

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 849

A bill to amend 1996 PA 381, entitled
"Brownfield redevelopment financing act,"
by amending section 2 (MCL 125.2652), as amended by 2002 PA 254.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Additional response activities" means response
3 activities identified as part of a brownfield plan that are in
4 addition to baseline environmental assessment activities and due
5 care activities for an eligible property.

6 (b) "Authority" means a brownfield redevelopment authority
7 created under this act.

8 (c) "Baseline environmental assessment" means that term as
9 defined in section 20101 of the natural resources and
10 environmental protection act, 1994 PA 451, MCL 324.20101.

11 (d) "Baseline environmental assessment activities" means

1 those response activities identified as part of a brownfield plan
2 that are necessary to complete a baseline environmental
3 assessment for an eligible property in the brownfield plan.

4 (e) "Blighted" means property that meets any of the following
5 criteria:

6 (i) Has been declared a public nuisance in accordance with a
7 local housing, building, plumbing, fire, or other related code or
8 ordinance.

9 (ii) Is an attractive nuisance to children because of
10 physical condition, use, or occupancy.

11 (iii) Is a fire hazard or is otherwise dangerous to the
12 safety of persons or property.

13 (iv) Has had the utilities, plumbing, heating, or sewerage
14 permanently disconnected, destroyed, removed, or rendered
15 ineffective so that the property is unfit for its intended use.

16 (v) Is tax reverted property owned by a qualified local
17 governmental unit, by a county, or by this state. The sale,
18 lease, or transfer of tax reverted property by a qualified local
19 governmental unit, county, or this state after the property's
20 inclusion in a brownfield plan shall not result in the loss to
21 the property of the status as blighted property for purposes of
22 this act.

23 (vi) Is property owned or under the control of a land bank
24 fast track authority under the land bank fast track act, whether
25 or not located within a qualified local governmental unit.

26 Property included within a brownfield plan prior to the date it
27 meets the requirements of this subdivision to be eligible

1 property shall be considered to become eligible property as of
2 the date the property is determined to have been or becomes
3 qualified as, or is combined with, other eligible property. The
4 sale, lease, or transfer of the property by a land bank fast
5 track authority after the property's inclusion in a brownfield
6 plan shall not result in the loss to the property of the status
7 as blighted property for purposes of this act.

8 (f) "Board" means the governing body of an authority.

9 (g) "Brownfield plan" means a plan that meets the
10 requirements of section 13 and is adopted under section 14.

11 (h) "Captured taxable value" means the amount in 1 year by
12 which the current taxable value of an eligible property subject
13 to a brownfield plan, including the taxable value or assessed
14 value, as appropriate, of the property for which specific taxes
15 are paid in lieu of property taxes, exceeds the initial taxable
16 value of that eligible property. The state tax commission shall
17 prescribe the method for calculating captured taxable value.

18 (i) "Chief executive officer" means the mayor of a city, the
19 village manager of a village, the township supervisor of a
20 township, or the county executive of a county or, if the county
21 does not have an elected county executive, the chairperson of the
22 county board of commissioners.

23 (j) "Department" means the department of environmental
24 quality.

25 (k) "Due care activities" means those response activities
26 identified as part of a brownfield plan that are necessary to
27 allow the owner or operator of an eligible property in the plan

1 to comply with the requirements of section 20107a of the natural
2 resources and environmental protection act, 1994 PA 451,
3 MCL 324.20107a.

4 (l) "Eligible activities" or "eligible activity" does not
5 include activities related to multisource commercial hazardous
6 waste disposal wells as that term is defined in section 62506a of
7 the natural resources and environmental protection act, 1994 PA
8 451, MCL 324.62506a, but means 1 or more of the following:

9 (i) Baseline environmental assessment activities.

10 (ii) Due care activities.

11 (iii) Additional response activities.

12 (iv) For eligible activities on eligible property that was
13 used or is currently used for commercial, industrial, or
14 residential purposes that is in a qualified local governmental
15 unit, **or that is owned or under the control of a land bank fast**
16 **track authority**, and is a facility, functionally obsolete, or
17 blighted, and except for purposes of section 38d of the single
18 business tax act, 1975 PA 228, MCL 208.38d, the following
19 additional activities:

20 (A) Infrastructure improvements that directly benefit
21 eligible property.

