

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4459**

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 2012 PA 396.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Advance" means a transfer of funds made by a municipality
3 to an authority or to another person on behalf of the authority in
4 anticipation of repayment by the authority. Evidence of the intent

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

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

6 (i) For valuations made before January 1, 1995, the state
7 equalized valuation as determined under the general property tax
8 act, 1893 PA 206, MCL 211.1 to 211.155.

9 (ii) For valuations made after December 31, 1994, the taxable
10 value as determined under section 27a of the general property tax
11 act, 1893 PA 206, MCL 211.27a.

12 (c) "Authority" means a downtown development authority created
13 pursuant to this act.

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

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

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

23 (g) "Catalyst development project" means a project that is
24 located in a municipality with a population greater than 600,000,
25 is designated by the authority as a catalyst development project,
26 and is expected to result in at least \$300,000,000.00 of capital
27 investment. There shall be no more than 1 catalyst development

1 project designated within each authority.

2 (h) "Chief executive officer" means the mayor or city manager
3 of a city, the president or village manager of a village, or the
4 supervisor of a township or, if designated by the township board
5 for purposes of this act, the township superintendent or township
6 manager of a township.

7 (i) "Development area" means that area to which a development
8 plan is applicable.

9 (j) "Development plan" means that information and those
10 requirements for a development plan set forth in section 17.

11 (k) "Development program" means the implementation of the
12 development plan.

13 (l) "Downtown district" means that part of an area in a
14 business district that is specifically designated by ordinance of
15 the governing body of the municipality pursuant to this act. A
16 downtown district may include 1 or more separate and distinct
17 geographic areas in a business district as determined by the
18 municipality if the municipality enters into an agreement with a
19 qualified township under section 3(7) or if the municipality is a
20 city that surrounds another city and that other city lies between
21 the 2 separate and distinct geographic areas. If the downtown
22 district contains more than 1 separate and distinct geographic area
23 in the downtown district, the separate and distinct geographic
24 areas shall be considered 1 downtown district.

25 (m) "Eligible advance" means an advance made before August 19,
26 1993.

27 (n) "Eligible obligation" means an obligation issued or

1 incurred by an authority or by a municipality on behalf of an
2 authority before August 19, 1993 and its subsequent refunding by a
3 qualified refunding obligation. Eligible obligation includes an
4 authority's written agreement entered into before August 19, 1993
5 to pay an obligation issued after August 18, 1993 and before
6 December 31, 1996 by another entity on behalf of the authority.

7 (o) "Fire alarm system" means a system designed to detect and
8 annunciate the presence of fire, or by-products of fire. Fire alarm
9 system includes smoke detectors.

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

11 (q) "Governing body of a municipality" means the elected body
12 of a municipality having legislative powers.

13 (r) "Initial assessed value" means the assessed value, as
14 equalized, of all the taxable property within the boundaries of the
15 development area at the time the ordinance establishing the tax
16 increment financing plan is approved, as shown by the most recent
17 assessment roll of the municipality for which equalization has been
18 completed at the time the resolution is adopted. Property exempt
19 from taxation at the time of the determination of the initial
20 assessed value shall be included as zero. For the purpose of
21 determining initial assessed value, property for which a specific
22 local tax is paid in lieu of a property tax shall not be considered
23 to be property that is exempt from taxation. The initial assessed
24 value of property for which a specific local tax was paid in lieu
25 of a property tax shall be determined as provided in subdivision
26 (aa). In the case of a municipality having a population of less
27 than 35,000 that established an authority prior to 1985, created a

1 district or districts, and approved a development plan or tax
2 increment financing plan or amendments to a plan, and which plan or
3 tax increment financing plan or amendments to a plan, and which
4 plan expired by its terms December 31, 1991, the initial assessed
5 value for the purpose of any plan or plan amendment adopted as an
6 extension of the expired plan shall be determined as if the plan
7 had not expired December 31, 1991. For a development area
8 designated before 1997 in which a renaissance zone has subsequently
9 been designated pursuant to the Michigan renaissance zone act, 1996
10 PA 376, MCL 125.2681 to 125.2696, the initial assessed value of the
11 development area otherwise determined under this subdivision shall
12 be reduced by the amount by which the current assessed value of the
13 development area was reduced in 1997 due to the exemption of
14 property under section 7ff of the general property tax act, 1893 PA
15 206, MCL 211.7ff, but in no case shall the initial assessed value
16 be less than zero.

17 (s) "Municipality" means a city, village, or township.

