

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5566

A bill to amend 1996 PA 381, entitled
"Brownfield redevelopment financing act,"
by amending sections 2 and 13 (MCL 125.2652 and 125.2663), section
2 as amended by 2007 PA 204 and section 13 as amended by 2007 PA
202.

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

1 created under this act.

2 (c) "Baseline environmental assessment" means that term as
3 defined in section 20101 of the natural resources and environmental
4 protection act, 1994 PA 451, MCL 324.20101.

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

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

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

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

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

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

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

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

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

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

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

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

25 (i) "Chief executive officer" means the mayor of a city, the
26 village manager of a village, the township supervisor of a
27 township, or the county executive of a county or, if the county

1 does not have an elected county executive, the chairperson of the
2 county board of commissioners.

3 (j) "Department" means the department of ~~environmental~~
4 ~~quality~~. **NATURAL RESOURCES AND ENVIRONMENT.**

5 (k) "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 (l) "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 a manufacturing facility that consists of
14 500,000 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 (m) "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 functionally obsolete, or blighted, and except for purposes of
2 ~~former section 38d of the single business tax act, FORMER~~ 1975 PA
3 228, 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 (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, functionally obsolete, or blighted, the following
16 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 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 (n) 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, functionally obsolete, or blighted and includes parcels
6 that are adjacent or contiguous to that property if the development
7 of the adjacent and contiguous parcels is estimated to increase the
8 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 (m) (vi).

20 (v) Is not in a qualified local governmental unit and is a
21 facility, functionally obsolete, or blighted, if the eligible
22 activities on the property are limited to the eligible activities
23 identified in subdivision (m) (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 (m) (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 (o) "Environmental insurance" means liability insurance for
12 environmental contamination and cleanup that is not otherwise
13 required by state or federal law.

14 (p) "Facility" means that term as defined in section 20101 of
15 the natural resources and environmental protection act, 1994 PA
16 451, MCL 324.20101.

17 (q) "Fiscal year" means the fiscal year of the authority.

18 (r) "Functionally obsolete" means that the property is unable
19 to be used to adequately perform the function for which it was
20 intended due to a substantial loss in value resulting from factors
21 such as overcapacity, changes in technology, deficiencies or
22 superadequacies in design, or other similar factors that affect the
23 property itself or the property's relationship with other
24 surrounding property.

25 (s) "Governing body" means the elected body having legislative
26 powers of a municipality creating an authority under this act.

27 (t) "Infrastructure improvements" means a street, road,

1 sidewalk, parking facility, pedestrian mall, alley, bridge, sewer,
2 sewage treatment plant, property designed to reduce, eliminate, or
3 prevent the spread of identified soil or groundwater contamination,
4 drainage system, waterway, waterline, water storage facility, rail
5 line, utility line or pipeline, **TRANSIT-ORIENTED DEVELOPMENT,**
6 **TRANSIT-ORIENTED FACILITY,** or other similar or related structure or
7 improvement, together with necessary easements for the structure or
8 improvement, owned or used by a public agency or functionally
9 connected to similar or supporting property owned or used by a
10 public agency, or designed and dedicated to use by, for the benefit
11 of, or for the protection of the health, welfare, or safety of the
12 public generally, whether or not used by a single business entity,
13 provided that any road, street, or bridge shall be continuously
14 open to public access and that other property shall be located in
15 public easements or rights-of-way and sized to accommodate
16 reasonably foreseeable development of eligible property in
17 adjoining areas.

18 (u) "Initial taxable value" means the taxable value of an
19 eligible property identified in and subject to a brownfield plan at
20 the time the resolution adding that eligible property in the
21 brownfield plan is adopted, as shown either by the most recent
22 assessment roll for which equalization has been completed at the
23 time the resolution is adopted or, if provided by the brownfield
24 plan, by the next assessment roll for which equalization will be
25 completed following the date the resolution adding that eligible
26 property in the brownfield plan is adopted. Property exempt from
27 taxation at the time the initial taxable value is determined shall

1 be included with the initial taxable value of zero. Property for
2 which a specific tax is paid in lieu of property tax shall not be
3 considered exempt from taxation. The state tax commission shall
4 prescribe the method for calculating the initial taxable value of
5 property for which a specific tax was paid in lieu of property tax.

6 (v) "Land bank fast track authority" means an authority
7 created under the land bank fast track act, 2003 PA 258, MCL
8 124.751 to 124.774.

9 (w) "Local taxes" means all taxes levied other than taxes
10 levied for school operating purposes.

11 (x) "Municipality" means all of the following:

12 (i) A city.

