

SENATE BILL No. 208

February 20, 2007, Introduced by Senator ALLEN and referred to the Committee on Commerce and Tourism.

A bill to amend 1996 PA 381, entitled
"Brownfield redevelopment financing act,"
by amending sections 2 and 16 (MCL 125.2652 and 125.2666), section
2 as amended by 2006 PA 32 and section 16 as amended by 2000 PA
145.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

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

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

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

4 (d) "Baseline environmental assessment activities" means those
5 response activities identified as part of a brownfield plan that
6 are necessary to complete a baseline environmental assessment for
7 an eligible property in the brownfield plan.

8 (e) "Blighted" means property that meets any of the following
9 criteria:

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

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

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

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

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

27 (vi) Is property owned or under the control of a land bank fast

1 track authority under the land bank fast track act, **2003 PA 258,**
2 **MCL 124.751 TO 124.774,** whether or not located within a qualified
3 local governmental unit. Property included within a brownfield plan
4 prior to the date it meets the requirements of this subdivision to
5 be eligible property shall be considered to become eligible
6 property as of the date the property is determined to have been or
7 becomes qualified as, or is combined with, other eligible property.
8 The sale, lease, or transfer of the property by a land bank fast
9 track authority after the property's inclusion in a brownfield plan
10 shall not result in the loss to the property of the status as
11 blighted property for purposes of this act.

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

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

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

22 (i) "Chief executive officer" means the mayor of a city, the
23 village manager of a village, the township supervisor of a
24 township, or the county executive of a county or, if the county
25 does not have an elected county executive, the chairperson of the
26 county board of commissioners.

27 (j) "Department" means the department of environmental

1 quality.

2 (k) "Due care activities" means those response activities
3 identified as part of a brownfield plan that are necessary to allow
4 the owner or operator of an eligible property in the plan to comply
5 with the requirements of section 20107a of the natural resources
6 and environmental protection act, 1994 PA 451, MCL 324.20107a.

7 (l) "Economic opportunity zone" means 1 or more parcels of
8 property that meet all of the following:

9 (i) That together are 40 or more acres in size.

10 (ii) That contain a manufacturing facility that consists of
11 500,000 or more square feet.

12 (iii) That are located in a municipality that has a population
13 of ~~30,000~~ 40,000 or less and that is contiguous to a qualified
14 local governmental unit.

15 (m) "Eligible activities" or "eligible activity" does not
16 include activities related to multisource commercial hazardous
17 waste disposal wells as that term is defined in section 62506a of
18 the natural resources and environmental protection act, 1994 PA
19 451, MCL 324.62506a, but means 1 or more of the following:

20 (i) Baseline environmental assessment activities.

21 (ii) Due care activities.

22 (iii) Additional response activities.

23 (iv) For eligible activities on eligible property that was used
24 or is currently used for commercial, industrial, or residential
25 purposes that is in a qualified local governmental unit, that is
26 owned or under the control of a land bank fast track authority, or
27 that is located in an economic opportunity zone, and is a facility,

1 functionally obsolete, or blighted, and except for purposes of
2 section 38d of the single business tax act, 1975 PA 228, MCL
3 208.38d, the following additional activities:

4 (A) Infrastructure improvements that directly benefit eligible
5 property.

6 (B) Demolition of structures that is not response activity
7 under section 20101 of the natural resources and environmental
8 protection act, 1994 PA 451, MCL 324.20101.

9 (C) Lead or asbestos abatement.

10 (D) Site preparation that is not response activity under
11 section 20101 of the natural resources and environmental protection
12 act, 1994 PA 451, MCL 324.20101.

13 (E) Assistance to a land bank fast track authority in clearing
14 or quieting title to, or selling or otherwise conveying, property
15 owned or under the control of a land bank fast track authority.

16 (v) Relocation of public buildings or operations for economic
17 development purposes with prior approval of the Michigan economic
18 development authority.

19 (vi) For eligible activities on eligible property that is a
20 qualified facility that is not located in a qualified local
21 governmental unit and that is a facility, functionally obsolete, or
22 blighted, the following additional activities:

23 (A) Infrastructure improvements that directly benefit eligible
24 property.

25 (B) Demolition of structures that is not response activity
26 under section 20101 of the natural resources and environmental
27 protection act, 1994 PA 451, MCL 324.20101.

1 (C) Lead or asbestos abatement.

2 (D) Site preparation that is not response activity under
3 section 20101 of the natural resources and environmental protection
4 act, 1994 PA 451, MCL 324.20101.

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

22 (o) "Facility" means that term as defined in section 20101 of
23 the natural resources and environmental protection act, 1994 PA
24 451, MCL 324.20101.

25 (p) "Fiscal year" means the fiscal year of the authority.

26 (q) "Functionally obsolete" means that the property is unable
27 to be used to adequately perform the function for which it was

1 intended due to a substantial loss in value resulting from factors
2 such as overcapacity, changes in technology, deficiencies or
3 superadequacies in design, or other similar factors that affect the
4 property itself or the property's relationship with other
5 surrounding property.

6 (r) "Governing body" means the elected body having legislative
7 powers of a municipality creating an authority under this act.

8 (s) "Infrastructure improvements" means a street, road,
9 sidewalk, parking facility, pedestrian mall, alley, bridge, sewer,
10 sewage treatment plant, property designed to reduce, eliminate, or
11 prevent the spread of identified soil or groundwater contamination,
12 drainage system, waterway, waterline, water storage facility, rail
13 line, utility line or pipeline, or other similar or related
14 structure or improvement, together with necessary easements for the
15 structure or improvement, owned or used by a public agency or
16 functionally connected to similar or supporting property owned or
17 used by a public agency, or designed and dedicated to use by, for
18 the benefit of, or for the protection of the health, welfare, or
19 safety of the public generally, whether or not used by a single
20 business entity, provided that any road, street, or bridge shall be
21 continuously open to public access and that other property shall be
22 located in public easements or rights-of-way and sized to
23 accommodate reasonably foreseeable development of eligible property
24 in adjoining areas.

