

SENATE BILL No. 579

October 27, 2015, Introduced by Senator ROBERTSON and referred to the Committee on Economic Development and International Investment.

A bill to amend 1996 PA 381, entitled
"Brownfield redevelopment financing act,"
by amending sections 2 and 4 (MCL 125.2652 and 125.2654), section 2
as amended by 2013 PA 67 and section 4 as amended by 2012 PA 502.

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.

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

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

5 (e) "Blighted" means property that meets any of the following
6 criteria as determined by the governing body:

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

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

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

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

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

24 (vi) Is property owned or under the control of a land bank
25 fast track authority, whether or not located within a qualified
26 local governmental unit. Property included within a brownfield plan
27 prior to the date it meets the requirements of this subdivision to

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

8 (vii) Has substantial subsurface demolition debris buried on
9 site so that the property is unfit for its intended use.

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

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

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

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

25 (j) "Combined brownfield plan" means a brownfield plan that
26 also includes the information necessary to submit the plan to the
27 department or Michigan strategic fund under section 15(25).

1 (k) "Department" means the department of environmental
2 quality.

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

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

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

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

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

16 (n) "Eligible activities" or "eligible activity" means 1 or
17 more of the following:

18 (i) Baseline environmental assessment activities.

19 (ii) Due care activities.

20 (iii) Additional response activities.

21 (iv) For eligible activities on eligible property that was
22 used or is currently used for commercial, industrial, or
23 residential purposes that is in a qualified local governmental
24 unit, that is owned or under the control of a land bank fast track
25 authority, or that is located in an economic opportunity zone, and
26 is a facility, historic resource, functionally obsolete, or
27 blighted, and except for purposes of section 38d of former 1975 PA

1 228, the following additional activities:

2 (A) Infrastructure improvements that directly benefit eligible
3 property.

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

7 (C) Lead or asbestos abatement.

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

11 (E) Assistance to a land bank fast track authority in clearing
12 or quieting title to, or selling or otherwise conveying, property
13 owned or under the control of a land bank fast track authority or
14 the acquisition of property by the land bank fast track authority
15 if the acquisition of the property is for economic development
16 purposes.

17 (F) Assistance to a qualified local governmental unit or
18 authority in clearing or quieting title to, or selling or otherwise
19 conveying, property owned or under the control of a qualified local
20 governmental unit or authority or the acquisition of property by a
21 qualified local governmental unit or authority if the acquisition
22 of the property is for economic development purposes.

23 (v) Relocation of public buildings or operations for economic
24 development purposes.

25 (vi) For eligible activities on eligible property that is a
26 qualified facility that is not located in a qualified local
27 governmental unit and that is a facility, functionally obsolete, or

1 blighted, the following additional activities:

2 (A) Infrastructure improvements that directly benefit eligible
3 property.

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

7 (C) Lead or asbestos abatement.

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

11 (vii) For eligible activities on eligible property that is not
12 located in a qualified local governmental unit and that is a
13 facility, historic resource, functionally obsolete, or blighted,
14 the following additional activities:

15 (A) Demolition of structures that is not response activity
16 under section 20101 of the natural resources and environmental
17 protection act, 1994 PA 451, MCL 324.20101.

18 (B) Lead or asbestos abatement.

19 (viii) Reasonable costs of developing and preparing brownfield
20 plans, combined brownfield plans, and work plans.

21 (ix) For property that is not located in a qualified local
22 governmental unit and that is a facility, functionally obsolete, or
23 blighted, that is a former mill that has not been used for
24 industrial purposes for the immediately preceding 2 years, that is
25 located along a river that is a federal superfund site listed under
26 the comprehensive environmental response, compensation, and
27 liability act of 1980, 42 USC 9601 to 9675, and that is located in

1 a city with a population of less than 10,000 persons, the following
2 additional activities:

3 (A) Infrastructure improvements that directly benefit the
4 property.

