

**SUBSTITUTE FOR
SENATE BILL NO. 1240**

A bill to amend 1975 PA 197, entitled

"An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials,"

by amending sections 1 and 7 (MCL 125.1651 and 125.1657), section 1 as amended by 2004 PA 158 and section 7 as amended by 1985 PA 221.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. As used in this act:
- 2 (a) "Advance" means a transfer of funds made by a
- 3 municipality to an authority or to another person on behalf of

1 the authority in anticipation of repayment by the authority.
2 Evidence of the intent to repay an advance may include, but is
3 not limited to, an executed agreement to repay, provisions
4 contained in a tax increment financing plan approved prior to the
5 advance, or a resolution of the authority or the municipality.

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

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

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

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

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

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

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

25 (g) "Chief executive officer" means the mayor or city manager
26 of a city, the president or village manager of a village, or the
27 supervisor of a township or, if designated by the township board

1 for purposes of this act, the township superintendent or township
2 manager of a township.

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

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

7 (j) "Development program" means the implementation of the
8 development plan.

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

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

22 (m) "Eligible obligation" means an obligation issued or
23 incurred by an authority or by a municipality on behalf of an
24 authority before August 19, 1993 and its subsequent refunding by
25 a qualified refunding obligation. Eligible obligation includes
26 an authority's written agreement entered into before August 19,
27 1993 to pay an obligation issued after August 18, 1993 and before

1 December 31, 1996 by another entity on behalf of the authority.

2 (n) "Fire alarm system" means a system designed to detect and
3 announce the presence of fire, or by-products of fire. Fire
4 alarm system includes smoke detectors.

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

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

8 (q) "Initial assessed value" means the assessed value, as
9 equalized, of all the taxable property within the boundaries of
10 the development area at the time the ordinance establishing the
11 tax increment financing plan is approved, as shown by the most
12 recent assessment roll of the municipality for which equalization
13 has been completed at the time the resolution is adopted.

14 Property exempt from taxation at the time of the determination of
15 the initial assessed value shall be included as zero. For the
16 purpose of determining initial assessed value, property for which
17 a specific local tax is paid in lieu of a property tax shall not
18 be considered to be property that is exempt from taxation. The
19 initial assessed value of property for which a specific local tax
20 was paid in lieu of a property tax shall be determined as
21 provided in subdivision (y). In the case of a municipality
22 having a population of less than 35,000 that established an
23 authority prior to 1985, created a district or districts, and
24 approved a development plan or tax increment financing plan or
25 amendments to a plan, and which plan or tax increment financing
26 plan or amendments to a plan, and which plan expired by its terms
27 December 31, 1991, the initial assessed value for the purpose of

1 any plan or plan amendment adopted as an extension of the expired
2 plan shall be determined as if the plan had not expired
3 December 31, 1991. For a development area designated before 1997
4 in which a renaissance zone has subsequently been designated
5 pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL
6 125.2681 to 125.2696, the initial assessed value of the
7 development area otherwise determined under this subdivision
8 shall be reduced by the amount by which the current assessed
9 value of the development area was reduced in 1997 due to the
10 exemption of property under section 7ff of the general property
11 tax act, 1893 PA 206, MCL 211.7ff, but in no case shall the
12 initial assessed value be less than zero.

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

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

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

26 (ii) A management contract or a contract for professional
27 services.

1 (iii) A payment required on a contract, agreement, bond, or
2 note if the requirement to make or assume the payment arose
3 before August 19, 1993.

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

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

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

21 (i) A reimbursement agreement between the municipality and an
22 authority it established.

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

25 (iii) A resolution of the authority agreeing to make payments
26 to the incorporating unit.

27 (iv) Provisions in a tax increment financing plan describing

1 the project for which the obligation was incurred.

2 (u) "Operations" means office maintenance, including salaries
3 and expenses of employees, office supplies, consultation fees,
4 design costs, and other expenses incurred in the daily management
5 of the authority and planning of its activities.

6 (v) "Other protected obligation" means:

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

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

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

1 August 19, 1993, and undertaken and installed by that party in
2 accordance with the development agreement.

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

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

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

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

15 (I) The department of natural resources for site reclamation
16 of the real property.

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

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

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

1 (vii) Funds expended to match a grant received by a
2 municipality on behalf of an authority for sidewalk improvements
3 from the Michigan department of transportation if the legislative
4 body of the municipality approved the grant application on
5 April 5, 1993 and the grant was received by the municipality in
6 June 1993.

