

**SUBSTITUTE FOR
HOUSE BILL NO. 4712**

A bill to amend 1996 PA 381, entitled
"Brownfield redevelopment financing act,"
by amending section 13 (MCL 125.2663), as amended by 2006 PA 467.

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

1 body of the municipality and shall contain all of the following:

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

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

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

1 (d) The method by which the costs of the plan will be
2 financed, including a description of any advances made or
3 anticipated to be made for the costs of the plan from the
4 municipality.

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

7 (f) The duration of the brownfield plan for eligible
8 activities on eligible property, including the beginning date of
9 the capture of tax increment revenues, which beginning date shall
10 not be later than 5 years following the date of the resolution
11 approving the plan amendment related to a particular eligible
12 property and which duration shall not exceed the lesser of the
13 period authorized under subsections (4) and (5) or 30 years.

14 (g) An estimate of the impact of tax increment financing on
15 the revenues of all taxing jurisdictions in which the eligible
16 property is located.

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

27 (i) Estimates of the number of persons residing on each

1 eligible property to which the plan applies and the number of
2 families and individuals to be displaced. If occupied residences
3 are designated for acquisition and clearance by the authority, the
4 plan shall include a demographic survey of the persons to be
5 displaced, a statistical description of the housing supply in the
6 community, including the number of private and public units in
7 existence or under construction, the condition of those in
8 existence, the number of owner-occupied and renter-occupied units,
9 the annual rate of turnover of the various types of housing and the
10 range of rents and sale prices, an estimate of the total demand for
11 housing in the community, and the estimated capacity of private and
12 public housing available to displaced families and individuals.

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

15 (k) Provision for the costs of relocating persons displaced by
16 implementation of the plan, and financial assistance and
17 reimbursement of expenses, including litigation expenses and
18 expenses incident to the transfer of title, in accordance with the
19 standards and provisions of the uniform relocation assistance and
20 real property acquisition policies act of 1970, Public Law 91-646.

21 (l) A strategy for compliance with 1972 PA 227, MCL 213.321 to
22 213.332.

23 (m) A description of proposed use of the local site
24 remediation revolving fund.

25 (n) Other material that the authority or governing body
26 considers pertinent.

27 (2) The percentage of all taxes levied on a parcel of eligible

1 property for school operating expenses that is captured and used
2 under a brownfield plan and all tax increment finance plans under
3 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance
4 authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local
5 development financing act, 1986 PA 281, MCL 125.2151 to 125.2174,
6 shall not be greater than the combination of the plans' percentage
7 capture and use of all local taxes levied for purposes other than
8 for the payment of principal of and interest on either obligations
9 approved by the electors or obligations pledging the unlimited
10 taxing power of the local unit of government. This subsection shall
11 apply only when taxes levied for school operating purposes are
12 subject to capture under section 15.

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

1 issued by the authority to pay the costs of eligible activities,
2 the reasonable costs of preparing a work plan or remedial action
3 plan, and the actual cost of the review of the work plan or
4 remedial action plan under section 15. ~~Tax~~ **EXCEPT AS PROVIDED IN**
5 **SUBSECTION (18), TAX** increment revenues captured from taxes levied
6 by this state under the state education tax act, 1993 PA 331, MCL
7 211.901 to 211.906, or taxes levied by a local school district
8 shall not be used for eligible activities described in section
9 2(m) (iv) (E) .

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

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

1 the local site remediation revolving fund also may include tax
2 increment revenues attributable to taxes levied for school
3 operating purposes in an amount not greater than the tax increment
4 revenues levied for school operating purposes captured from the
5 eligible property by the authority for the purposes authorized
6 under subsection (3). Excess tax increment revenues from taxes
7 levied for school operating purposes for eligible activities
8 authorized under subsection (15) by the Michigan economic growth
9 authority shall not be captured for deposit in the local site
10 remediation revolving fund.

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

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

21 (8) Costs of a response activity paid with tax increment
22 revenues that are captured pursuant to subsection (3) may be
23 recovered from a person who is liable for the costs of eligible
24 activities at an eligible property. This state or an authority may
25 undertake cost recovery for tax increment revenue captured. Before
26 an authority or this state may institute a cost recovery action, it
27 must provide the other with 120 days' notice. This state or an

1 authority that recovers costs under this subsection shall apply
2 those recovered costs to the following, in the following order of
3 priority:

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

6 (b) One of the following:

7 (i) If an authority undertakes the cost recovery action, the
8 authority shall deposit the remaining recovered funds into the
9 local site remediation fund created pursuant to section 8, if such
10 a fund has been established by the authority. If a local site
11 remediation fund has not been established, the authority shall
12 disburse the remaining recovered funds to the local taxing
13 jurisdictions in the proportion that the local taxing
14 jurisdictions' taxes were captured.

