

**SUBSTITUTE FOR  
SENATE BILL NO. 482**

A bill to amend 1996 PA 381, entitled  
"Brownfield redevelopment financing act,"  
by amending section 13 (MCL 125.2663), as amended by 2003 PA 259.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 13. (1) Subject to section 15, the board may implement a  
2 brownfield plan. The brownfield plan may apply to 1 or more parcels  
3 of eligible property whether or not those parcels of eligible  
4 property are contiguous and may be amended to apply to additional  
5 parcels of eligible property. Except as otherwise authorized by  
6 this act, if more than 1 parcel of eligible property is included  
7 within the plan, the tax increment revenues under the plan shall be  
8 determined individually for each parcel of eligible property. Each  
9 plan or an amendment to a plan shall be approved by the governing  
10 body of the municipality and shall contain all of the following:

11       (a) A description of the costs of the plan intended to be paid

1 for with the tax increment revenues or, for a plan for eligible  
2 properties qualified on the basis that the property is owned or  
3 under the control of a land bank fast track authority, a listing of  
4 all eligible activities that may be conducted for 1 or more of the  
5 eligible properties subject to the plan.

6 (b) A brief summary of the eligible activities that are  
7 proposed for each eligible property or, for a plan for eligible  
8 properties qualified on the basis that the property is owned or  
9 under the control of a land bank fast track authority, a brief  
10 summary of eligible activities conducted for 1 or more of the  
11 eligible properties subject to the plan.

12 (c) An estimate of the captured taxable value and tax  
13 increment revenues for each year of the plan from each parcel of  
14 eligible property, or from all eligible properties qualified on the  
15 basis that the property is owned or under the control of a land  
16 bank fast track authority, and in the aggregate. The plan may  
17 provide for the use of part or all of the captured taxable value,  
18 including deposits in the local site remediation revolving fund,  
19 but the portion intended to be used shall be clearly stated in the  
20 plan. The plan shall not provide either for an exclusion from  
21 captured taxable value of a portion of the captured taxable value  
22 or for an exclusion of the tax levy of 1 or more taxing  
23 jurisdictions unless the tax levy is excluded from tax increment  
24 revenues in section 2(cc), or unless the tax levy is excluded from  
25 capture under section 15.

26 (d) The method by which the costs of the plan will be  
27 financed, including a description of any advances made or

1 anticipated to be made for the costs of the plan from the  
2 municipality.

3 (e) The maximum amount of note or bonded indebtedness to be  
4 incurred, if any.

5 (f) The duration of the brownfield plan, which shall not  
6 exceed the lesser of the period authorized under subsections (4)  
7 and (5) or 30 years.

8 (g) An estimate of the impact of tax increment financing on  
9 the revenues of all taxing jurisdictions in which the eligible  
10 property is located.

11 (h) A legal description of each parcel of eligible property to  
12 which the plan applies, a map showing the location and dimensions  
13 of each eligible property, a statement of the characteristics that  
14 qualify the property as eligible property, and a statement of  
15 whether personal property is included as part of the eligible  
16 property. If the project is on property that is functionally  
17 obsolete, the taxpayer shall include, with the application, an  
18 affidavit signed by a level 3 or level 4 assessor, that states that  
19 it is the assessor's expert opinion that the property is  
20 functionally obsolete and the underlying basis for that opinion.

21 (i) Estimates of the number of persons residing on each  
22 eligible property to which the plan applies and the number of  
23 families and individuals to be displaced. If occupied residences  
24 are designated for acquisition and clearance by the authority, the  
25 plan shall include a demographic survey of the persons to be  
26 displaced, a statistical description of the housing supply in the  
27 community, including the number of private and public units in

1 existence or under construction, the condition of those in  
2 existence, the number of owner-occupied and renter-occupied units,  
3 the annual rate of turnover of the various types of housing and the  
4 range of rents and sale prices, an estimate of the total demand for  
5 housing in the community, and the estimated capacity of private and  
6 public housing available to displaced families and individuals.

