BROWNFIELD REDEVELOPMENT FINANCING ACT (EXCERPT)
Act 381 of 1996

***** 125.2663b.added THIS ADDED SECTION IS EFFECTIVE APRIL 5, 2017 *****

125.2663b.added Use of taxes captured from eligible property.
Sec. 13b. (1) An authority shall not expend tax increment revenues to acquire or prepare eligible property unless the acquisition or preparation is an eligible activity.

(2) An authority shall not enter into agreements with the taxing jurisdictions and the governing body of the municipality to share a portion of the taxes captured from an eligible property under this act. Upon adoption of the plan, the collection and transmission of the amount of tax increment revenues as specified in this act shall be binding on all taxing units levying ad valorem property taxes or specific taxes against property located in the zone.

(3) Tax increment revenues captured from taxes levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, or taxes levied by a local school district shall not be used to assist a land bank fast track authority with clearing or quieting title, acquiring, selling, or conveying property, except as provided in subsection (4).

(4) If a brownfield plan includes the use of taxes levied for school operating purposes captured from an eligible property for eligible activities that are not department specific activities, then 1 or more of the following apply:

(a) A combined brownfield plan or a work plan shall be approved by the Michigan strategic fund and a development agreement or reimbursement agreement between the municipality or authority and an owner or developer of eligible property is required before such tax increment may be used for infrastructure improvements that directly benefit eligible property, demolition of structures that is not response activity, lead, mold, or asbestos abatement that is not a department specific activity, site preparation that is not response activity, relocation of public buildings or operations for economic development purposes, or acquisition of property by a land bank fast track authority if acquisition of the property is for economic development purposes.

(b) Approval of a combined brownfield plan or a work plan by the Michigan strategic fund in the manner required under section 15(12) through (14) or (20) is required in order to use the tax increment revenues to assist a land bank fast track authority or qualified local governmental unit with clearing or quieting title, acquiring, selling, or conveying property.

(c) The combined brownfield plan or work plan to be submitted to the Michigan strategic fund under this subsection shall be in a form prescribed by the Michigan strategic fund.

(d) The eligible activities to be conducted and described in this subsection shall be consistent with the combined brownfield plan or work plan submitted by the authority to the Michigan strategic fund.

(e) The department's approval is not required for the capture of taxes levied for school operating purposes for eligible activities described in this section.

(5) If a brownfield plan includes the use of taxes levied for school operating purposes captured from eligible property for department specific activities, a combined brownfield plan or a work plan must be approved by the department with the exception of those activities identified in subsections (8) and (9).

(6) An authority shall not do any of the following:

(a) Use taxes captured from eligible property to pay for eligible activities conducted before approval of the brownfield plan.

(b) Use taxes captured from eligible property to pay for administrative and operating activities of the authority or the municipality on behalf of the authority for activities, other than those identified in subsection (7).

(c) For eligible activities not described in subsection (4), an authority shall not use taxes levied for school operating purposes captured from eligible property unless the eligible activities to be conducted on the eligible property are eligible department specific activities, consistent with a combined brownfield plan or a work plan approved by the department after July 24, 1996.

(7) An authority may use taxes captured from eligible property to pay for the administrative and operating costs under 1 or more of the following:

(a) Local taxes captured may be used for 1 or more of the following administrative and operating purposes:

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

(ii) Department specific activities conducted by or on behalf of the authority related directly to work conducted on prospective eligible properties prior to approval of the brownfield plan.

(iii) Reasonable costs of developing and preparing brownfield plans, combined plans, or work plans for...
which tax increment revenues may be used under subsection (4), including, but not limited to, legal and consulting fees that are not in the ordinary course of acquiring and developing real estate.

(b) Taxes levied for school operating purposes may be used for 1 or more of the following administrative and operating purposes:

(i) Reasonable costs of developing and preparing brownfield plans, combined brownfield plans, or work plans for which tax increment revenues may be used under section 13(4), including, but not limited to, legal and consulting fees that are not in the ordinary course of acquiring and developing real estate, not to exceed $30,000.00.

(ii) Reasonable costs of brownfield plan or work plan implementation, including, but not limited to, tracking and reporting of data and plan compliance, not to exceed $30,000.00.

