

HOUSE BILL No. 5215

December 13, 2011, Introduced by Rep. Santana and referred to the Committee on Commerce.

A bill to provide for the creation, operation, and dissolution of neighborhood improvement districts; to permit the creation of certain boards; and to authorize the collection and disbursement of revenue.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "neighborhood improvement district act".

3 Sec. 2. As used in this act:

4 (a) "Assessable property" means real property in a district
5 area that is classified as residential real property under section
6 34c of the general property tax act, 1893 PA 206, MCL 211.34c, that
7 is not exempt from the collection of taxes under the general
8 property tax act, 1893 PA 206, MCL 211.1 to 211.155.

9 (b) "Assessment" means an assessment imposed under this act

1 against assessable property for the benefit of the property owners.

2 (c) "Assessment revenues" means the money collected by a
3 neighborhood improvement district from any assessments, including
4 any interest on the assessments.

5 (d) "Blighted" means that term as described in section 2 of
6 the brownfield redevelopment financing act, 1996 PA 381, MCL
7 125.2652.

8 (e) "Board" means the board of directors of a neighborhood
9 improvement district.

10 (f) "District area" means the area designated in the district
11 plan as the area to be served by the neighborhood improvement
12 district.

13 (g) "District plan" means a set of goals, strategies,
14 objectives, and guidelines for the operation of a neighborhood
15 improvement district, as approved at a meeting of property owners
16 conducted under section 6.

17 (h) "Neighborhood improvement district" means a neighborhood
18 improvement district created under this act.

19 (i) "Person" means an individual, partnership, corporation,
20 limited liability company, association, or other legal entity.

21 (j) "Project" means any activity for the benefit of property
22 owners authorized by section 3 to enhance the neighborhood
23 improvement district.

24 (k) "Property owner" means a person who owns, or an agent
25 authorized in writing by a person who owns, assessable property
26 according to the records of the treasurer of the city or village in
27 which the neighborhood improvement district is located.

1 (l) "7-year period" means the period in which a neighborhood
2 improvement district is authorized to operate, beginning on the
3 date that the neighborhood improvement district is created or
4 renewed and ending 7 calendar years after that date.

5 Sec. 3. (1) A neighborhood improvement district is a public
6 body corporate and may do 1 or more of the following for the
7 benefit of property owners located in the neighborhood improvement
8 district:

9 (a) Acquire, through purchase, lease, or gift, construct,
10 develop, improve, maintain, operate, or reconstruct park areas,
11 planting areas, and related facilities within the district area.

12 (b) Acquire, construct, clean, improve, maintain, reconstruct,
13 or relocate sidewalks, street curbing, street medians, fountains,
14 and lighting within the district area.

15 (c) Develop and propose lighting standards within the district
16 area.

17 (d) Acquire, plant, and maintain trees, shrubs, flowers, or
18 other vegetation within the district area.

19 (e) Provide or contract for security services with other
20 public or private entities and purchase equipment or technology
21 related to security services within the district area.

22 (f) Promote and sponsor cultural or recreational activities.

23 (g) Demolish abandoned buildings and make other improvements
24 in the district area.

25 (h) Engage in other activity with the purpose to enhance the
26 economic prosperity, enjoyment, appearance, image, and safety of
27 the district area.

1 (i) Acquire by purchase or gift, maintain, or operate real or
2 personal property necessary to implement this act.

3 (j) Solicit and accept gifts or grants to further the
4 development plan.

5 (k) Sue or be sued.

6 (l) Provide snow removal and mosquito abatement within the
7 district area.

8 (2) A neighborhood improvement district has the authority to
9 borrow money in anticipation of the receipt of assessments if all
10 of the following conditions are satisfied:

11 (a) The loan will not be requested or authorized, or will not
12 mature, within 90 days before the expiration of the 7-year period.

13 (b) The amount of the loan does not exceed 50% of the annual
14 average assessment revenue of the neighborhood improvement district
15 during the previous year or, in the case of a neighborhood
16 improvement district that has been in existence for less than 1
17 year, the loan does not exceed 25% of the projected annual
18 assessment revenue.