7 (j) A plan for establishing priority for the relocation of  
8 persons displaced by implementation of the plan.

9 (k) Provision for the costs of relocating persons displaced by  
10 implementation of the plan, and financial assistance and  
11 reimbursement of expenses, including litigation expenses and  
12 expenses incident to the transfer of title, in accordance with the  
13 standards and provisions of the uniform relocation assistance and  
14 real property acquisition policies act of 1970, Public Law 91-646.  
15 ~~, 84 Stat. 1894.~~

16 (l) A strategy for compliance with 1972 PA 227, MCL 213.321 to  
17 213.332.

18 (m) A description of proposed use of the local site  
19 remediation revolving fund.

20 (n) Other material that the authority or governing body  
21 considers pertinent.

22 (2) The percentage of all taxes levied on a parcel of eligible  
23 property for school operating expenses that is captured and used  
24 under a brownfield plan and all tax increment finance plans under  
25 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance  
26 authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local  
27 development financing act, 1986 PA 281, MCL 125.2151 to 125.2174,

1 shall not be greater than the combination of the plans' percentage  
2 capture and use of all local taxes levied for purposes other than  
3 for the payment of principal of and interest on either obligations  
4 approved by the electors or obligations pledging the unlimited  
5 taxing power of the local unit of government. This subsection shall  
6 apply only when taxes levied for school operating purposes are  
7 subject to capture under section 15.

8 (3) Except as provided in this subsection and subsections (5),  
9 (15), and (16), tax increment revenues related to a brownfield plan  
10 shall be used only for costs of eligible activities attributable to  
11 the eligible property, the captured taxable value of which produces  
12 the tax increment revenues, including the cost of principal of and  
13 interest on any obligation issued by the authority to pay the costs  
14 of eligible activities attributable to the eligible property, and  
15 the reasonable costs of preparing a work plan or remedial action  
16 plan for the eligible property, including the actual cost of the  
17 review of the work plan or remedial action plan under section 15.  
18 For property owned or under the control of a land bank fast track  
19 authority, tax increment revenues related to a brownfield plan may  
20 be used for eligible activities attributable to any eligible  
21 property owned or under the control of the land bank fast track  
22 authority, the cost of principal of and interest on any obligation  
23 issued by the authority to pay the costs of eligible activities,  
24 the reasonable costs of preparing a work plan or remedial action  
25 plan, and the actual cost of the review of the work plan or  
26 remedial action plan under section 15. Tax increment revenues  
27 captured from taxes levied by this state under the state education

1 tax act, 1993 PA 331, MCL 211.901 to 211.906, or taxes levied by a  
2 local school district shall not be used for eligible activities  
3 described in section 2 (I) (iv) (E).

4 (4) Except as provided in subsection (5), a brownfield plan  
5 shall not authorize the capture of tax increment revenue from  
6 eligible property after the year in which the total amount of tax  
7 increment revenues captured is equal to the sum of the costs  
8 permitted to be funded with tax increment revenues under this act.

9 (5) A brownfield plan may authorize the capture of additional  
10 tax increment revenue from an eligible property in excess of the  
11 amount authorized under subsection (4) during the time of capture  
12 for the purpose of paying the costs permitted under subsection (3),  
13 or for not more than 5 years after the time that capture is  
14 required for the purpose of paying the costs permitted under  
15 subsection (3), or both. Excess revenues captured under this  
16 subsection shall be deposited in the local site remediation  
17 revolving fund created under section 8 and used for the purposes  
18 authorized in section 8. If tax increment revenues attributable to  
19 taxes levied for school operating purposes from eligible property  
20 are captured by the authority for purposes authorized under  
21 subsection (3), the tax increment revenues captured for deposit in  
22 the local site remediation revolving fund also may include tax  
23 increment revenues attributable to taxes levied for school  
24 operating purposes in an amount not greater than the tax increment  
25 revenues levied for school operating purposes captured from the  
26 eligible property by the authority for the purposes authorized  
27 under subsection (3). Excess tax increment revenues from taxes

1 levied for school operating purposes for eligible activities  
2 authorized under subsection (15) by the Michigan economic growth  
3 authority shall not be captured for deposit in the local site  
4 remediation revolving fund.