22 (B) Demolition of structures that is not response activity
23 under section ~~201~~ **20101** of the natural resources and
24 environmental protection act, 1994 PA 451, MCL 324.20101.

25 (C) Lead or asbestos abatement.

26 (D) Site preparation that is not response activity under
27 section ~~201~~ **20101** of the natural resources and environmental

1 protection act, 1994 PA 451, MCL 324.20101.

2 **(E) Assistance to a land bank fast track authority in**
3 **clearing or quieting title to, or selling or otherwise conveying,**
4 **property owned or under the control of a land bank fast track**
5 **authority.**

6 (v) Relocation of public buildings or operations for economic
7 development purposes with prior approval of the Michigan economic
8 development authority.

9 (m) "Eligible property" means property for which eligible
10 activities are identified under a brownfield plan that was used
11 or is currently used for commercial, industrial, or residential
12 purposes that is either in a qualified local governmental unit
13 and is a facility, functionally obsolete, or blighted or is not
14 in a qualified local governmental unit and is a facility, and
15 includes parcels that are adjacent or contiguous to that property
16 if the development of the adjacent and contiguous parcels is
17 estimated to increase the captured taxable value of that property
18 **or tax reverted property owned or under the control of a land**
19 **bank fast track authority.** Eligible property includes, to the
20 extent included in the brownfield plan, personal property located
21 on the property. Eligible property does not include qualified
22 agricultural property exempt under section 7ee of the general
23 property tax act, 1893 PA 206, MCL 211.7ee, from the tax levied
24 by a local school district for school operating purposes to the
25 extent provided under section 1211 of the revised school code,
26 1976 PA 451, MCL 380.1211.

27 (n) "Facility" means that term as defined in section 20101 of

1 the natural resources and environmental protection act, 1994
2 PA 451, MCL 324.20101.

3 (o) "Fiscal year" means the fiscal year of the authority.

4 (p) "Functionally obsolete" means that the property is unable
5 to be used to adequately perform the function for which it was
6 intended due to a substantial loss in value resulting from
7 factors such as overcapacity, changes in technology, deficiencies
8 or superadequacies in design, or other similar factors that
9 affect the property itself or the property's relationship with
10 other surrounding property.

11 (q) "Governing body" means the elected body having
12 legislative powers of a municipality creating an authority under
13 this act.

14 (r) "Infrastructure improvements" means a street, road,
15 sidewalk, parking facility, pedestrian mall, alley, bridge,
16 sewer, sewage treatment plant, property designed to reduce,
17 eliminate, or prevent the spread of identified soil or
18 groundwater contamination, drainage system, waterway, waterline,
19 water storage facility, rail line, utility line or pipeline, or
20 other similar or related structure or improvement, together with
21 necessary easements for the structure or improvement, owned or
22 used by a public agency or functionally connected to similar or
23 supporting property owned or used by a public agency, or designed
24 and dedicated to use by, for the benefit of, or for the
25 protection of the health, welfare, or safety of the public
26 generally, whether or not used by a single business entity,
27 provided that any road, street, or bridge shall be continuously

1 open to public access and that other property shall be located in
2 public easements or rights-of-way and sized to accommodate
3 reasonably foreseeable development of eligible property in
4 adjoining areas.

5 (s) "Initial taxable value" means the taxable value of an
6 eligible property identified in and subject to a brownfield plan
7 at the time the resolution adding that eligible property in the
8 brownfield plan is adopted, as shown **either** by the most recent
9 assessment roll for which equalization has been completed at the
10 time the resolution is adopted **or, if provided by the brownfield**
11 **plan, by the next assessment roll for which equalization will be**
12 **completed following the date the resolution adding that eligible**
13 **property in the brownfield plan is adopted.** Property exempt from
14 taxation at the time the initial taxable value is determined
15 shall be included with the initial taxable value of zero.
16 Property for which a specific tax is paid in lieu of property tax
17 shall not be considered exempt from taxation. The state tax
18 commission shall prescribe the method for calculating the initial
19 taxable value of property for which a specific tax was paid in
20 lieu of property tax.

21 (t) **"Land bank fast track authority" means an authority**
22 **created under the land bank fast track act.**

23 (u) ~~-(t)-~~ "Local taxes" means all taxes levied other than
24 taxes levied for school operating purposes.

25 (v) ~~-(u)-~~ "Municipality" means all of the following:

26 (i) A city.

