 ity or specific local taxes attributable to such ad valorem prop-  
16 erty taxes.

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

20 (iv) The amount of tax increment revenues authorized to be  
21 included under subparagraph (ii), and required to be transmitted  
22 to the authority under section 14(1), from ad valorem property  
23 taxes and specific local taxes attributable to the application of  
24 the levy of the state education tax act, 1993 PA 331, MCL 211.901  
25 to 211.906, a local school district or an intermediate school  
26 district upon the captured assessed value of real and personal  
27 property in a development area shall be determined separately for

1 the levy by the state, each school district, and each  
2 intermediate school district as the product of  
3 sub-subparagraphs (A) and (B):

4       (A) The percentage which the total ad valorem taxes and spe-  
5 cific local taxes available for distribution by law to the state,  
6 local school district, or intermediate school district, respec-  
7 tively, bears to the aggregate amount of ad valorem millage taxes  
8 and specific taxes available for distribution by law to the  
9 state, each local school district, and each intermediate school  
10 district.

11       (B) The maximum amount of ad valorem property taxes and spe-  
12 cific local taxes considered tax increment revenues under sub-  
13 paragraph (ii).