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

8 (C) Lead or asbestos abatement.

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

12 (x) For eligible activities on eligible property that is
13 located north of the 45th parallel, that is a facility,
14 functionally obsolete, or blighted, and the owner or operator of
15 which makes new capital investment of \$250,000,000.00 or more in
16 this state, the following additional activities:

17 (A) Demolition of structures that is not response activity
18 under section 20101 of the natural resources and environmental
19 protection act, 1994 PA 451, MCL 324.20101.

20 (B) Lead or asbestos abatement.

21 (xi) Reasonable costs of environmental insurance.

22 (o) Except as otherwise provided in this subdivision,
23 "eligible property" means property for which eligible activities
24 are identified under a brownfield plan that was used or is
25 currently used for commercial, industrial, public, or residential
26 purposes, including personal property located on the property, to
27 the extent included in the brownfield plan, and that is 1 or more

1 of the following:

2 (i) Is in a qualified local governmental unit and is a
3 facility, historic resource, functionally obsolete, or blighted and
4 includes parcels that are adjacent or contiguous to that property
5 if the development of the adjacent and contiguous parcels is
6 estimated to increase the captured taxable value of that property.

7 (ii) Is not in a qualified local governmental unit and is a
8 facility, and includes parcels that are adjacent or contiguous to
9 that property if the development of the adjacent and contiguous
10 parcels is estimated to increase the captured taxable value of that
11 property.

12 (iii) Is tax reverted property owned or under the control of a
13 land bank fast track authority.

14 (iv) Is not in a qualified local governmental unit, is a
15 qualified facility, and is a facility, functionally obsolete, or
16 blighted, if the eligible activities on the property are limited to
17 the eligible activities identified in subdivision (n) (vi).

18 (v) Is not in a qualified local governmental unit and is a
19 facility, historic resource, functionally obsolete, or blighted, if
20 the eligible activities on the property are limited to the eligible
21 activities identified in subdivision (n) (vii).

22 (vi) Is not in a qualified local governmental unit and is a
23 facility, functionally obsolete, or blighted, if the eligible
24 activities on the property are limited to the eligible activities
25 identified in subdivision (n) (ix).

26 (vii) Is located north of the 45th parallel, is a facility,
27 functionally obsolete, or blighted, and the owner or operator makes

1 new capital investment of \$250,000,000.00 or more in this state.

2 Eligible property does not include qualified agricultural property
3 exempt under section 7ee of the general property tax act, 1893 PA
4 206, MCL 211.7ee, from the tax levied by a local school district
5 for school operating purposes to the extent provided under section
6 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

7 (viii) Is a transit-oriented development.

8 (ix) Is a transit-oriented facility.

9 (x) Is located in a qualified local governmental unit and
10 contains a targeted redevelopment area, as designated by resolution
11 of the governing body and approved by the Michigan strategic fund,
12 of not less than 40 and not more than 500 contiguous parcels. A
13 qualified local governmental unit is limited to designating no more
14 than 2 targeted redevelopment areas for the purposes of this
15 section in a calendar year. The Michigan strategic fund may approve
16 no more than 5 redevelopment areas for the purposes of this section
17 in a calendar year.

18 (p) "Environmental insurance" means liability insurance for
19 environmental contamination and cleanup that is not otherwise
20 required by state or federal law.

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

24 (r) "Fiscal year" means the fiscal year of the authority.

25 (s) "Functionally obsolete" means that the property is unable
26 to be used to adequately perform the function for which it was
27 intended due to a substantial loss in value resulting from factors

1 such as overcapacity, changes in technology, deficiencies or
2 superadequacies in design, or other similar factors that affect the
3 property itself or the property's relationship with other
4 surrounding property.