25 (t) "Initial taxable value" means the taxable value of an
26 eligible property identified in and subject to a brownfield plan at
27 the time the resolution adding that eligible property in the

1 brownfield plan is adopted, as shown either by the most recent
2 assessment roll for which equalization has been completed at the
3 time the resolution is adopted or, if provided by the brownfield
4 plan, by the next assessment roll for which equalization will be
5 completed following the date the resolution adding that eligible
6 property in the brownfield plan is adopted. Property exempt from
7 taxation at the time the initial taxable value is determined shall
8 be included with the initial taxable value of zero. Property for
9 which a specific tax is paid in lieu of property tax shall not be
10 considered exempt from taxation. The state tax commission shall
11 prescribe the method for calculating the initial taxable value of
12 property for which a specific tax was paid in lieu of property tax.

13 (u) "Land bank fast track authority" means an authority
14 created under the land bank fast track act, 2003 PA 258, MCL
15 124.751 to 124.774.

16 (v) "Local taxes" means all taxes levied other than taxes
17 levied for school operating purposes.

18 (w) "Municipality" means all of the following:

19 (i) A city.

20 (ii) A village.

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

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

26 (v) A county.

27 (x) "Owned or under the control of" means that a land bank

1 fast track authority has 1 or more of the following:

2 (i) An ownership interest in the property.

3 (ii) A tax lien on the property.

4 (iii) A tax deed to the property.

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

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

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

10 (y) "Qualified facility" means a landfill facility area of 140
11 or more contiguous acres that is located in a city and that
12 contains a landfill, a material recycling facility, and an asphalt
13 plant that are no longer in operation.

14 (z) "Qualified local governmental unit" means that term as
15 defined in the obsolete property rehabilitation act, 2000 PA 146,
16 MCL 125.2781 to 125.2797.

17 (aa) "Qualified taxpayer" means that term as defined in
18 sections 38d and 38g of the single business tax act, 1975 PA 228,
19 MCL 208.38d and 208.38g.

20 (bb) "Remedial action plan" means a plan that meets both of
21 the following requirements:

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

25 (ii) Describes each individual activity to be conducted to
26 complete eligible activities and the associated costs of each
27 individual activity.

1 (cc) "Response activity" means that term as defined in section
2 20101 of the natural resources and environmental protection act,
3 1994 PA 451, MCL 324.20101.

4 (dd) "Specific taxes" means a tax levied under 1974 PA 198,
5 MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA
6 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224,
7 MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the
8 technology park development act, 1984 PA 385, MCL 207.701 to
9 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL
10 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA
11 147, MCL 207.771 to 207.786; or that portion of the tax levied
12 under the tax reverted clean title act, 2003 PA 260, MCL 211.1021
13 to 211.1026, that is not required to be distributed to a land bank
14 fast track authority.

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

1 local development finance authority if those taxes were captured by
2 these other authorities on the date that eligible property became
3 subject to a brownfield plan under this act.

4 (ff) "Taxable value" means the value determined under section
5 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

6 (gg) "Taxes levied for school operating purposes" means all of
7 the following:

8 (i) The taxes levied by a local school district for operating
9 purposes.

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

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

14 (hh) "Work plan" means a plan that describes each individual
15 activity to be conducted to complete eligible activities and the
16 associated costs of each individual activity.

17 (ii) "Zone" means, for an authority established before June 6,
18 2000, a brownfield redevelopment zone designated under this act.

19 Sec. 16. (1) The municipal and county treasurers shall
20 transmit tax increment revenues to the authority not more than ~~30~~
21 14 days after tax increment revenues are collected.

22 (2) The authority shall expend the tax increment revenues
23 received only in accordance with the brownfield plan. All surplus
24 funds not deposited in the local site remediation revolving fund of
25 the authority under section 13(5) shall revert proportionately to
26 the respective taxing bodies, except as provided in section 15(20).
27 The governing body may abolish the plan when it finds that the

1 purposes for which the plan was established are accomplished.
2 However, the plan shall not be abolished until the principal and
3 interest on bonds issued under section 17 and all other obligations
4 to which the tax increment revenues are pledged have been paid or
5 funds sufficient to make the payment have been segregated.

6 (3) The authority shall submit annually to the governing body
7 and the state tax commission a financial report on the status of
8 the activities of the authority. The report shall include all of
9 the following:

10 (a) The amount and source of tax increment revenues received.

11 (b) The amount and purpose of expenditures of tax increment
12 revenues.

13 (c) The amount of principal and interest on all outstanding
14 indebtedness.

15 (d) The initial taxable value of all eligible property subject
16 to the brownfield plan.

17 (e) The captured taxable value realized by the authority.

18 (f) Information concerning any transfer of ownership of or
19 interest in each eligible property.

20 (g) All additional information that the governing body or the
21 state tax commission considers necessary.

22 (4) The state tax commission shall collect the financial
23 reports submitted under subsection (3), compile and analyze the
24 information contained in those reports, and submit annually a
25 report based on that information to all of the following standing
26 committees of the legislature:

27 (a) In the house of representatives, the committees

1 responsible for natural resource management, conservation,
2 environmental protection, and taxation.

3 (b) In the senate, the committees responsible for natural
4 resource management, conservation, environmental protection, and
5 taxation.