18 (t) "Obligation" means a written promise to pay, whether
19 evidenced by a contract, agreement, lease, sublease, bond, or note,
20 or a requirement to pay imposed by law. An obligation does not
21 include a payment required solely because of default upon an
22 obligation, employee salaries, or consideration paid for the use of
23 municipal offices. An obligation does not include those bonds that
24 have been economically defeased by refunding bonds issued under
25 this act. Obligation includes, but is not limited to, the
26 following:

27 (i) A requirement to pay proceeds derived from ad valorem

1 property taxes or taxes levied in lieu of ad valorem property
2 taxes.

3 (ii) A management contract or a contract for professional
4 services.

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

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

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

14 (u) "On behalf of an authority", in relation to an eligible
15 advance made by a municipality, or an eligible obligation or other
16 protected obligation issued or incurred by a municipality, means in
17 anticipation that an authority would transfer tax increment
18 revenues or reimburse the municipality from tax increment revenues
19 in an amount sufficient to fully make payment required by the
20 eligible advance made by the municipality, or eligible obligation
21 or other protected obligation issued or incurred by the
22 municipality, if the anticipation of the transfer or receipt of tax
23 increment revenues from the authority is pursuant to or evidenced
24 by 1 or more of the following:

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

27 (ii) A requirement imposed by law that the authority transfer

1 tax increment revenues to the municipality.

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

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

6 (v) "Operations" means office maintenance, including salaries
7 and expenses of employees, office supplies, consultation fees,
8 design costs, and other expenses incurred in the daily management
9 of the authority and planning of its activities.

10 (w) "Other protected obligation" means:

11 (i) A qualified refunding obligation issued to refund an
12 obligation described in subparagraph (ii), (iii), or (iv), an
13 obligation that is not a qualified refunding obligation that is
14 issued to refund an eligible obligation, or a qualified refunding
15 obligation issued to refund an obligation described in this
16 subparagraph.

17 (ii) An obligation issued or incurred by an authority or by a
18 municipality on behalf of an authority after August 19, 1993, but
19 before December 31, 1994, to finance a project described in a tax
20 increment finance plan approved by the municipality in accordance
21 with this act before December 31, 1993, for which a contract for
22 final design is entered into by or on behalf of the municipality or
23 authority before March 1, 1994 or for which a written agreement
24 with a developer, titled preferred development agreement, was
25 entered into by or on behalf of the municipality or authority in
26 July 1993.

27 (iii) An obligation incurred by an authority or municipality

1 after August 19, 1993, to reimburse a party to a development
2 agreement entered into by a municipality or authority before August
3 19, 1993, for a project described in a tax increment financing plan
4 approved in accordance with this act before August 19, 1993, and
5 undertaken and installed by that party in accordance with the
6 development agreement.

7 (iv) An obligation incurred by the authority evidenced by or to
8 finance a contract to purchase real property within a development
9 area or a contract to develop that property within the development
10 area, or both, if all of the following requirements are met:

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

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

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

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

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

21 (v) An ongoing management or professional services contract
22 with the governing body of a county which was entered into before
23 March 1, 1994 and which was preceded by a series of limited term
24 management or professional services contracts with the governing
25 body of the county, the last of which was entered into before
26 August 19, 1993.

27 (vi) A loan from a municipality to an authority if the loan was

1 approved by the legislative body of the municipality on April 18,
2 1994.

3 (vii) Funds expended to match a grant received by a
4 municipality on behalf of an authority for sidewalk improvements
5 from the Michigan department of transportation if the legislative
6 body of the municipality approved the grant application on April 5,
7 1993 and the grant was received by the municipality in June 1993.

8 (viii) For taxes captured in 1994, an obligation described in
9 this subparagraph issued or incurred to finance a project. An
10 obligation is considered issued or incurred to finance a project
11 described in this subparagraph only if all of the following are
12 met:

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

15 (B) The obligation was part of a development plan and the tax
16 increment financing plan was approved by a municipality on May 6,
17 1991.

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

21 (D) The authority or municipality captured school taxes during
22 1994.

23 (ix) An obligation incurred after July 31, 2012 by an
24 authority, municipality, or other governmental unit to pay for
25 costs associated with a catalyst development project.

26 (x) "Public facility" means a street, plaza, pedestrian mall,
27 and any improvements to a street, plaza, or pedestrian mall

1 including street furniture and beautification, park, parking
2 facility, recreational facility, right-of-way, structure, waterway,
3 bridge, lake, pond, canal, utility line or pipe, building, and
4 access routes to any of the foregoing, designed and dedicated to
5 use by the public generally, or used by a public agency. Public
6 facility includes an improvement to a facility used by the public
7 or a public facility as those terms are defined in section 1 of
8 1966 PA 1, MCL 125.1351, which improvement is made to comply with
9 the barrier free design requirements of the state construction code
10 promulgated under the Stille-DeRossett-Hale single state
11 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.
12 Public facility also includes the acquisition, construction,
13 improvement, and operation of a building owned or leased by the
14 authority to be used as a retail business incubator.