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

7 (u) "Historic resource" means that term as defined in section
8 90a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

9 (v) "Infrastructure improvements" means a street, road,
10 sidewalk, parking facility, pedestrian mall, alley, bridge, sewer,
11 sewage treatment plant, property designed to reduce, eliminate, or
12 prevent the spread of identified soil or groundwater contamination,
13 drainage system, waterway, waterline, water storage facility, rail
14 line, utility line or pipeline, transit-oriented development,
15 transit-oriented facility, or other similar or related structure or
16 improvement, together with necessary easements for the structure or
17 improvement, owned or used by a public agency or functionally
18 connected to similar or supporting property owned or used by a
19 public agency, or designed and dedicated to use by, for the benefit
20 of, or for the protection of the health, welfare, or safety of the
21 public generally, whether or not used by a single business entity,
22 provided that any road, street, or bridge shall be continuously
23 open to public access and that other property shall be located in
24 public easements or rights-of-way and sized to accommodate
25 reasonably foreseeable development of eligible property in
26 adjoining areas. Infrastructure improvements also include 1 or more
27 of the following whether publicly or privately owned or operated or

1 located on public or private property:

2 (i) Underground parking.

3 (ii) Multilevel parking structures.

4 (iii) Urban storm water management systems.

5 (w) "Initial taxable value" means the taxable value of an
6 eligible property identified in and subject to a brownfield plan at
7 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 shall
15 be included with the initial taxable value of zero. Property for
16 which a specific tax is paid in lieu of property tax shall not be
17 considered exempt from taxation. The state tax commission shall
18 prescribe the method for calculating the initial taxable value of
19 property for which a specific tax was paid in lieu of property tax.

20 (x) "Land bank fast track authority" means an authority
21 created under the land bank fast track act, 2003 PA 258, MCL
22 124.751 to 124.774.

23 (y) "Local taxes" means all taxes levied other than taxes
24 levied for school operating purposes.

25 (z) "Michigan strategic fund" means the Michigan strategic
26 fund created under the Michigan strategic fund act, 1984 PA 270,
27 MCL 125.2001 to 125.2094.

1 (aa) "Municipality" means all of the following:

2 (i) A city.

3 (ii) A village.

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

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

9 (v) A county.

10 (bb) "Owned or under the control of" means that a land bank
11 fast track authority has 1 or more of the following:

12 (i) An ownership interest in the property.

13 (ii) A tax lien on the property.

14 (iii) A tax deed to the property.

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

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

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

20 (cc) "Qualified facility" means a landfill facility area of
21 140 or more contiguous acres that is located in a city and that
22 contains a landfill, a material recycling facility, and an asphalt
23 plant that are no longer in operation.

24 (dd) "Qualified local governmental unit" means that term as
25 defined in the obsolete property rehabilitation act, 2000 PA 146,
26 MCL 125.2781 to 125.2797.

27 (ee) "Qualified taxpayer" means that term as defined in

1 sections 38d and 38g of former 1975 PA 228, or section 437 of the
2 Michigan business tax act, 2007 PA 36, MCL 208.1437, or a recipient
3 of a community revitalization incentive as described in section 90a
4 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

5 (ff) "Response activity" means either of the following:

6 (i) Response activity as that term is defined in section 20101
7 of the natural resources and environmental protection act, 1994 PA
8 451, MCL 324.20101.

9 (ii) Corrective action as that term is defined in section
10 21302 of the natural resources and environmental protection act,
11 1994 PA 451, MCL 324.21302.

12 (gg) "Specific taxes" means a tax levied under 1974 PA 198,
13 MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA
14 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224,
15 MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the
16 technology park development act, 1984 PA 385, MCL 207.701 to
17 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL
18 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA
19 147, MCL 207.771 to 207.786; the commercial rehabilitation act,
20 2005 PA 210, MCL 207.841 to 207.856; or that portion of the tax
21 levied under the tax reverted clean title act, 2003 PA 260, MCL
22 211.1021 to 211.1025a, that is not required to be distributed to a
23 land bank fast track authority.

