

**SUBSTITUTE FOR
HOUSE BILL NO. 4713**

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

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:

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 fast
25 track authority under the land bank fast track act, whether or not
26 located within a qualified local governmental unit. Property
27 included within a brownfield plan prior to the date it meets the

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

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

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

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

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

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

26 (k) "Due care activities" means those response activities
27 identified as part of a brownfield plan that are necessary to allow

1 the owner or operator of an eligible property in the plan to comply
2 with the requirements of section 20107a of the natural resources
3 and environmental protection act, 1994 PA 451, MCL 324.20107a.

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

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

7 (ii) That contain a manufacturing facility that consists of
8 500,000 or more square feet.

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

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

17 (i) Baseline environmental assessment activities.

18 (ii) Due care activities.

19 (iii) Additional response activities.

20 (iv) For eligible activities on eligible property that was used
21 or is currently used for commercial, industrial, or residential
22 purposes that is in a qualified local governmental unit, that is
23 owned or under the control of a land bank fast track authority, or
24 that is located in an economic opportunity zone, and is a facility,
25 functionally obsolete, or blighted, and except for purposes of
26 section 38d of the single business tax act, 1975 PA 228, MCL
27 208.38d, the following additional activities:

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

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

6 (C) Lead or asbestos abatement.

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

10 (E) Assistance to a land bank fast track authority in clearing
11 or quieting title to, or selling or otherwise conveying, property
12 owned or under the control of a land bank fast track authority **OR**
13 **THE ACQUISITION OF PROPERTY BY THE LAND BANK FAST TRACK AUTHORITY**
14 **IF THE ACQUISITION OF THE PROPERTY IS FOR ECONOMIC DEVELOPMENT**
15 **PURPOSES.**

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 (vii) FOR ELIGIBLE ACTIVITIES ON ELIGIBLE PROPERTY THAT IS NOT
6 LOCATED IN A QUALIFIED LOCAL GOVERNMENTAL UNIT AND THAT IS A
7 FACILITY, FUNCTIONALLY OBSOLETE, OR BLIGHTED, THE FOLLOWING
8 ADDITIONAL ACTIVITIES:

9 (A) DEMOLITION OF STRUCTURES THAT IS NOT RESPONSE ACTIVITY
10 UNDER SECTION 20101 OF THE NATURAL RESOURCES AND ENVIRONMENTAL
11 PROTECTION ACT, 1994 PA 451, MCL 324.20101.

12 (B) LEAD OR ASBESTOS ABATEMENT.

13 (viii) ALL REASONABLE COSTS OF DEVELOPING AND PREPARING
14 BROWNFIELD PLANS AND WORK PLANS.

15 (n) "Eligible property" means property for which eligible
16 activities are identified under a brownfield plan that was used or
17 is currently used for commercial, industrial, or residential
18 purposes, ~~that is either in a qualified local governmental unit and~~
19 ~~is a facility, functionally obsolete, or blighted or is not in a~~
20 ~~qualified local governmental unit and is a facility, and includes~~
21 ~~parcels that are adjacent or contiguous to that property if the~~
22 ~~development of the adjacent and contiguous parcels is estimated to~~
23 ~~increase the captured taxable value of that property or tax~~
24 ~~reverted property owned or under the control of a land bank fast~~
25 ~~track authority. Eligible property includes, INCLUDING PERSONAL~~
26 **PROPERTY LOCATED ON THE PROPERTY,** to the extent included in the
27 brownfield plan, ~~personal property located on the property.~~

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

6 AND THAT IS 1 OR MORE OF THE FOLLOWING:

7 (i) IS IN A QUALIFIED LOCAL GOVERNMENTAL UNIT AND IS A
8 FACILITY, FUNCTIONALLY OBSOLETE, OR BLIGHTED AND INCLUDES PARCELS
9 THAT ARE ADJACENT OR CONTIGUOUS TO THAT PROPERTY IF THE DEVELOPMENT
10 OF THE ADJACENT AND CONTIGUOUS PARCELS IS ESTIMATED TO INCREASE THE
11 CAPTURED TAXABLE VALUE OF THAT PROPERTY.

12 (ii) IS NOT IN A QUALIFIED LOCAL GOVERNMENTAL UNIT AND IS A
13 FACILITY, AND INCLUDES PARCELS THAT ARE ADJACENT OR CONTIGUOUS TO
14 THAT PROPERTY IF THE DEVELOPMENT OF THE ADJACENT AND CONTIGUOUS
15 PARCELS IS ESTIMATED TO INCREASE THE CAPTURED TAXABLE VALUE OF THAT
16 PROPERTY.

17 (iii) IS TAX REVERTED PROPERTY OWNED OR UNDER THE CONTROL OF A
18 LAND BANK FAST TRACK AUTHORITY.