27 (ii) A village.

1 (iii) A township in those areas of the township that are
2 outside of a village.

3 (iv) A township in those areas of the township that are in a
4 village upon the concurrence by resolution of the village in
5 which the zone would be located.

6 (v) A county.

7 (w) "Owned or under the control of" means that a land bank
8 fast track authority has 1 or more of the following:

9 (i) An ownership interest in the property.

10 (ii) A tax lien on the property.

11 (iii) A tax deed to the property.

12 (iv) A contract with this state or a political subdivision of
13 this state to enforce a lien on the property.

14 (v) A right to collect delinquent taxes, penalties, or
15 interest on the property.

16 (vi) The ability to exercise its authority over the property.

17 (x) ~~-(v)-~~ "Qualified local governmental unit" means that term
18 as defined in the obsolete property rehabilitation act, 2000 PA
19 146, MCL 125.2781 to 125.2797.

20 (y) ~~-(w)-~~ "Qualified taxpayer" means that term as defined in
21 sections 38d and 38g of the single business tax act, 1975 PA 228,
22 MCL 208.38d and 208.38g.

23 (z) ~~-(x)-~~ "Remedial action plan" means a plan that meets both
24 of the following requirements:

25 (i) Is a remedial action plan as that term is defined in
26 section 20101 of the natural resources and environmental
27 protection act, 1994 PA 451, MCL 324.20101.

1 (ii) Describes each individual activity to be conducted to
2 complete eligible activities and the associated costs of each
3 individual activity.

4 (aa) ~~(y)~~ "Response activity" means that term as defined in
5 section 20101 of the natural resources and environmental
6 protection act, 1994 PA 451, MCL 324.20101.

7 (bb) ~~(z)~~ "Specific taxes" means a tax levied under 1974
8 PA 198, MCL 207.551 to 207.572; the commercial redevelopment act,
9 1978 PA 255, MCL 207.651 to 207.668; the enterprise zone act,
10 1985 PA 224, MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181
11 to 211.182; the technology park development act, 1984 PA 385,
12 MCL 207.701 to 207.718; the obsolete property rehabilitation act,
13 2000 PA 146, MCL 125.2781 to 125.2797; ~~or~~ the neighborhood
14 enterprise zone act, 1992 PA 147, MCL 207.771 to ~~207.787~~
15 **207.786; or that portion of the tax levied under the tax reverted**
16 **property clean title act that is not required to be distributed**
17 **to a land bank fast track authority.**

18 (cc) ~~(aa)~~ "Tax increment revenues" means the amount of ad
19 valorem property taxes and specific taxes attributable to the
20 application of the levy of all taxing jurisdictions upon the
21 captured taxable value of each parcel of eligible property
22 subject to a brownfield plan and personal property located on
23 that property. Tax increment revenues exclude ad valorem
24 property taxes specifically levied for the payment of principal
25 of and interest on either obligations approved by the electors or
26 obligations pledging the unlimited taxing power of the local
27 governmental unit, and specific taxes attributable to those ad

1 valorem property taxes. Tax increment revenues attributable to
2 eligible property also exclude the amount of ad valorem property
3 taxes or specific taxes captured by a downtown development
4 authority, tax increment finance authority, or local development
5 finance authority if those taxes were captured by these other
6 authorities on the date that eligible property became subject to
7 a brownfield plan under this act.

8 **(dd)** ~~—(bb)—~~ "Taxable value" means the value determined under
9 section 27a of the general property tax act, 1893 PA 206,
10 MCL 211.27a.

11 **(ee)** ~~—(ee)—~~ "Taxes levied for school operating purposes"
12 means all of the following:

13 (i) The taxes levied by a local school district for operating
14 purposes.

15 (ii) The taxes levied under the state education tax act, 1993
16 PA 331, MCL 211.901 to 211.906.

17 (iii) That portion of specific taxes attributable to taxes
18 described under subparagraphs (i) and (ii).

19 **(ff)** ~~—(dd)—~~ "Work plan" means a plan that describes each
20 individual activity to be conducted to complete eligible
21 activities and the associated costs of each individual activity.

22 **(gg)** ~~—(ee)—~~ "Zone" means, for an authority established before
23 ~~the effective date of the amendatory act that added subdivision~~
24 ~~(r)~~ **June 6, 2000**, a brownfield redevelopment zone designated
25 under this act.