15 (y) "Qualified refunding obligation" means an obligation
16 issued or incurred by an authority or by a municipality on behalf
17 of an authority to refund an obligation if 1 or more of the
18 following apply:

19 (i) The obligation is issued to refund a qualified refunding
20 obligation issued in November 1997 and any subsequent refundings of
21 that obligation issued before January 1, 2010 or the obligation is
22 issued to refund a qualified refunding obligation issued on May 15,
23 1997 and any subsequent refundings of that obligation issued before
24 January 1, 2010 in an authority in which 1 parcel or group of
25 parcels under common ownership represents 50% or more of the
26 taxable value captured within the tax increment finance district
27 and that will ultimately provide for at least a 40% reduction in

1 the taxable value of the property as part of a negotiated
2 settlement as a result of an appeal filed with the state tax
3 tribunal. Qualified refunding obligations issued under this
4 subparagraph are not subject to the requirements of section 611 of
5 the revised municipal finance act, 2001 PA 34, MCL 141.2611, if
6 issued before January 1, 2010. The duration of the development
7 program described in the tax increment financing plan relating to
8 the qualified refunding obligations issued under this subparagraph
9 is hereby extended to 1 year after the final date of maturity of
10 the qualified refunding obligations.

11 (ii) The refunding obligation meets both of the following:

12 (A) The net present value of the principal and interest to be
13 paid on the refunding obligation, including the cost of issuance,
14 will be less than the net present value of the principal and
15 interest to be paid on the obligation being refunded, as calculated
16 using a method approved by the department of treasury.

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

24 (iii) The obligation is issued to refund an other protected
25 obligation issued as a capital appreciation bond delivered to the
26 Michigan municipal bond authority on December 21, 1994 and any
27 subsequent refundings of that obligation issued before January 1,

2012. Qualified refunding obligations issued under this subparagraph are not subject to the requirements of section 305(2), (3), (5), and (6), section 501, section 503, or section 611 of the revised municipal finance act, 2001 PA 34, MCL 141.2305, 141.2501, 141.2503, and 141.2611, if issued before January 1, 2012. The duration of the development program described in the tax increment financing plan relating to the qualified refunding obligations issued under this subparagraph is extended to 1 year after the final date of maturity of the qualified refunding obligations. The obligation may be payable through the year 2025 at an interest rate not exceeding the maximum rate permitted by law, notwithstanding the bond maturity dates contained in the notice of intent to issue bonds published by the municipality. An obligation issued under this subparagraph is a qualified refunding obligation only to the extent that revenues described in subdivision ~~(bb) (ii)~~ (CC) (ii) and distributions under section 13b to repay the qualified refunding obligation do not exceed \$750,000.00.

(iv) THE OBLIGATION IS ISSUED TO REFUND A QUALIFIED REFUNDING OBLIGATION ISSUED ON FEBRUARY 13, 2008, AND ANY SUBSEQUENT REFUNDINGS OF THAT OBLIGATION, ISSUED BEFORE DECEMBER 31, 2018. QUALIFIED REFUNDING OBLIGATIONS ISSUED UNDER THIS SUBPARAGRAPH ARE NOT SUBJECT TO THE REQUIREMENTS OF SECTION 305(2), (3), (5), AND (6), 501, 503, OR 611 OF THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2305, 141.2501, 141.2503, AND 141.2611. THE DURATION OF THE DEVELOPMENT PROGRAM DESCRIBED IN THE TAX INCREMENT FINANCING PLAN RELATING TO THE QUALIFIED REFUNDING OBLIGATIONS ISSUED UNDER THIS SUBPARAGRAPH IS EXTENDED TO 1 YEAR AFTER THE FINAL DATE OF

1 MATURITY OF THE QUALIFIED REFUNDING OBLIGATIONS. REVENUES DESCRIBED
2 IN SUBDIVISION (CC) (ii) AND DISTRIBUTIONS MADE UNDER SECTION 13B IN
3 EXCESS OF THE AMOUNT NEEDED FOR CURRENT YEAR DEBT SERVICE ON AN
4 OBLIGATION ISSUED UNDER THIS SUBPARAGRAPH MAY BE PAID TO THE
5 AUTHORITY TO THE EXTENT NECESSARY TO PAY FUTURE YEARS' DEBT SERVICE
6 ON THE OBLIGATION AS DETERMINED BY THE BOARD.

