

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4344**

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 2004 PA 66.

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
- 3 municipality to an authority or to another person on behalf of
- 4 the authority in anticipation of repayment by the authority.
- 5 Evidence of the intent to repay an advance may include, but is

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

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

5 (i) For valuations made before January 1, 1995, the state
6 equalized valuation as determined under the general property tax
7 act, 1893 PA 206, MCL 211.1 to 211.157.

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

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

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

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

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

23 (g) "Chief executive officer" means the mayor or city manager
24 of a city, the president or village manager of a village, or the
25 supervisor of a township or, if designated by the township board
26 for purposes of this act, the township superintendent or township
27 manager of a township.

1 (h) "Development area" means that area to which a development
2 plan is applicable.

3 (i) "Development plan" means that information and those
4 requirements for a development **plan** set forth in section 17.

5 (j) "Development program" means the implementation of the
6 development plan.

7 (k) "Downtown district" means **that part of** an area in a
8 business district that is specifically designated by ordinance of
9 the governing body of the municipality pursuant to this act. **A**
10 **downtown district may include 1 or more separate and distinct**
11 **geographic areas in a business district as determined by the**
12 **municipality if the municipality is a city that surrounds another**
13 **city and that other city lies between the 2 separate and distinct**
14 **geographic areas. If the downtown district contains more than 1**
15 **separate and distinct geographic area in the downtown district,**
16 **the separate and distinct geographic areas shall be considered 1**
17 **downtown district.**

18 (l) "Eligible advance" means an advance made before
19 August 19, 1993.

20 (m) "Eligible obligation" means an obligation issued or
21 incurred by an authority or by a municipality on behalf of an
22 authority before August 19, 1993 and its subsequent refunding by
23 a qualified refunding obligation. Eligible obligation includes
24 an authority's written agreement entered into before August 19,
25 1993 to pay an obligation issued after August 18, 1993 and before
26 December 31, 1996 by another entity on behalf of the authority.

27 (n) "Fire alarm system" means a system designed to detect and

1 annunciate the presence of fire, or by-products of fire. Fire
2 alarm system includes smoke detectors.

3 (o) "Fiscal year" means the fiscal year of the authority.

4 (p) "Governing body of a municipality" means the elected body
5 of a municipality having legislative powers.

6 (q) "Initial assessed value" means the assessed value, as
7 equalized, of all the taxable property within the boundaries of
8 the development area at the time the ordinance establishing the
9 tax increment financing plan is approved, as shown by the most
10 recent assessment roll of the municipality for which equalization
11 has been completed at the time the resolution is adopted.
12 Property exempt from taxation at the time of the determination of
13 the initial assessed value shall be included as zero. For the
14 purpose of determining initial assessed value, property for which
15 a specific local tax is paid in lieu of a property tax shall not
16 be considered to be property that is exempt from taxation. The
17 initial assessed value of property for which a specific local tax
18 was paid in lieu of a property tax shall be determined as
19 provided in subdivision (y). In the case of a municipality
20 having a population of less than 35,000 that established an
21 authority prior to 1985, created a district or districts, and
22 approved a development plan or tax increment financing plan or
23 amendments to a plan, and which plan or tax increment financing
24 plan or amendments to a plan, and which plan expired by its terms
25 December 31, 1991, the initial assessed value for the purpose of
26 any plan or plan amendment adopted as an extension of the expired
27 plan shall be determined as if the plan had not expired

1 December 31, 1991. For a development area designated before 1997
2 in which a renaissance zone has subsequently been designated
3 pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL
4 125.2681 to 125.2696, the initial assessed value of the
5 development area otherwise determined under this subdivision
6 shall be reduced by the amount by which the current assessed
7 value of the development area was reduced in 1997 due to the
8 exemption of property under section 7ff of the general property
9 tax act, 1893 PA 206, MCL 211.7ff, but in no case shall the
10 initial assessed value be less than zero.

11 (r) "Municipality" means a city, village, or township.

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

21 (i) A requirement to pay proceeds derived from ad valorem
22 property taxes or taxes levied in lieu of ad valorem property
23 taxes.

24 (ii) A management contract or a contract for professional
25 services.

26 (iii) A payment required on a contract, agreement, bond, or
27 note if the requirement to make or assume the payment arose

1 before August 19, 1993.

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

5 (v) A letter of credit, paying agent, transfer agent, bond
6 registrar, or trustee fee associated with a contract, agreement,
7 bond, or note.

8 (t) "On behalf of an authority", in relation to an eligible
9 advance made by a municipality, or an eligible obligation or
10 other protected obligation issued or incurred by a municipality,
11 means in anticipation that an authority would transfer tax
12 increment revenues or reimburse the municipality from tax
13 increment revenues in an amount sufficient to fully make payment
14 required by the eligible advance made by the municipality, or
15 eligible obligation or other protected obligation issued or
16 incurred by the municipality, if the anticipation of the transfer
17 or receipt of tax increment revenues from the authority is
18 pursuant to or evidenced by 1 or more of the following:

19 (i) A reimbursement agreement between the municipality and an
20 authority it established.

21 (ii) A requirement imposed by law that the authority transfer
22 tax increment revenues to the municipality.

23 (iii) A resolution of the authority agreeing to make payments
24 to the incorporating unit.