13 (ii) A village.

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

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

19 (v) A county.

20 (y) "Owned or under the control of" means that a land bank
21 fast track authority has 1 or more of the following:

22 (i) An ownership interest in the property.

23 (ii) A tax lien on the property.

24 (iii) A tax deed to the property.

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

27 (v) A right to collect delinquent taxes, penalties, or

1 interest on the property.

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

3 (z) "Qualified facility" means a landfill facility area of 140
4 or more contiguous acres that is located in a city and that
5 contains a landfill, a material recycling facility, and an asphalt
6 plant that are no longer in operation.

7 (aa) "Qualified local governmental unit" means that term as
8 defined in the obsolete property rehabilitation act, 2000 PA 146,
9 MCL 125.2781 to 125.2797.

10 (bb) "Qualified taxpayer" means that term as defined in ~~former~~
11 sections 38d and 38g of ~~the single business tax act, FORMER~~ 1975 PA
12 228, or section 437 of the Michigan business tax act, 2007 PA 36,
13 MCL 208.1437.

14 (cc) "Response activity" means that term as defined in section
15 20101 of the natural resources and environmental protection act,
16 1994 PA 451, MCL 324.20101.

17 (dd) "Specific taxes" means a tax levied under 1974 PA 198,
18 MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA
19 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224,
20 MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the
21 technology park development act, 1984 PA 385, MCL 207.701 to
22 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL
23 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA
24 147, MCL 207.771 to 207.786; the commercial rehabilitation act,
25 2005 PA 210, MCL 207.841 to 207.856; or that portion of the tax
26 levied under the tax reverted clean title act, 2003 PA 260, MCL
27 211.1021 to 211.1026, that is not required to be distributed to a

1 land bank fast track authority.

2 (ee) "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. Tax increment
7 revenues exclude ad valorem property taxes specifically levied for
8 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 governmental unit, and specific taxes
11 attributable to those ad valorem property taxes. Tax increment
12 revenues attributable to eligible property also exclude the amount
13 of ad valorem property taxes or specific taxes captured by a
14 downtown development authority, tax increment finance authority, or
15 local development finance authority if those taxes were captured by
16 these other authorities on the date that eligible property became
17 subject to a brownfield plan under this act.

18 (ff) "Taxable value" means the value determined under section
19 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

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

22 (i) The taxes levied by a local school district for operating
23 purposes.

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

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

1 (HH) "TRANSIT-ORIENTED DEVELOPMENT" MEANS INFRASTRUCTURE
2 IMPROVEMENTS THAT ARE LOCATED WITHIN 1/2 MILE OF A TRANSIT STATION
3 OR TRANSIT-ORIENTED FACILITY THAT PROMOTES TRANSIT RIDERSHIP OR
4 PASSENGER RAIL USE AS DETERMINED BY THE BOARD AND APPROVED BY THE
5 MUNICIPALITY IN WHICH IT IS LOCATED.

6 (II) "TRANSIT-ORIENTED FACILITY" MEANS A FACILITY THAT HOUSES
7 A TRANSIT STATION IN A MANNER THAT PROMOTES TRANSIT RIDERSHIP OR
8 PASSENGER RAIL USE.

9 (JJ) ~~(hh)~~"Work plan" means a plan that describes each
10 individual activity to be conducted to complete eligible activities
11 and the associated costs of each individual activity.

12 (KK) ~~(ii)~~"Zone" means, for an authority established before
13 June 6, 2000, a brownfield redevelopment zone designated under this
14 act.

15 Sec. 13. (1) Subject to section 15, the board may implement a
16 brownfield plan. The brownfield plan may apply to 1 or more parcels
17 of eligible property whether or not those parcels of eligible
18 property are contiguous and may be amended to apply to additional
19 parcels of eligible property. Except as otherwise authorized by
20 this act, if more than 1 eligible property is included within the
21 plan, the tax increment revenues under the plan shall be determined
22 individually for each eligible property. Each plan or an amendment
23 to a plan shall be approved by the governing body of the
24 municipality and shall contain all of the following:

25 (a) A description of the costs of the plan intended to be paid
26 for with the tax increment revenues or, for a plan for eligible
27 properties qualified on the basis that the property is owned or

1 under the control of a land bank fast track authority, a listing of
2 all eligible activities that may be conducted for 1 or more of the
3 eligible properties subject to the plan.