7 (z) "Qualified township" means a township that meets all of
8 the following requirements:

9 (i) Was not eligible to create an authority prior to January 3,
10 2005.

11 (ii) Adjoins a municipality that previously created an
12 authority.

13 (iii) Along with the adjoining municipality that previously
14 created an authority, is a member of the same joint planning
15 commission under the joint municipal planning act, 2003 PA 226, MCL
16 125.131 to 125.143.

17 (aa) "Specific local tax" means a tax levied under 1974 PA
18 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978
19 PA 255, MCL 207.651 to 207.668, the technology park development
20 act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL
21 211.181 to 211.182. The initial assessed value or current assessed
22 value of property subject to a specific local tax shall be the
23 quotient of the specific local tax paid divided by the ad valorem
24 millage rate. However, after 1993, the state tax commission shall
25 prescribe the method for calculating the initial assessed value and
26 current assessed value of property for which a specific local tax
27 was paid in lieu of a property tax.

1 (bb) "State fiscal year" means the annual period commencing
2 October 1 of each year.

3 (cc) "Tax increment revenues" means the amount of ad valorem
4 property taxes and specific local taxes attributable to the
5 application of the levy of all taxing jurisdictions upon the
6 captured assessed value of real and personal property in the
7 development area, subject to the following requirements:

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

15 (ii) Tax increment revenues include ad valorem property taxes
16 and specific local taxes attributable to the application of the
17 levy of the state pursuant to the state education tax act, 1993 PA
18 331, MCL 211.901 to 211.906, and local or intermediate school
19 districts upon the captured assessed value of real and personal
20 property in the development area in an amount equal to the amount
21 necessary, without regard to subparagraph (i), to repay eligible
22 advances, eligible obligations, and other protected obligations.

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

25 (A) Ad valorem property taxes attributable either to a portion
26 of the captured assessed value shared with taxing jurisdictions
27 within the jurisdictional area of the authority or to a portion of

1 value of property that may be excluded from captured assessed value
2 or specific local taxes attributable to such ad valorem property
3 taxes.

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

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

12 (D) AD VALOREM PROPERTY TAXES LEVIED UNDER 1 OR MORE OF THE
13 FOLLOWING OR SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THOSE AD VALOREM
14 PROPERTY TAXES:

15 (I) THE ZOOLOGICAL AUTHORITIES ACT, 2008 PA 49, MCL 123.1161
16 TO 123.1183.

17 (II) THE ART INSTITUTE AUTHORITIES ACT, 2010 PA 296, MCL
18 123.1201 TO 123.1229.

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

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

3 (A) The percentage that the total ad valorem taxes and
4 specific local taxes available for distribution by law to the
5 state, local school district, or intermediate school district,
6 respectively, bears to the aggregate amount of ad valorem millage
7 taxes and specific taxes available for distribution by law to the
8 state, each local school district, and each intermediate school
9 district.

10 (B) The maximum amount of ad valorem property taxes and
11 specific local taxes considered tax increment revenues under
12 subparagraph (ii) or (v).

13 (v) Tax increment revenues include ad valorem property taxes
14 and specific local taxes, in an annual amount and for each year
15 approved by the state treasurer, attributable to the levy by this
16 state under the state education tax act, 1993 PA 331, MCL 211.901
17 to 211.906, and by local or intermediate school districts, upon the
18 captured assessed value of real and personal property in the
19 development area of an authority established in a city with a
20 population of 600,000 or more to pay for, or reimburse an advance
21 for, not more than \$8,000,000.00 for the demolition of buildings or
22 structures on public or privately owned property within a
23 development area that commences in 2005, or to pay the annual
24 principal of or interest on an obligation, the terms of which are
25 approved by the state treasurer, issued by an authority, or by a
26 city on behalf of an authority, to pay not more than \$8,000,000.00
27 of the costs to demolish buildings or structures on public or

1 privately owned property within a development area that commences
2 in 2005.

3 (vi) Tax increment revenues include ad valorem property taxes
4 and specific local taxes attributable to the levy by this state
5 under the state education tax act, 1993 PA 331, MCL 211.201 to
6 211.906, and by local or intermediate school districts which were
7 levied on or after July 1, 2010, upon the captured assessed value
8 of real and personal property in the development area of an
9 authority established in a city with a population of 600,000 or
10 more to pay for, or reimburse an advance for, costs associated with
11 the land acquisition, preliminary site work, and construction of a
12 catalyst development project.