5 (6) An authority shall not expend tax increment revenues to  
6 acquire or prepare eligible property, unless the acquisition or  
7 preparation is an eligible activity.

8 (7) Costs of eligible activities attributable to eligible  
9 property include all costs that are necessary or related to a  
10 release from the eligible property, including eligible activities  
11 on properties affected by a release from the eligible property. For  
12 purposes of this subsection, "release" means that term as defined  
13 in section 20101 of the natural resources and environmental  
14 protection act, 1994 PA 451, MCL 324.20101.

15 (8) Costs of a response activity paid with tax increment  
16 revenues that are captured pursuant to subsection (3) may be  
17 recovered from a person who is liable for the costs of eligible  
18 activities at an eligible property. This state or an authority may  
19 undertake cost recovery for tax increment revenue captured. Before  
20 an authority or this state may institute a cost recovery action, it  
21 must provide the other with 120 days' notice. This state or an  
22 authority that recovers costs under this subsection shall apply  
23 those recovered costs to the following, in the following order of  
24 priority:

25 (a) The reasonable attorney fees and costs incurred by this  
26 state or an authority in obtaining the cost recovery.

27 (b) One of the following:

1           (i) If an authority undertakes the cost recovery action, the  
2 authority shall deposit the remaining recovered funds into the  
3 local site remediation fund created pursuant to section 8, if such  
4 a fund has been established by the authority. If a local site  
5 remediation fund has not been established, the authority shall  
6 disburse the remaining recovered funds to the local taxing  
7 jurisdictions in the proportion that the local taxing  
8 jurisdictions' taxes were captured.

9           (ii) If this state undertakes a cost recovery action, this  
10 state shall deposit the remaining recovered funds into the  
11 revitalization revolving loan fund established under section 20108a  
12 of the natural resources and environmental protection act, 1994 PA  
13 451, MCL 324.20108a.

14           (iii) If this state and an authority each undertake a cost  
15 recovery action, undertake a cost recovery action jointly, or 1 on  
16 behalf of the other, the amount of any remaining recovered funds  
17 shall be deposited pursuant to subparagraphs (i) and (ii) in the  
18 proportion that the tax increment revenues being recovered  
19 represent local taxes and taxes levied for school operating  
20 purposes, respectively.

21           (9) Approval of the brownfield plan or an amendment to a  
22 brownfield plan shall be in accordance with the notice and approval  
23 provisions of this section and section 14.

24           (10) Before approving a brownfield plan for an eligible  
25 property, the governing body shall hold a public hearing on the  
26 brownfield plan. Notice of the time and place of the hearing shall  
27 be given by publication twice in a newspaper of general circulation



1 designated by the municipality, the first of which shall be not  
2 less than 20 or more than 40 days before the date set for the  
3 hearing.

4 (11) Notice of the time and place of the hearing on a  
5 brownfield plan shall contain all of the following:

6 (a) A description of the property to which the plan applies in  
7 relation to existing or proposed highways, streets, streams, or  
8 otherwise.

9 (b) A statement that maps, plats, and a description of the  
10 brownfield plan are available for public inspection at a place  
11 designated in the notice and that all aspects of the brownfield  
12 plan are open for discussion at the public hearing required by this  
13 section.

14 (c) Any other information that the governing body considers  
15 appropriate.

16 (12) At the time set for the hearing on the brownfield plan  
17 required under subsection (10), the governing body shall provide an  
18 opportunity for interested persons to be heard and shall receive  
19 and consider communications in writing with reference to the  
20 brownfield plan. The governing body shall make and preserve a  
21 record of the public hearing, including all data presented at the  
22 hearing.

23 (13) Not less than 20 days before the hearing on the  
24 brownfield plan, the governing body shall provide notice of the  
25 hearing to the taxing jurisdictions that levy taxes subject to  
26 capture under this act. The authority shall fully inform the taxing  
27 jurisdictions about the fiscal and economic implications of the

1 proposed brownfield plan. At that hearing, an official from a  
2 taxing jurisdiction with millage that would be subject to capture  
3 under this act has the right to be heard in regard to the adoption  
4 of the brownfield plan.