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

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

15 (B) The obligation was part of a development plan and the tax
16 increment financing plan was approved by a municipality on May 6,
17 1991.

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

21 (D) The authority or municipality captured school taxes
22 during 1994.

23 (w) "Public facility" means a street, plaza, pedestrian mall,
24 and any improvements to a street, plaza, or pedestrian mall
25 including street furniture and beautification, park, parking
26 facility, recreational facility, right-of-way, structure,
27 waterway, bridge, lake, pond, canal, utility line or pipe,

1 building, and access routes to any of the foregoing, designed and
2 dedicated to use by the public generally, or used by a public
3 agency. Public facility includes an improvement to a facility
4 used by the public or a public facility as those terms are
5 defined in section 1 of 1966 PA 1, MCL 125.1351, which
6 improvement is made to comply with the barrier free design
7 requirements of the state construction code promulgated under the
8 Stille-DeRossett-Hale single state construction code act, 1972 PA
9 230, MCL 125.1501 to 125.1531.

10 (x) "Qualified refunding obligation" means an obligation
11 issued or incurred by an authority or by a municipality on behalf
12 of an authority to refund an obligation if **the obligation is**
13 **issued to refund a qualified refunding obligation issued in**
14 **November 1997 and any subsequent refundings of that obligation**
15 **issued before January 1, 2010** or the refunding obligation meets
16 both of the following:

17 (i) The net present value of the principal and interest to be
18 paid on the refunding obligation, including the cost of issuance,
19 will be less than the net present value of the principal and
20 interest to be paid on the obligation being refunded, as
21 calculated using a method approved by the department of
22 treasury.

23 (ii) The net present value of the sum of the tax increment
24 revenues described in subdivision (aa) (ii) and the distributions
25 under section 13b to repay the refunding obligation will not be
26 greater than the net present value of the sum of the tax
27 increment revenues described in subdivision (aa) (ii) and the

1 distributions under section 13b to repay the obligation being
2 refunded, as calculated using a method approved by the department
3 of treasury.

4 (y) "Specific local tax" means a tax levied under 1974 PA
5 198, MCL 207.551 to 207.572, the commercial redevelopment act,
6 1978 PA 255, MCL 207.651 to 207.668, the technology park
7 development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA
8 189, MCL 211.181 to 211.182. The initial assessed value or
9 current assessed value of property subject to a specific local
10 tax shall be the quotient of the specific local tax paid divided
11 by the ad valorem millage rate. However, after 1993, the state
12 tax commission shall prescribe the method for calculating the
13 initial assessed value and current assessed value of property for
14 which a specific local tax was paid in lieu of a property tax.

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

17 (aa) "Tax increment revenues" means the amount of ad valorem
18 property taxes and specific local taxes attributable to the
19 application of the levy of all taxing jurisdictions upon the
20 captured assessed value of real and personal property in the
21 development area, subject to the following requirements:

22 (i) Tax increment revenues include ad valorem property taxes
23 and specific local taxes attributable to the application of the
24 levy of all taxing jurisdictions other than the state pursuant to
25 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,
26 and local or intermediate school districts upon the captured
27 assessed value of real and personal property in the development

1 area for any purpose authorized by this act.

2 (ii) Tax increment revenues include ad valorem property taxes
3 and specific local taxes attributable to the application of the
4 levy of the state pursuant to the state education tax act, 1993
5 PA 331, MCL 211.901 to 211.906, and local or intermediate school
6 districts upon the captured assessed value of real and personal
7 property in the development area in an amount equal to the amount
8 necessary, without regard to subparagraph (i), to repay eligible
9 advances, eligible obligations, and other protected obligations.

10 (iii) Tax increment revenues do not include any of the
11 following:

12 (A) Ad valorem property taxes attributable either to a
13 portion of the captured assessed value shared with taxing
14 jurisdictions within the jurisdictional area of the authority or
15 to a portion of value of property that may be excluded from
16 captured assessed value or specific local taxes attributable to
17 such ad valorem property taxes.

18 (B) Ad valorem property taxes excluded by the tax increment
19 financing plan of the authority from the determination of the
20 amount of tax increment revenues to be transmitted to the
21 authority or specific local taxes attributable to such ad valorem
22 property taxes.