15 (ii) If this state undertakes a cost recovery action, this
16 state shall deposit the remaining recovered funds into the
17 revitalization revolving loan fund established under section 20108a
18 of the natural resources and environmental protection act, 1994 PA
19 451, MCL 324.20108a.

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

27 (9) Approval of the brownfield plan or an amendment to a

1 brownfield plan shall be in accordance with the notice and approval
2 provisions of this section and section 14.

3 (10) Before approving a brownfield plan for an eligible
4 property, the governing body shall hold a public hearing on the
5 brownfield plan. Notice of the time and place of the hearing shall
6 be given by publication twice in a newspaper of general circulation
7 designated by the municipality, the first of which shall be not
8 less than ~~20-14~~ or more than 40 days before the date set for the
9 hearing.

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

12 (a) A description of the property to which the plan applies in
13 relation to existing or proposed highways, streets, streams, or
14 otherwise.

15 (b) A statement that maps, plats, and a description of the
16 brownfield plan are available for public inspection at a place
17 designated in the notice and that all aspects of the brownfield
18 plan are open for discussion at the public hearing required by this
19 section.

20 (c) Any other information that the governing body considers
21 appropriate.

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

1 hearing.

2 (13) Not less than 20 days before the hearing on the
3 brownfield plan, the governing body shall provide notice of the
4 hearing to the taxing jurisdictions that levy taxes subject to
5 capture under this act. The authority shall fully inform the taxing
6 jurisdictions about the fiscal and economic implications of the
7 proposed brownfield plan. At that hearing, an official from a
8 taxing jurisdiction with millage that would be subject to capture
9 under this act has the right to be heard in regard to the adoption
10 of the brownfield plan. **NOT LESS THAN 20 DAYS BEFORE THE HEARING ON**
11 **THE BROWNFIELD PLAN, THE GOVERNING BODY SHALL PROVIDE NOTICE OF THE**
12 **HEARING TO THE DEPARTMENT IF THE BROWNFIELD PLAN INVOLVES THE USE**
13 **OF TAXES LEVIED FOR SCHOOL OPERATING PURPOSES TO PAY FOR ELIGIBLE**
14 **ACTIVITIES THAT REQUIRE THE APPROVAL OF A WORK PLAN BY THE**
15 **DEPARTMENT UNDER SECTION 15(1)(A) AND THE MICHIGAN ECONOMIC GROWTH**
16 **AUTHORITY, OR ITS DESIGNEE, IF THE BROWNFIELD PLAN INVOLVES THE USE**
17 **OF TAXES LEVIED FOR SCHOOL OPERATING PURPOSES TO PAY FOR ELIGIBLE**
18 **ACTIVITIES SUBJECT TO SUBSECTION (18).**

19 (14) The authority shall not enter into agreements with the
20 taxing jurisdictions and the governing body of the municipality to
21 share a portion of the captured taxable value of an eligible
22 property. Upon adoption of the plan, the collection and
23 transmission of the amount of tax increment revenues as specified
24 in this act shall be binding on all taxing units levying ad valorem
25 property taxes or specific taxes against property located in the
26 zone.

27 (15) Except as provided by subsection (18), if a brownfield

1 plan includes the capture of taxes levied for school operating
 2 purposes ~~or the use of tax increment revenues related to a~~
 3 ~~brownfield plan for the cost of eligible activities attributable to~~
 4 ~~more than 1 eligible property that is adjacent and contiguous to~~
 5 ~~all other eligible properties covered by the development agreement,~~
 6 ~~whether or not the captured taxes are levied for school operating~~
 7 ~~purposes,~~ approval of a work plan by the Michigan economic growth
 8 authority before January 1, ~~2008~~ 2017 to use school operating taxes
 9 and a development agreement between the municipality and an owner
 10 or developer of eligible property are required if the revenues will
 11 be used for infrastructure improvements that directly benefit
 12 eligible property, demolition of structures that is not response
 13 activity under part 201 of the natural resources and environmental
 14 protection act, 1994 PA 451, MCL 324.20101 to 324.20142, lead or
 15 asbestos abatement, ~~or~~ site preparation that is not response
 16 activity under section 20101 of the natural resources and
 17 environmental protection act, 1994 PA 451, MCL 324.20101, **OR**
 18 **RELOCATION OF PUBLIC BUILDINGS OR OPERATIONS FOR ECONOMIC**
 19 **DEVELOPMENT PURPOSES.** The eligible activities to be conducted
 20 described in this subsection shall be consistent with the work plan
 21 submitted by the authority to the Michigan economic growth
 22 authority. The department's approval is not required for the
 23 capture of taxes levied for school operating purposes for eligible
 24 activities described in this subsection.