5 (14) The authority shall not enter into agreements with the  
6 taxing jurisdictions and the governing body of the municipality to  
7 share a portion of the captured taxable value of an eligible  
8 property. Upon adoption of the plan, the collection and  
9 transmission of the amount of tax increment revenues as specified  
10 in this act shall be binding on all taxing units levying ad valorem  
11 property taxes or specific taxes against property located in the  
12 zone.

13 (15) Except as provided by subsection (18), if a brownfield  
14 plan includes the capture of taxes levied for school operating  
15 purposes or the use of tax increment revenues related to a  
16 brownfield plan for the cost of eligible activities attributable to  
17 more than 1 eligible property that is adjacent and contiguous to  
18 all other eligible properties covered by the development agreement,  
19 whether or not the captured taxes are levied for school operating  
20 purposes, approval of a work plan by the Michigan economic growth  
21 authority before January 1, 2008 to use school operating taxes and  
22 a development agreement between the municipality and an owner or  
23 developer of eligible property are required if the revenues will be  
24 used for infrastructure improvements that directly benefit eligible  
25 property, demolition of structures that is not response activity  
26 under part 201 of the natural resources and environmental  
27 protection act, 1994 PA 451, MCL 324.20101 to 324.20142, lead or

1 asbestos abatement, or site preparation that is not response  
2 activity under section 20101 of the natural resources and  
3 environmental protection act, 1994 PA 451, MCL 324.20101. The  
4 eligible activities to be conducted described in this subsection  
5 shall be consistent with the work plan submitted by the authority  
6 to the Michigan economic growth authority. The department's  
7 approval is not required for the capture of taxes levied for school  
8 operating purposes for eligible activities described in this  
9 subsection.

10 (16) The limitations of section 15(1) upon use of tax  
11 increment revenues by an authority shall not apply to the following  
12 costs and expenses:

13 (a) In each fiscal year of the authority, \$75,000.00 for the  
14 following purposes for tax increment revenues attributable to local  
15 taxes:

16 (i) Reasonable and actual administrative and operating expenses  
17 of the authority.

18 (ii) Baseline environmental assessments, due care activities,  
19 and additional response activities related directly to work  
20 conducted on prospective eligible properties prior to approval of  
21 the brownfield plan.

22 (b) Reasonable costs of preparing a work plan or remedial  
23 action plan or the cost of the review of a work plan for which tax  
24 increment revenues may be used under section 13(3).

25 (17) A brownfield authority may reimburse advances, **WITH OR**  
26 **WITHOUT INTEREST**, made by a municipality under section 7(3), a land  
27 bank fast track authority, or any other person or entity for costs

1 of eligible activities with any source of revenue available for use  
2 of the brownfield authority under this act and may enter into  
3 agreements related to those reimbursements. A reimbursement  
4 agreement for these purposes and the obligations under that  
5 reimbursement agreement shall not be subject to section 12 or the  
6 revised municipal finance act, 2001 PA 34, MCL 141.2101 to  
7 141.2821.

8 (18) If a brownfield plan includes the capture of taxes levied  
9 for school operating purposes, approval of a work plan by the  
10 Michigan economic growth authority in the manner required under  
11 section 15(14) to (16) is required in order to use tax increment  
12 revenues attributable to taxes levied for school operating purposes  
13 for purposes of eligible activities described in section 2(l)(iv)(E)  
14 for 1 or more parcels of eligible property. The work plan to be  
15 submitted to the Michigan economic growth authority under this  
16 subsection shall be in a form prescribed by the Michigan economic  
17 growth authority. The eligible activities to be conducted and  
18 described in this subsection shall be consistent with the work plan  
19 submitted by the authority to the Michigan economic growth  
20 authority. The department's approval is not required for the  
21 capture of taxes levied for school operating purposes for eligible  
22 activities described in this section.