19 (c) The loan repayment period does not extend beyond the 7-
20 year period.

21 (d) The loan is subject to the revised municipal finance act,
22 2001 PA 34, MCL 141.2101 to 141.2821.

23 (3) The services provided by and projects of a neighborhood
24 improvement district are services and projects of the neighborhood
25 improvement district and are not services, functions, or projects
26 of the municipality in which the neighborhood improvement district
27 is located. The services provided by and projects of a neighborhood

1 improvement district are supplemental to the services, projects,
2 and functions of the city or village in which the neighborhood
3 improvement district is located.

4 (4) The neighborhood improvement district has no other
5 authority than the authority described in this act.

6 Sec. 4. (1) One or more neighborhood improvement districts may
7 be established within a city or village.

8 (2) The majority of all parcels included in a district area,
9 both by area and by taxable value, shall be assessable property. A
10 district area shall be contiguous, with the exception of public
11 streets, alleys, parks, and other public rights-of-way.

12 Sec. 5. (1) A person may initiate the establishment of a
13 neighborhood improvement district by the delivery of a petition to
14 the clerk of the city or village in which a proposed district area
15 is located. The petition shall include all of the following:

16 (a) The boundaries of the district area.

17 (b) The signatures of property owners of parcels representing
18 not less than 30% of the property owners within the district area.

19 (c) A listing, by tax parcel identification number, of all
20 parcels within the district area, separately identifying assessable
21 property.

22 (2) After a petition is filed pursuant to subsection (1), the
23 clerk shall notify all property owners within the district area of
24 a public meeting of the property owners regarding the establishment
25 of the neighborhood improvement district to be held not less than
26 45 days or more than 60 days after the filing of the petition. The
27 notice shall be sent by first-class mail to the property owners not

1 less than 14 days prior to the scheduled date of the meeting. The
2 notice shall include the specific location and the scheduled date
3 and time of the meeting.

4 Sec. 6. (1) At the meeting required by section 5, the property
5 owners may adopt a district plan for submission to and approval by
6 the governing body of the city or village in which the neighborhood
7 improvement district is located.

8 (2) A district plan shall include all of the following:

9 (a) A description of the boundaries of the district area
10 sufficient to identify each assessable property included.

11 (b) The proposed initial board of directors, except for a
12 director of the board who may be appointed by the city or village
13 under section 9(2).

14 (c) The method for removal, appointment, and replacement of
15 the board.

16 (d) A description of projects planned during the 7-year
17 period, including the location, scope, nature, and duration of the
18 projects.

19 (e) An estimate of the total amount of expenditures for
20 projects planned during the 7-year period.

21 (f) The proposed source or sources of financing for the
22 projects.

23 (g) If the proposed financing includes assessments, the
24 projected amount or rate of the assessments for each year and the
25 basis upon which the assessments are to be imposed on assessable
26 property.

27 (h) A listing, by tax parcel identification number, of all

1 parcels within the district area, separately identifying assessable
2 property.

3 (i) A plan of dissolution for the neighborhood improvement
4 district.

5 (j) The identification of all blighted property inside the
6 district area.

7 (k) A written plan for providing hardship exemptions to the
8 assessment as determined by the board.

9 (3) A district plan shall be considered adopted by the
10 property owners if a majority of the property owners voting at the
11 meeting approve the district plan.

12 (4) Any district plan adopted under this section shall be
13 presented to the clerk of the city or village in which the district
14 area is located.

15 (5) The assessment shall not be greater than \$300.00 if the
16 neighborhood improvement district is located in a city with a
17 population of 100,000 or more.

18 Sec. 7. (1) If a district plan is adopted and presented to the
19 clerk of the city or village in accordance with section 6, the
20 governing body of the city or village shall within 45 days schedule
21 a public hearing of the governing body to review the district plan
22 and any proposed assessment and to receive public comment. The
23 clerk shall notify all owners of parcels within the district area
24 of the public hearing by first-class mail.