19 (iv) IS NOT IN A QUALIFIED LOCAL GOVERNMENTAL UNIT, IS A
20 QUALIFIED FACILITY, AND IS A FACILITY, FUNCTIONALLY OBSOLETE, OR
21 BLIGHTED, IF THE ELIGIBLE ACTIVITIES ON THE PROPERTY ARE LIMITED TO
22 THE ELIGIBLE ACTIVITIES IDENTIFIED IN SUBDIVISION (M) (vi) .

23 (v) IS NOT IN A QUALIFIED LOCAL GOVERNMENTAL UNIT AND IS A
24 FACILITY, FUNCTIONALLY OBSOLETE, OR BLIGHTED, IF THE ELIGIBLE
25 ACTIVITIES ON THE PROPERTY ARE LIMITED TO THE ELIGIBLE ACTIVITIES
26 IDENTIFIED IN SUBDIVISION (M) (vii) .

27 ELIGIBLE PROPERTY DOES NOT INCLUDE QUALIFIED AGRICULTURAL PROPERTY

1 EXEMPT UNDER SECTION 7EE OF THE GENERAL PROPERTY TAX ACT, 1893 PA
2 206, MCL 211.7EE, FROM THE TAX LEVIED BY A LOCAL SCHOOL DISTRICT
3 FOR SCHOOL OPERATING PURPOSES TO THE EXTENT PROVIDED UNDER SECTION
4 1211 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211.

5 (o) "Facility" means that term as defined in section 20101 of
6 the natural resources and environmental protection act, 1994 PA
7 451, MCL 324.20101.

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

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

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

18 (s) "Infrastructure improvements" means a street, road,
19 sidewalk, parking facility, pedestrian mall, alley, bridge, sewer,
20 sewage treatment plant, property designed to reduce, eliminate, or
21 prevent the spread of identified soil or groundwater contamination,
22 drainage system, waterway, waterline, water storage facility, rail
23 line, utility line or pipeline, or other similar or related
24 structure or improvement, together with necessary easements for the
25 structure or improvement, owned or used by a public agency or
26 functionally connected to similar or supporting property owned or
27 used by a public agency, or designed and dedicated to use by, for

1 the benefit of, or for the protection of the health, welfare, or
2 safety of the public generally, whether or not used by a single
3 business entity, provided that any road, street, or bridge shall be
4 continuously open to public access and that other property shall be
5 located in public easements or rights-of-way and sized to
6 accommodate reasonably foreseeable development of eligible property
7 in adjoining areas.

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

23 (u) "Land bank fast track authority" means an authority
24 created under the land bank fast track act, 2003 PA 258, MCL
25 124.751 to 124.774.

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

1 (w) "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 outside
5 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 (x) "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 (y) "Qualified facility" means a landfill facility area of 140
21 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 (z) "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 (aa) "Qualified taxpayer" means that term as defined in

1 sections 38d and 38g of the single business tax act, 1975 PA 228,
2 MCL 208.38d and 208.38g.

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

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

8 (ii) Describes each individual activity to be conducted to
9 complete eligible activities and the associated costs of each
10 individual activity.

11 (cc) "Response activity" means that term as defined in section
12 20101 of the natural resources and environmental protection act,
13 1994 PA 451, MCL 324.20101.

14 (dd) "Specific taxes" means a tax levied under 1974 PA 198,
15 MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA
16 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224,
17 MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the
18 technology park development act, 1984 PA 385, MCL 207.701 to
19 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL
20 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA
21 147, MCL 207.771 to 207.786; **THE COMMERCIAL REHABILITATION ACT,**
22 **2005 PA 210, MCL 207.841 TO 207.856;** or that portion of the tax
23 levied under the tax reverted clean title act, 2003 PA 260, MCL
24 211.1021 to 211.1026, that is not required to be distributed to a
25 land bank fast track authority.

26 (ee) "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. Tax increment
4 revenues exclude ad valorem property taxes specifically levied for
5 the payment of principal of and interest on either obligations
6 approved by the electors or obligations pledging the unlimited
7 taxing power of the local governmental unit, and specific taxes
8 attributable to those ad valorem property taxes. Tax increment
9 revenues attributable to eligible property also exclude the amount
10 of ad valorem property taxes or specific taxes captured by a
11 downtown development authority, tax increment finance authority, or
12 local development finance authority if those taxes were captured by
13 these other authorities on the date that eligible property became
14 subject to a brownfield plan under this act.

15 (ff) "Taxable value" means the value determined under section
16 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

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

19 (i) The taxes levied by a local school district for operating
20 purposes.

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

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

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

1 (ii) "Zone" means, for an authority established before June 6,
2 2000, a brownfield redevelopment zone designated under this act.