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

1 (a) In each fiscal year of the authority, ~~\$75,000.00~~ **THE**
2 **AMOUNT DESCRIBED IN SUBSECTION (19)** for the following purposes for
3 tax increment revenues attributable to local taxes:

4 (i) Reasonable and actual administrative and operating expenses
5 of the authority.

6 (ii) Baseline environmental assessments, due care activities,
7 and additional response activities **CONDUCTED BY OR ON BEHALF OF THE**
8 **AUTHORITY** related directly to work conducted on prospective
9 eligible properties prior to approval of the brownfield plan.

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

13 **(C) FOR TAX INCREMENT REVENUES ATTRIBUTABLE TO LOCAL TAXES,**
14 **REASONABLE COSTS OF SITE INVESTIGATIONS, BASELINE ENVIRONMENTAL**
15 **ASSESSMENTS, AND DUE CARE ACTIVITIES INCURRED BY A PERSON OTHER**
16 **THAN THE AUTHORITY RELATED DIRECTLY TO WORK CONDUCTED ON ELIGIBLE**
17 **PROPERTY OR PROSPECTIVE ELIGIBLE PROPERTIES PRIOR TO APPROVAL OF**
18 **THE BROWNFIELD PLAN, IF THOSE COSTS AND THE ELIGIBLE PROPERTY ARE**
19 **INCLUDED IN A BROWNFIELD PLAN APPROVED BY THE AUTHORITY.**

20 (17) A brownfield authority may reimburse advances, with or
21 without interest, made by a municipality under section 7(3), a land
22 bank fast track authority, or any other person or entity for costs
23 of eligible activities with any source of revenue available for use
24 of the brownfield authority under this act and may enter into
25 agreements related to those reimbursements. A reimbursement
26 agreement for these purposes and the obligations under that
27 reimbursement agreement shall not be subject to section 12 or the

1 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
2 141.2821.

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

18 (19) IN EACH FISCAL YEAR OF THE AUTHORITY, THE AMOUNT OF TAX
19 INCREMENT REVENUES ATTRIBUTABLE TO LOCAL TAXES THAT AN AUTHORITY
20 CAN USE FOR THE PURPOSES DESCRIBED IN SUBSECTION (16) (A) SHALL BE
21 DETERMINED AS FOLLOWS:

22 (A) FOR AUTHORITIES THAT HAVE 5 OR FEWER ACTIVE PROJECTS THAT
23 EACH REQUIRED AN AMENDMENT TO THE BROWNFIELD PLAN, \$75,000.00.

24 (B) FOR AUTHORITIES THAT HAVE 6 OR MORE BUT FEWER THAN 11
25 ACTIVE PROJECTS THAT EACH REQUIRED AN AMENDMENT TO THE BROWNFIELD
26 PLAN, \$100,000.00.

27 (C) FOR AUTHORITIES THAT HAVE 11 OR MORE BUT FEWER THAN 16

1 ACTIVE PROJECTS THAT EACH REQUIRED AN AMENDMENT TO THE BROWNFIELD
2 PLAN, \$125,000.00.

3 (D) FOR AUTHORITIES THAT HAVE 16 OR MORE BUT FEWER THAN 21
4 ACTIVE PROJECTS THAT EACH REQUIRED AN AMENDMENT TO THE BROWNFIELD
5 PLAN, \$150,000.00.

6 (E) FOR AUTHORITIES THAT HAVE 21 OR MORE BUT FEWER THAN 26
7 ACTIVE PROJECTS THAT EACH REQUIRED AN AMENDMENT TO THE BROWNFIELD
8 PLAN, \$175,000.00.

9 (F) FOR AUTHORITIES THAT HAVE 26 OR MORE ACTIVE PROJECTS THAT
10 EACH REQUIRED AN AMENDMENT TO THE BROWNFIELD PLAN, \$300,000.00.

11 (20) AS USED IN SUBSECTION (19), "ACTIVE PROJECT" MEANS A
12 PROJECT IN WHICH THE AUTHORITY IS CURRENTLY CAPTURING TAXES UNDER
13 THIS ACT.