(c) In each fiscal year of the authority, the amount of tax increment revenues attributable to local taxes that an authority can use for the purposes described in subdivisions (a) and (b) shall be determined as follows:

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

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

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

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

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

(vi) For authorities that have 26 or more but fewer than 31 active projects, $300,000.00.

(vii) For authorities that have 31 or more active projects, $500,000.00.

(d) Nothing contained in this subsection shall limit the amount of funds that may be granted, loaned, or expended by a local brownfield revolving fund for eligible activities.

(e) As used in this subsection, “active project” means a project in which the authority is currently capturing taxes under this act. The amounts of tax increment revenues attributable to local taxes listed in this subsection that an authority can use for the purposes described in this subsection may be increased by 2% for each written agreement entered into by an authority in either of the following situations up to a total maximum increase of 10%:

(i) The authority is an authority established by a county and that authority enters into a written agreement with 1 or more municipalities within that county to serve as the only authority for those other municipalities.

(ii) The authority enters into a written agreement with 1 or more other authorities to administer 1 or more administrative operations of those other authorities.

(8) The limitations of subsections (4), (5), and (6) upon the use of taxes levied for school operating purposes shall not apply to the costs of 1 or more of the following incurred by a person other than the authority:

(a) Site investigation activities required to conduct a baseline environmental assessment and to evaluate compliance with sections 20107a and 21304c of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a and 324.21304c.

(b) Completing a baseline environmental assessment.

(c) Preparing a plan for compliance with sections 20107a and 21304c of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a and 324.21304c.

(d) Performing pre-demolition and building hazardous materials surveys.

(e) Asbestos, mold, and lead surveys.

(9) The limitations of subsections (4), (5), and (6) upon the use of local taxes and taxes levied for school operating purposes shall not apply to the following costs and expenses:

(a) For tax increment revenues attributable to taxes levied for school operating purposes, eligible activities associated with unanticipated response activities conducted on eligible property if that eligible property has been included in a brownfield plan, if the department is consulted in writing on the unanticipated response activities before they are conducted and the costs of those activities are subsequently included in a brownfield plan, combined brownfield plan or a work plan or amendment approved by the authority and approved by the department.

(b) For tax increment revenues attributable to local taxes, any eligible activities conducted on eligible property or prospective eligible properties prior to approval of the brownfield plan, if those costs and the eligible property are subsequently included in a brownfield plan approved by the authority.

(c) For tax increment revenues attributable to taxes levied for school operating purposes, eligible activities described in subsection (4) and conducted on eligible property or prospective eligible properties prior to approval of the brownfield plan, if those costs and the eligible property are subsequently included in a brownfield plan approved by the authority and a combined brownfield plan or work plan approved by the Michigan strategic fund.

(10) An authority shall not use taxes levied for school operating purposes captured from eligible property
for response activities that benefit a party responsible for an activity causing a release under section 20126 or 21323a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20126 and 324.21323a, except that a municipality that established the authority may use taxes levied for school operating purposes captured from eligible property for response activities associated with a landfill.

(11) A brownfield authority may reimburse advances, with or without interest, made by a municipality under section 7(3), a land bank fast track authority, or any other person or entity for costs of eligible activities with any source of revenue available for use of the brownfield authority under this act.

(12) A brownfield authority may capture taxes for the payment of interest, as follows:

(a) If an authority reimburses a person or entity under this section for an advance for the payment or reimbursement of the cost of eligible activities and interest thereon, the authority may capture local taxes for the payment of that interest.

(b) If an authority reimburses a person or entity under this section for an advance for the payment or reimbursement of the cost of department specific activities and interest thereon included in a combined brownfield plan or a work plan approved by the department, the authority may capture taxes levied for school operating purposes and local taxes for the payment of that interest.

(c) If an authority reimburses a person or entity under this section for an advance for the payment or reimbursement of the cost of eligible activities that are not department specific activities and interest thereon included in a combined brownfield plan or a work plan approved by the Michigan strategic fund, the authority may capture taxes levied for school operating purposes and local taxes for the payment of that interest.