24 (hh) "State brownfield redevelopment fund" means the state
25 brownfield redevelopment fund created in section 8a.

26 (ii) "Tax increment revenues" means the amount of ad valorem
27 property taxes and specific taxes attributable to the application

1 of the levy of all taxing jurisdictions upon the captured taxable
2 value of each parcel of eligible property subject to a brownfield
3 plan and personal property located on that property, regardless of
4 whether those taxes began to be levied after the brownfield plan
5 was adopted. Tax increment revenues do not include any of the
6 following:

7 (i) Ad valorem property taxes specifically levied for the
8 payment of principal of and interest on either obligations approved
9 by the electors or obligations pledging the unlimited taxing power
10 of the local governmental unit, and specific taxes attributable to
11 those ad valorem property taxes.

12 (ii) For tax increment revenues attributable to eligible
13 property also exclude the amount of ad valorem property taxes or
14 specific taxes captured by a downtown development authority, tax
15 increment finance authority, or local development finance authority
16 if those taxes were captured by these other authorities on the date
17 that eligible property became subject to a brownfield plan under
18 this act.

19 (iii) Ad valorem property taxes levied under 1 or more of the
20 following or specific taxes attributable to those ad valorem
21 property taxes:

22 (A) The zoological authorities act, 2008 PA 49, MCL 123.1161
23 to 123.1183.

24 (B) The art institute authorities act, 2010 PA 296, MCL
25 123.1201 to 123.1229.

26 (C) **EXCEPT AS OTHERWISE PROVIDED IN SECTION 4(6), AD VALOREM**
27 **PROPERTY TAXES OR SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THOSE AD**

1 VALOREM PROPERTY TAXES LEVIED FOR A SEPARATE MILLAGE FOR PUBLIC
2 LIBRARY PURPOSES APPROVED BY THE ELECTORS AFTER DECEMBER 31, 2015.

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

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

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

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

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

13 (ll) "Transit-oriented development" means infrastructure
14 improvements that are located within 1/2 mile of a transit station
15 or transit-oriented facility that promotes transit ridership or
16 passenger rail use as determined by the board and approved by the
17 municipality in which it is located.

18 (mm) "Transit-oriented facility" means a facility that houses
19 a transit station in a manner that promotes transit ridership or
20 passenger rail use.

21 (nn) "Work plan" means a plan that describes each individual
22 activity to be conducted to complete eligible activities and the
23 associated costs of each individual activity.

24 (oo) "Zone" means, for an authority established before June 6,
25 2000, a brownfield redevelopment zone designated under this act.

26 Sec. 4. (1) A governing body may declare by resolution adopted
27 by a majority of its members elected and serving its intention to

1 create and provide for the operation of an authority.

2 (2) In the resolution of intent, the governing body shall set
3 a date for holding a public hearing on the adoption of a proposed
4 resolution creating the authority. The notice of the public hearing
5 shall state the date, time, and place of the hearing. At that
6 hearing, a citizen, taxpayer, official from a taxing jurisdiction
7 whose millage may be subject to capture under a brownfield plan, or
8 property owner of the municipality has the right to be heard in
9 regard to the establishment of the authority.

10 (3) Not more than 30 days after the public hearing, if the
11 governing body intends to proceed with the establishment of the
12 authority, the governing body shall adopt, by majority vote of its
13 members elected and serving, a resolution establishing the
14 authority. The adoption of the resolution is subject to all
15 applicable statutory or charter provisions with respect to the
16 approval or disapproval by the chief executive or other officer of
17 the municipality and the adoption of a resolution over his or her
18 veto. This resolution shall be filed with the secretary of state
19 promptly after its adoption.

20 (4) The proceedings establishing an authority shall be
21 presumptively valid unless contested in a court of competent
22 jurisdiction within 60 days after the filing of the resolution with
23 the secretary of state.