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

10 (c) An estimate of the captured taxable value and tax
11 increment revenues for each year of the plan from the eligible
12 property. The plan may provide for the use of part or all of the
13 captured taxable value, including deposits in the local site
14 remediation revolving fund, but the portion intended to be used
15 shall be clearly stated in the plan. The plan shall not provide
16 either for an exclusion from captured taxable value of a portion of
17 the captured taxable value or for an exclusion of the tax levy of 1
18 or more taxing jurisdictions unless the tax levy is excluded from
19 tax increment revenues in section 2(dd), or unless the tax levy is
20 excluded from capture under section 15.

21 (d) The method by which the costs of the plan will be
22 financed, including a description of any advances made or
23 anticipated to be made for the costs of the plan from the
24 municipality.

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

27 (f) The duration of the brownfield plan for eligible

1 activities on eligible property which shall not exceed 35 years
2 following the date of the resolution approving the plan amendment
3 related to a particular eligible property. Each plan amendment
4 shall also contain the duration of capture of tax increment
5 revenues including the beginning date of the capture of tax
6 increment revenues, which beginning date shall be identified in the
7 brownfield plan and which beginning date shall not be later than 5
8 years following the date of the resolution approving the plan
9 amendment related to a particular eligible property and which
10 duration shall not exceed the lesser of the period authorized under
11 subsections (4) and (5) or 30 years from the beginning date of the
12 capture of tax increment revenues. The date for the beginning of
13 capture of tax increment revenues may be amended by the authority
14 but not to a date later than 5 years after the date of the
15 resolution adopting the plan. The authority may not amend the date
16 for the beginning of capture of tax increment revenues if the
17 authority has begun to reimburse eligible activities from the
18 capture of tax increment revenues. The authority may not amend the
19 date for the beginning of capture if that amendment would lead to
20 the duration of capture of tax increment revenues being longer than
21 30 years or the period authorized under subsections (4) and (5). If
22 the date for the beginning of capture of tax increment revenues is
23 amended by the authority and that plan includes the capture of tax
24 increment revenues for school operating purposes, then the
25 authority that amended that plan shall notify the department and
26 the Michigan economic growth authority within 30 days of the
27 approval of the amendment.

1 (g) An estimate of the impact of tax increment financing on
2 the revenues of all taxing jurisdictions in which the eligible
3 property is located.

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

14 (i) Estimates of the number of persons residing on each
15 eligible property to which the plan applies and the number of
16 families and individuals to be displaced. If occupied residences
17 are designated for acquisition and clearance by the authority, the
18 plan shall include a demographic survey of the persons to be
19 displaced, a statistical description of the housing supply in the
20 community, including the number of private and public units in
21 existence or under construction, the condition of those in
22 existence, the number of owner-occupied and renter-occupied units,
23 the annual rate of turnover of the various types of housing and the
24 range of rents and sale prices, an estimate of the total demand for
25 housing in the community, and the estimated capacity of private and
26 public housing available to displaced families and individuals.

27 (j) A plan for establishing priority for the relocation of

1 persons displaced by implementation of the plan.

2 (k) Provision for the costs of relocating persons displaced by
3 implementation of the plan, and financial assistance and
4 reimbursement of expenses, including litigation expenses and
5 expenses incident to the transfer of title, in accordance with the
6 standards and provisions of the uniform relocation assistance and
7 real property acquisition policies act of 1970, Public Law 91-646.

8 (l) A strategy for compliance with 1972 PA 227, MCL 213.321 to
9 213.332.

10 (m) A description of proposed use of the local site
11 remediation revolving fund.

12 (n) Other material that the authority or governing body
13 considers pertinent.

14 (2) The percentage of all taxes levied on a parcel of eligible
15 property for school operating expenses that is captured and used
16 under a brownfield plan and all tax increment finance plans under
17 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance
18 authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local
19 development financing act, 1986 PA 281, MCL 125.2151 to 125.2174,
20 shall not be greater than the combination of the plans' percentage
21 capture and use of all local taxes levied for purposes other than
22 for the payment of principal of and interest on either obligations
23 approved by the electors or obligations pledging the unlimited
24 taxing power of the local unit of government. This subsection shall
25 apply only when taxes levied for school operating purposes are
26 subject to capture under section 15.