23 (C) Ad valorem property taxes exempted from capture under
24 section 3(3) or specific local taxes attributable to such ad
25 valorem property taxes.

26 (iv) The amount of tax increment revenues authorized to be
27 included under subparagraph (ii), and required to be transmitted

1 to the authority under section 14(1), from ad valorem property
2 taxes and specific local taxes attributable to the application of
3 the levy of the state education tax act, 1993 PA 331, MCL 211.901
4 to 211.906, a local school district or an intermediate school
5 district upon the captured assessed value of real and personal
6 property in a development area shall be determined separately for
7 the levy by the state, each school district, and each
8 intermediate school district as the product of sub-subparagraphs
9 (A) and (B):

10 (A) The percentage that the total ad valorem taxes and
11 specific local taxes available for distribution by law to the
12 state, local school district, or intermediate school district,
13 respectively, bears to the aggregate amount of ad valorem millage
14 taxes and specific taxes available for distribution by law to the
15 state, each local school district, and each intermediate school
16 district.

17 (B) The maximum amount of ad valorem property taxes and
18 specific local taxes considered tax increment revenues under
19 subparagraph (ii).

20 Sec. 7. The board may:

21 (a) Prepare an analysis of economic changes taking place in
22 the downtown district.

23 (b) Study and analyze the impact of metropolitan growth upon
24 the downtown district.

25 (c) Plan and propose the construction, renovation, repair,
26 remodeling, rehabilitation, restoration, preservation, or
27 reconstruction of a public facility, an existing building, or a

1 multiple-family dwelling unit which may be necessary or
2 appropriate to the execution of a plan which, in the opinion of
3 the board, aids in the economic growth of the downtown district.

4 (d) Plan, propose, and implement an improvement to a public
5 facility within the development area to comply with the barrier
6 free design requirements of the state construction code
7 promulgated under the ~~state construction code act of 1972, Act~~
8 ~~No. 230 of the Public Acts of 1972, being sections 125.1501 to~~
9 ~~125.1531 of the Michigan Compiled Laws— Stille-DeRossett-Hale~~
10 **single state construction code act, 1972 PA 230, MCL 125.1501 to**
11 **125.1531.**

12 (e) Develop long-range plans, in cooperation with the agency
13 which is chiefly responsible for planning in the municipality,
14 designed to halt the deterioration of property values in the
15 downtown district and to promote the economic growth of the
16 downtown district, and take such steps as may be necessary to
17 persuade property owners to implement the plans to the fullest
18 extent possible.

19 (f) Implement any plan of development in the downtown
20 district necessary to achieve the purposes of this act, in
21 accordance with the powers of the authority as granted by this
22 act.

23 (g) Make and enter into contracts necessary or incidental to
24 the exercise of its powers and the performance of its duties.

25 (h) Acquire by purchase or otherwise, on terms and conditions
26 and in a manner the authority ~~deems~~ **considers** proper or own,
27 convey, or otherwise dispose of, or lease as lessor or lessee,

1 land and other property, real or personal, or rights or interests
2 ~~therein~~ **in property**, which the authority determines is
3 reasonably necessary to achieve the purposes of this act, and to
4 grant or acquire licenses, easements, and options with respect
5 ~~thereto~~ **to that property**.

6 (i) Improve land and construct, reconstruct, rehabilitate,
7 restore and preserve, equip, improve, maintain, repair, and
8 operate any building, including multiple-family dwellings, and
9 any necessary or desirable appurtenances ~~thereto~~ **to that**
10 **property**, within the downtown district for the use, in whole or
11 in part, of any public or private person or corporation, or a
12 combination ~~thereof~~ **of them**.

13 (j) Fix, charge, and collect fees, rents, and charges for the
14 use of any building or property under its control or any part
15 thereof, or facility therein, and pledge the fees, rents, and
16 charges for the payment of revenue bonds issued by the
17 authority.

18 (k) Lease any building or property under its control, or any
19 part ~~thereof~~ **of a building or property**.

20 (l) Accept grants and donations of property, labor, or other
21 things of value from a public or private source.

22 (m) Acquire and construct public facilities.

23 (n) **Create, operate, and fund marketing initiatives that**
24 **benefit only retail and general marketing of the downtown**
25 **district**.

26 (o) **Contract for broadband service and wireless technology**
27 **service in the downtown district**.