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

27 (u) "Operations" means office maintenance, including salaries

1 and expenses of employees, office supplies, consultation fees,
2 design costs, and other expenses incurred in the daily management
3 of the authority and planning of its activities.

4 (v) "Other protected obligation" means:

5 (i) A qualified refunding obligation issued to refund an
6 obligation described in subparagraph (ii), (iii), or (iv), an
7 obligation that is not a qualified refunding obligation that is
8 issued to refund an eligible obligation, or a qualified refunding
9 obligation issued to refund an obligation described in this
10 subparagraph.

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

21 (iii) An obligation incurred by an authority or municipality
22 after August 19, 1993, to reimburse a party to a development
23 agreement entered into by a municipality or authority before
24 August 19, 1993, for a project described in a tax increment
25 financing plan approved in accordance with this act before
26 August 19, 1993, and undertaken and installed by that party in
27 accordance with the development agreement.

1 (iv) An obligation incurred by the authority evidenced by or
2 to finance a contract to purchase real property within a
3 development area or a contract to develop that property within
4 the development area, or both, if all of the following
5 requirements are met:

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

7 (B) Before June 30, 1995, the authority enters a contract for
8 the development of the real property located within the
9 development area.

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

13 (I) The department of natural resources for site reclamation
14 of the real property.

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

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

23 (vi) A loan from a municipality to an authority if the loan
24 was approved by the legislative body of the municipality on
25 April 18, 1994.

26 (vii) Funds expended to match a grant received by a
27 municipality on behalf of an authority for sidewalk improvements

1 from the Michigan department of transportation if the legislative
2 body of the municipality approved the grant application on
3 April 5, 1993 and the grant was received by the municipality in
4 June 1993.

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

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

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

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

19 (D) The authority or municipality captured school taxes
20 during 1994.

21 (w) "Public facility" means a street, plaza, pedestrian mall,
22 and any improvements to a street, plaza, or pedestrian mall
23 including street furniture and beautification, park, parking
24 facility, recreational facility, right-of-way, structure,
25 waterway, bridge, lake, pond, canal, utility line or pipe,
26 building, and access routes to any of the foregoing, designed and
27 dedicated to use by the public generally, or used by a public

1 agency. Public facility includes an improvement to a facility
2 used by the public or a public facility as those terms are
3 defined in section 1 of 1966 PA 1, MCL 125.1351, which
4 improvement is made to comply with the barrier free design
5 requirements of the state construction code promulgated under the
6 Stille-DeRossett-Hale single state construction code act, 1972 PA
7 230, MCL 125.1501 to 125.1531.

8 (x) "Qualified refunding obligation" means an obligation
9 issued or incurred by an authority or by a municipality on behalf
10 of an authority to refund an obligation if the refunding
11 obligation meets both of the following:

12 (i) 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
16 calculated using a method approved by the department of
17 treasury.

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

26 (y) "Specific local tax" means a tax levied under 1974 PA
27 198, MCL 207.551 to 207.572, the commercial redevelopment act,

1 1978 PA 255, MCL 207.651 to 207.668, the technology park
2 development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA
3 189, MCL 211.181 to 211.182. The initial assessed value or
4 current assessed value of property subject to a specific local
5 tax shall be the quotient of the specific local tax paid divided
6 by the ad valorem millage rate. However, after 1993, the state
7 tax commission shall prescribe the method for calculating the
8 initial assessed value and current assessed value of property for
9 which a specific local tax was paid in lieu of a property tax.

10 (z) "State fiscal year" means the annual period commencing
11 October 1 of each year.

12 (aa) "Tax increment revenues" means the amount of ad valorem
13 property taxes and specific local taxes attributable to the
14 application of the levy of all taxing jurisdictions upon the
15 captured assessed value of real and personal property in the
16 development area, subject to the following requirements:

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

24 (ii) Tax increment revenues include ad valorem property taxes
25 and specific local taxes attributable to the application of the
26 levy of the state pursuant to the state education tax act, 1993
27 PA 331, MCL 211.901 to 211.906, and local or intermediate school

1 districts upon the captured assessed value of real and personal
2 property in the development area in an amount equal to the amount
3 necessary, without regard to subparagraph (i), to repay eligible
4 advances, eligible obligations, and other protected obligations.

5 (iii) Tax increment revenues do not include any of the
6 following:

7 (A) Ad valorem property taxes attributable either to a
8 portion of the captured assessed value shared with taxing
9 jurisdictions within the jurisdictional area of the authority or
10 to a portion of value of property that may be excluded from
11 captured assessed value or specific local taxes attributable to
12 such ad valorem property taxes.

13 (B) Ad valorem property taxes excluded by the tax increment
14 financing plan of the authority from the determination of the
15 amount of tax increment revenues to be transmitted to the
16 authority or specific local taxes attributable to such ad valorem
17 property taxes.

18 (C) Ad valorem property taxes exempted from capture under
19 section 3(3) or specific local taxes attributable to such ad
20 valorem property taxes.

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

1 property in a development area shall be determined separately for
2 the levy by the state, each school district, and each
3 intermediate school district as the product of sub-subparagraphs
4 (A) and (B):

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

12 (B) The maximum amount of ad valorem property taxes and
13 specific local taxes considered tax increment revenues under
14 subparagraph (ii).