27 (3) Except as provided in this subsection and subsections (5),

1 (15), and (16), tax increment revenues related to a brownfield plan
2 shall be used only for costs of eligible activities attributable to
3 the eligible property, the captured taxable value of which produces
4 the tax increment revenues, including the cost of principal of and
5 interest on any obligation issued by the authority to pay the costs
6 of eligible activities attributable to the eligible property, and
7 the reasonable costs of preparing a brownfield plan or a work plan
8 for the eligible property, including the actual cost of the review
9 of the work plan under section 15. For property owned or under the
10 control of a land bank fast track authority, tax increment revenues
11 related to a brownfield plan may be used for eligible activities
12 attributable to any eligible property owned or under the control of
13 the land bank fast track authority, the cost of principal of and
14 interest on any obligation issued by the authority to pay the costs
15 of eligible activities, the reasonable costs of preparing a work
16 plan, and the actual cost of the review of the work plan under
17 section 15. Except as provided in subsection (18), tax increment
18 revenues captured from taxes levied ~~by this state under the state~~
19 ~~education tax act, 1993 PA 331, MCL 211.901 to 211.906, or taxes~~
20 ~~levied by a local school district~~ **FOR SCHOOL OPERATING PURPOSES**
21 shall not be used for eligible activities described in section
22 2 (m) (iv) (E). **TAX INCREMENT REVENUES CAPTURED FROM TAXES LEVIED FOR**
23 **SCHOOL OPERATING PURPOSES SHALL NOT BE USED FOR ELIGIBLE ACTIVITIES**
24 **DESCRIBED IN SECTION 2 (M) (iv) (F) .**

25 (4) Except as provided in subsection (5), a brownfield plan
26 shall not authorize the capture of tax increment revenue from
27 eligible property after the year in which the total amount of tax

1 increment revenues captured is equal to the sum of the costs
2 permitted to be funded with tax increment revenues under this act.

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

26 (6) An authority shall not expend tax increment revenues to
27 acquire or prepare eligible property, unless the acquisition or

1 preparation is an eligible activity.

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

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

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

21 (b) One of the following:

22 (i) If an authority undertakes the cost recovery action, the
23 authority shall deposit the remaining recovered funds into the
24 local site remediation fund created pursuant to section 8, if such
25 a fund has been established by the authority. If a local site
26 remediation fund has not been established, the authority shall
27 disburse the remaining recovered funds to the local taxing

1 jurisdictions in the proportion that the local taxing
2 jurisdictions' taxes were captured.

3 (ii) If this state undertakes a cost recovery action, this
4 state shall deposit the remaining recovered funds into the
5 revitalization revolving loan fund established under section 20108a
6 of the natural resources and environmental protection act, 1994 PA
7 451, MCL 324.20108a.

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

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

18 (10) Before approving a brownfield plan for an eligible
19 property, the governing body shall hold a public hearing on the
20 brownfield plan. By resolution, the governing body may delegate the
21 public hearing process to the authority or to a subcommittee of the
22 governing body subject to final approval by the governing body.
23 Notice of the time and place of the hearing shall be given by
24 publication twice in a newspaper of general circulation designated
25 by the municipality, not less than 10 or more than 40 days before
26 the date set for the hearing.

27 (11) Notice of the time and place of the hearing on a

1 brownfield plan shall contain all of the following:

2 (a) A description of the property to which the plan applies in
3 relation to existing or proposed highways, streets, streams, or
4 otherwise.

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

10 (c) Any other information that the governing body considers
11 appropriate.

12 (12) At the time set for the hearing on the brownfield plan
13 required under subsection (10), the governing body shall ensure
14 that interested persons have an opportunity to be heard and that
15 written communications with reference to the brownfield plan are
16 received and considered. The governing body shall ensure that a
17 record of the public hearing is made and preserved, including all
18 data presented at the hearing.

19 (13) Not less than 10 days before the hearing on the
20 brownfield plan, the governing body shall provide notice of the
21 hearing to the taxing jurisdictions that levy taxes subject to
22 capture under this act. The authority shall fully inform the taxing
23 jurisdictions about the fiscal and economic implications of the
24 proposed brownfield plan. At that hearing, an official from a
25 taxing jurisdiction with millage that would be subject to capture
26 under this act has the right to be heard in regard to the adoption
27 of the brownfield plan. Not less than 10 days before the hearing on

1 the brownfield plan, the governing body shall provide notice of the
2 hearing to the department if the brownfield plan involves the use
3 of taxes levied for school operating purposes to pay for eligible
4 activities that require the approval of a work plan by the
5 department under section 15(1)(a) and the Michigan economic growth
6 authority, or its designee, if the brownfield plan involves the use
7 of taxes levied for school operating purposes to pay for eligible
8 activities subject to subsection (15) or (18).

