

# Legislative Analysis



## **BROWNFIELD TAX CREDITS**

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<http://www.house.mi.gov/hfa>

**Senate Bill 437 as enacted**

**Public Act 27 of 2021**

**Sponsor: Sen. Wayne Schmidt**

**House Committee: Tax Policy**

**Senate Committee: Economic and Small Business Development**

**Complete to 7-8-21**

Analysis available at  
<http://www.legislature.mi.gov>

## **SUMMARY:**

Senate Bill 437 amends section 437 of the Michigan Business Tax Act (MBTA), which deals with brownfield tax credits, to extend the time within which a development project in Detroit can be completed and still be eligible, without penalty, for preapproved brownfield tax credits.<sup>1</sup>

Under section 437(10) of the act, if a multiphase project is not completed within 10 years after the date of the taxpayer's preapproval letter, the taxpayer must pay back to the state an amount equal to all the credits claimed and assigned for all components of the project, and no credits based on that project can be claimed from then on.

The bill creates an exception so that a qualified taxpayer that was approved for a credit based on a multiphase project by Resolution 2010-219 of the Michigan Economic Growth Authority (MEGA) Board<sup>2</sup> and issued a preapproval letter on June 10, 2011, has until September 14, 2023, to complete that project and claim the credit without penalty.

Resolution 2010-219 provided a credit to Woodward Offices, LLC, for an eligible property in the city of Detroit on December 14, 2010. Resolution 2020-046 amended the scope of that two-phase project located at 3750 Woodward Avenue.<sup>3</sup>

Before the bill was enacted, to claim the credit without penalty, the project would have had to be completed before June 11, 2021.

MCL 208.1437

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<sup>1</sup> While the Michigan brownfield tax credit program no longer issues new awards, existing credits are still honored; these credits began under the Single Business Tax and were continued under the Michigan Business Tax, and certain "certificated" credits can continue to be claimed under the MBT, even with the advent of the Corporate Income Tax, until they expire. However, the MBTA is repealed effective for tax years beginning after December 31, 2031.

<sup>2</sup> Executive Order 2012-9 abolished the MEGA Board and transferred its powers and duties to the board of directors of the Michigan Strategic Fund, which adopted Resolution 2020-046 on April 14, 2020.

<sup>3</sup> [https://www.michiganbusiness.org/4aef70/globalassets/documents/msf-board/msf-board-packets/april-special-meeting-packet\\_web.pdf](https://www.michiganbusiness.org/4aef70/globalassets/documents/msf-board/msf-board-packets/april-special-meeting-packet_web.pdf)

## **BRIEF DISCUSSION:**

Some wondered why a tax credit that was awarded in 2011 with 10 years to complete the proposed project would then require a two-year extension as the deadline was looming. In response, individuals involved with the project explained that the current developer, Real Estate Interests LLC, only took over the project in 2019. Construction, which was set to begin in May of 2020, was delayed due to COVID-19. A project does not need to be complete before the credit expires, they explained, but it does need to have undergone sufficient progress. Because that was impossible in this case due to the pandemic, they argued that such an extension is reasonable.

For the project in question—“The Mid,” which will be located in Midtown Detroit near Woodward and Mack Avenues—the developers will need to have completed seven stories of the proposed 15-story tower by September 14, 2023. As of June 9, 2021, reportedly, nothing has been built on the site.<sup>4</sup>

## **FISCAL IMPACT:**

As written, the bill would likely shift some credits claimed under the MBT from FY 2020-21 to FY 2022-23. In that event, the bill would have no direct impact on general fund revenue since the credits not claimed in FY 2020-21 would be claimed in a future year.

However, in absence of the bill, if those credits would not be claimed at all, general fund revenue would increase by approximately \$10.0 million in the current fiscal year.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

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<sup>4</sup> <https://www.crainsdetroit.com/real-estate/michigan-lawmakers-give-mid-developers-lifeline-brownfield-tax-credit>