24 (5) The exercise by an authority of the powers conferred by
25 this act shall be considered to be an essential governmental
26 function and benefit to, and a legitimate public purpose of, the
27 state, the authority, and the municipality or units.

1 (6) If the board implements or modifies a brownfield plan that
2 contains a qualified facility, the governing body shall mail notice
3 of that implementation or modification to each taxing jurisdiction
4 that levies ad valorem property taxes in the municipality. Not more
5 than 60 days after receipt of that notice, the governing body of a
6 taxing jurisdiction levying ad valorem property taxes that would
7 otherwise be subject to capture may exempt its taxes from capture
8 by adopting a resolution to that effect and filing a copy with the
9 clerk of the municipality in which the qualified facility is
10 located. The resolution takes effect when filed with that clerk and
11 remains effective until a copy of a resolution rescinding that
12 resolution is filed with that clerk. **IF A LIBRARY BOARD OR**
13 **COMMISSION LEVIES A SEPARATE MILLAGE FOR PUBLIC LIBRARY PURPOSES**
14 **THAT WAS LEVIED BEFORE JANUARY 1, 2016, AND ALL OBLIGATIONS OF THE**
15 **AUTHORITY ARE PAID OR DEFEASED, THEN THE LEVY IS EXEMPT FROM**
16 **CAPTURE UNDER THIS ACT, UNLESS THE LIBRARY BOARD OR COMMISSION**
17 **ALLOWS ALL OR A PORTION OF ITS TAXES LEVIED TO BE INCLUDED AS TAX**
18 **INCREMENT REVENUES AND SUBJECT TO CAPTURE UNDER THIS ACT UNDER THE**
19 **TERMS OF A WRITTEN AGREEMENT BETWEEN THE LIBRARY BOARD OR**
20 **COMMISSION AND THE AUTHORITY. THE WRITTEN AGREEMENT SHALL BE FILED**
21 **WITH THE CLERK OF THE MUNICIPALITY. HOWEVER, IF A LIBRARY BOARD OR**
22 **COMMISSION LEVIES A SEPARATE MILLAGE FOR PUBLIC LIBRARY PURPOSES**
23 **THAT WAS LEVIED BEFORE JANUARY 1, 2016, AND THE AUTHORITY MODIFIES**
24 **ITS BROWNFIELD PLAN TO INCLUDE ADDITIONAL ACTIVITIES OR EXTENDS THE**
25 **DURATION OF THE EXISTING FINANCE PLAN, THEN THE LIBRARY BOARD OR**
26 **COMMISSION MAY, NOT LATER THAN 60 DAYS AFTER A PUBLIC HEARING IS**
27 **HELD UNDER THIS SUBSECTION, EXEMPT ALL OR A PORTION OF ITS TAXES**

1 FROM CAPTURE BY ADOPTING A RESOLUTION TO THAT EFFECT AND FILING A
2 COPY WITH THE CLERK OF THE MUNICIPALITY THAT CREATED THE AUTHORITY.
3 FOR AD VALOREM PROPERTY TAXES OR SPECIFIC LOCAL TAXES ATTRIBUTABLE
4 TO THOSE AD VALOREM PROPERTY TAXES LEVIED FOR A SEPARATE MILLAGE
5 FOR PUBLIC LIBRARY PURPOSES APPROVED BY THE ELECTORS AFTER DECEMBER
6 31, 2015, A LIBRARY BOARD OR COMMISSION MAY ALLOW ALL OR A PORTION
7 OF ITS TAXES LEVIED TO BE INCLUDED AS TAX INCREMENT REVENUES AND
8 SUBJECT TO CAPTURE UNDER THIS ACT UNDER THE TERMS OF A WRITTEN
9 AGREEMENT BETWEEN THE LIBRARY BOARD OR COMMISSION AND THE
10 AUTHORITY. THE WRITTEN AGREEMENT SHALL BE FILED WITH THE CLERK OF
11 THE MUNICIPALITY.