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

17 (15) Except as provided by subsection (18), if a brownfield
18 plan includes the capture of taxes levied for school operating
19 purposes approval of a work plan by the Michigan economic growth
20 authority before January 1, 2013 to use taxes levied for school
21 operating purposes and a development agreement or reimbursement
22 agreement between the municipality or authority and an owner or
23 developer of eligible property are required if the taxes levied for
24 school operating purposes will be used for infrastructure
25 improvements that directly benefit eligible property, demolition of
26 structures that is not response activity under part 201 of the
27 natural resources and environmental protection act, 1994 PA 451,

1 MCL 324.20101 to 324.20142, lead or asbestos abatement, site
2 preparation that is not response activity under section 20101 of
3 the natural resources and environmental protection act, 1994 PA
4 451, MCL 324.20101, relocation of public buildings or operations
5 for economic development purposes, ~~or~~ acquisition of property by a
6 land bank fast track authority if acquisition of the property is
7 for economic development purposes, **OR ACQUISITION OF PROPERTY BY A**
8 **QUALIFIED LOCAL GOVERNMENTAL UNIT OR AUTHORITY IF ACQUISITION OF**
9 **THE PROPERTY IS FOR ECONOMIC DEVELOPMENT PURPOSES.** The eligible
10 activities to be conducted described in this subsection shall be
11 consistent with the work plan submitted by the authority to the
12 Michigan economic growth authority. The department's approval is
13 not required for the capture of taxes levied for school operating
14 purposes for eligible activities described in this subsection.

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

18 (a) In each fiscal year of the authority, the amount described
19 in subsection (19) for the following purposes for tax increment
20 revenues attributable to local taxes:

21 (i) Reasonable and actual administrative and operating expenses
22 of the authority.

23 (ii) Baseline environmental assessments, due care activities,
24 and additional response activities conducted by or on behalf of the
25 authority related directly to work conducted on prospective
26 eligible properties prior to approval of the brownfield plan.

27 (b) Reasonable costs of preparing a work plan or the cost of

1 the review of a work plan for which tax increment revenues may be
2 used under section 13(3).

3 (c) For tax increment revenues attributable to local taxes,
4 reasonable costs of site investigations described in section
5 15(1)(a)(i), baseline environmental assessments, and due care
6 activities incurred by a person other than the authority related
7 directly to work conducted on eligible property or prospective
8 eligible properties prior to approval of the brownfield plan, if
9 those costs and the eligible property are included in a brownfield
10 plan approved by the authority.

11 (17) A brownfield authority may reimburse advances, with or
12 without interest, made by a municipality under section 7(3), a land
13 bank fast track authority, or any other person or entity for costs
14 of eligible activities with any source of revenue available for use
15 of the brownfield authority under this act. If an authority
16 reimburses a person or entity under this section for an advance for
17 the payment or reimbursement of the cost of eligible activities and
18 interest thereon, the authority may capture local taxes for the
19 payment of that interest. If an authority reimburses a person or
20 entity under this section for an advance for the payment or
21 reimbursement of the cost of baseline environmental assessments,
22 due care, and additional response activities and interest thereon
23 included in a work plan approved by the department, the authority
24 may capture taxes levied for school operating purposes and local
25 taxes for the payment of that interest. If an authority reimburses
26 a person or entity under this section for an advance for the
27 payment or reimbursement of the cost of eligible activities that

1 are not baseline environmental assessments, due care, and
2 additional response activities and interest thereon included in a
3 work plan approved by the Michigan economic growth authority, the
4 authority may capture taxes levied for school operating purposes
5 and local taxes for the payment of that interest provided that the
6 Michigan economic growth authority grants an approval for the
7 capture of taxes levied for school operating purposes to pay such
8 interest. An authority may enter into agreements related to these
9 reimbursements and payments. A reimbursement agreement for these
10 purposes and the obligations under that reimbursement agreement
11 shall not be subject to section 12 or the revised municipal finance
12 act, 2001 PA 34, MCL 141.2101 to 141.2821.

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

1 (19) In each fiscal year of the authority, the amount of tax
2 increment revenues attributable to local taxes that an authority
3 can use for the purposes described in subsection (16)(a) shall be
4 determined as follows:

5 (a) For authorities that have 5 or fewer active projects,
6 \$100,000.00.

7 (b) For authorities that have 6 or more but fewer than 11
8 active projects, \$125,000.00.

9 (c) For authorities that have 11 or more but fewer than 16
10 active projects, \$150,000.00.

11 (d) For authorities that have 16 or more but fewer than 21
12 active projects, \$175,000.00.

13 (e) For authorities that have 21 or more but fewer than 26
14 active projects, \$200,000.00.

15 (f) For authorities that have 26 or more active projects,
16 \$300,000.00.

17 (20) As used in subsection (19), "active project" means a
18 project in which the authority is currently capturing taxes under
19 this act.