

# SENATE BILL No. 892

March 27, 2014, Introduced by Senator CASPERSON and referred to the Committee on Natural Resources, Environment and Great Lakes.

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

**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

1 defined in section 20101 of the natural resources and environmental  
2 protection act, 1994 PA 451, MCL 324.20101.

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

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

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

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

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

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

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

26 (vi) Is property owned or under the control of a land bank fast  
27 track authority, whether or not located within a qualified local

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

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

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) "Combined brownfield plan" means a brownfield plan that

1 also includes the information necessary to submit the plan to the  
2 department or Michigan strategic fund under section 15(25).

3 (k) "Department" means the department of environmental  
4 quality.

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

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

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

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

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

18 (n) "Eligible activities" or "eligible activity" means 1 or  
19 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 historic resource, functionally obsolete, or blighted, and except  
2 for purposes of section 38d of former 1975 PA 228, the following  
3 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 or  
16 the acquisition of property by the land bank fast track authority  
17 if the acquisition of the property is for economic development  
18 purposes.

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

25 (v) Relocation of public buildings or operations for economic  
26 development purposes.

27 (vi) For eligible activities on eligible property that is a

1 qualified facility that is not located in a qualified local  
2 governmental unit and that is a facility, functionally obsolete, or  
3 blighted, 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 (vii) For eligible activities on eligible property that is not  
14 located in a qualified local governmental unit and that is a  
15 facility, historic resource, functionally obsolete, or blighted,  
16 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 (viii) Reasonable costs of developing and preparing brownfield  
22 plans, combined brownfield plans, and work plans.

23 (ix) For property that is not located in a qualified local  
24 governmental unit and that is a facility, functionally obsolete, or  
25 blighted, that is a former mill that has not been used for  
26 industrial purposes for the immediately preceding 2 years, that is  
27 located along a river that is a federal superfund site listed under

1 the comprehensive environmental response, compensation, and  
2 liability act of 1980, 42 USC 9601 to 9675, and that is located in  
3 a city with a population of less than 10,000 persons, the following  
4 additional activities:

5 (A) Infrastructure improvements that directly benefit the  
6 property.

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

10 (C) Lead or asbestos abatement.

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

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

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

22 (B) Lead or asbestos abatement.

23 (xi) Reasonable costs of environmental insurance.

24 (o) Except as otherwise provided in this subdivision,  
25 "eligible property" means property for which eligible activities  
26 are identified under a brownfield plan that was used or is  
27 currently used for commercial, industrial, public, or residential

1 purposes, including personal property located on the property, to  
2 the extent included in the brownfield plan, and that is 1 or more  
3 of the following:

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

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

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

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

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

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



1           (vii) Is located north of the 45th parallel, is a facility,  
2 functionally obsolete, or blighted, and the owner or operator makes  
3 new capital investment of \$250,000,000.00 or more in this state.  
4 Eligible property does not include qualified agricultural property  
5 exempt under section 7ee of the general property tax act, 1893 PA  
6 206, MCL 211.7ee, from the tax levied by a local school district  
7 for school operating purposes to the extent provided under section  
8 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

9           (viii) Is a transit-oriented development.

10          (ix) Is a transit-oriented facility.

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

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

23          (q) "Facility" means **ALL CONTIGUOUS PROPERTY UNDER COMMON**  
24 **OWNERSHIP THAT IS OR CONTAINS A FACILITY AS** that term ~~as~~**IS** defined  
25 in section 20101 of the natural resources and environmental  
26 protection act, 1994 PA 451, MCL 324.20101.

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

1 (s) "Functionally obsolete" means that the property is unable  
2 to be used to adequately perform the function for which it was  
3 intended due to a substantial loss in value resulting from factors  
4 such as overcapacity, changes in technology, deficiencies or  
5 superadequacies in design, or other similar factors that affect the  
6 property itself or the property's relationship with other  
7 surrounding property.

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

10 (u) "Historic resource" means that term as defined in section  
11 90a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

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

1 reasonably foreseeable development of eligible property in  
2 adjoining areas. Infrastructure improvements also include 1 or more  
3 of the following whether publicly or privately owned or operated or  
4 located on public or private property:

5 (i) Underground parking.

6 (ii) Multilevel parking structures.

7 (iii) Urban storm water management systems.

8 (w) "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 (x) "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 (y) "Local taxes" means all taxes levied other than taxes  
27 levied for school operating purposes.

1 (z) "Michigan strategic fund" means the Michigan strategic  
2 fund created under the Michigan strategic fund act, 1984 PA 270,  
3 MCL 125.2001 to 125.2094.

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

5 (i) A city.

6 (ii) A village.

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

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

12 (v) A county.

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

15 (i) An ownership interest in the property.

16 (ii) A tax lien on the property.

17 (iii) A tax deed to the property.

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

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

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

23 (cc) "Qualified facility" means a landfill facility area of  
24 140 or more contiguous acres that is located in a city and that  
25 contains a landfill, a material recycling facility, and an asphalt  
26 plant that are no longer in operation.

27 (dd) "Qualified local governmental unit" means that term as

1 defined in the obsolete property rehabilitation act, 2000 PA 146,  
2 MCL 125.2781 to 125.2797.

3 (ee) "Qualified taxpayer" means that term as defined in  
4 sections 38d and 38g of former 1975 PA 228, or section 437 of the  
5 Michigan business tax act, 2007 PA 36, MCL 208.1437, or a recipient  
6 of a community revitalization incentive as described in section 90a  
7 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

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

9 (i) Response activity as that term is defined in section 20101  
10 of the natural resources and environmental protection act, 1994 PA  
11 451, MCL 324.20101.

12 (ii) Corrective action as that term is defined in section 21302  
13 of the natural resources and environmental protection act, 1994 PA  
14 451, MCL 324.21302.

15 (gg) "Specific taxes" means a tax levied under 1974 PA 198,  
16 MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA  
17 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224,  
18 MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the  
19 technology park development act, 1984 PA 385, MCL 207.701 to  
20 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL  
21 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA  
22 147, MCL 207.771 to 207.786; the commercial rehabilitation act,  
23 2005 PA 210, MCL 207.841 to 207.856; or that portion of the tax  
24 levied under the tax reverted clean title act, 2003 PA 260, MCL  
25 211.1021 to 211.1025a, that is not required to be distributed to a  
26 land bank fast track authority.

27 (hh) "State brownfield redevelopment fund" means the state

1 brownfield redevelopment fund created in section 8a.

2 (ii) "Tax increment revenues" means the amount of ad valorem  
3 property taxes and specific taxes attributable to the application  
4 of the levy of all taxing jurisdictions upon the captured taxable  
5 value of each parcel of eligible property subject to a brownfield  
6 plan and personal property located on that property, regardless of  
7 whether those taxes began to be levied after the brownfield plan  
8 was adopted. Tax increment revenues do not include any of the  
9 following:

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

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

22 (iii) Ad valorem property taxes levied under 1 or more of the  
23 following or specific taxes attributable to those ad valorem  
24 property taxes:

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

27 (B) The art institute authorities act, 2010 PA 296, MCL

1 123.1201 to 123.1229.

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

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

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

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

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

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

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

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

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