25 (2) At the public hearing, or at the next regularly scheduled
26 meeting of the governing body of the city or village, the governing
27 body shall approve or reject the establishment of the neighborhood

1 improvement district and the district plan as adopted by the
2 property owners under section 6(3). If the governing body rejects
3 the establishment of the neighborhood improvement district and the
4 district plan, the clerk shall notify all property owners within
5 the district area of a reconvened meeting of the property owners
6 which shall be held not sooner than 10 days or later than 21 days
7 after the date of the rejection by the governing body. If the
8 governing body rejects the establishment of the neighborhood
9 improvement district and the district plan, the clerk shall state
10 the specific reasons for the rejection. The notice shall be sent by
11 first-class mail to the property owners not less than 14 days prior
12 to the scheduled date of the meeting and shall include the specific
13 location and the scheduled date and time of the meeting, as
14 determined by the person initiating the establishment of the
15 neighborhood improvement district under section 4. At the
16 reconvened meeting, the property owners may amend the district plan
17 if approved by a majority of the property owners as provided in
18 this act. The amended district plan may be resubmitted to the clerk
19 of the city or village without the requirement of a new petition
20 under section 5 for approval or rejection at a meeting of the
21 governing body of the city or village not later than 60 days after
22 the amended district plan is resubmitted to the clerk. If a
23 district plan is not rejected within 60 days of the date the
24 amended district plan is resubmitted to the clerk, the amended
25 district plan is considered approved by the governing body of the
26 city or village. If the amended district plan is rejected by the
27 governing body, then the amended district plan may not be

1 resubmitted without the delivery of a new petition under section 5.

2 (3) Approval of the neighborhood improvement district and
3 district plan shall serve as a determination by the city or village
4 that any assessment set forth in the district plan, including the
5 basis for allocating the assessment, is appropriate, subject only
6 to the approval of the neighborhood improvement district and the
7 district plan by the property owners in accordance with section 8.

8 (4) If the governing body of the city or village approves the
9 neighborhood improvement district and district plan or if the
10 amended district plan is considered approved under subsection (2),
11 the clerk of the city or village shall set an election pursuant to
12 section 8 not more than 60 days following the approval.

13 (5) The clerk of the city or village shall send to the
14 property owners notice by first-class mail of the election not less
15 than 30 days before the election and publish the notice at least
16 once in a newspaper of general circulation in the city or village
17 in which the district area is located. The publication shall not be
18 less than 10 days or more than 30 days prior to the date scheduled
19 for the election.

20 (6) The election described in this section and section 8 is
21 not an election subject to the Michigan election law, 1954 PA 116,
22 MCL 168.1 to 168.992.

23 (7) The person who filed the petition under section 5, the
24 proposed board members, and the property owners may, at the option
25 and under the direction of the clerk, assist the clerk of the city
26 or village in conducting the election to keep the expenses of the
27 election at a minimum.

1 Sec. 8. (1) All property owners as of the date of the delivery
2 of the petition as provided in section 5 are eligible to
3 participate in the election. The election shall be conducted by
4 mail. The question to be voted on by the property owners is the
5 adoption of the district plan and the establishment of the
6 neighborhood improvement district, including the identity of the
7 initial board.

8 (2) A district plan and the proposal for the establishment of
9 a neighborhood improvement district, including the identity of the
10 initial board, shall be considered adopted upon the approval of
11 more than 60% of the property owners voting in the election.

12 (3) Upon acceptance or rejection of a neighborhood improvement
13 district and district plan by the property owners, the resulting
14 neighborhood improvement district or the person filing the petition
15 under section 5 shall, at the request of the city or village,
16 reimburse the city or village for all or a portion of the
17 reasonable expenses incurred to comply with this act. The governing
18 body of the city or village may forgive and choose not to collect
19 all or a portion of the reasonable expenses incurred to comply with
20 this act.

21 (4) Adoption of a neighborhood improvement district and
22 district plan under this section authorizes the creation of the
23 neighborhood improvement district and the implementation of the
24 district plan for the 7-year period.

25 (5) Adoption of a neighborhood improvement district and
26 district plan under this section and the creation of the
27 neighborhood improvement district does not relieve the neighborhood

1 improvement district from following, or does not waive any rights
2 of the city or village to enforce, any applicable laws, statutes,
3 or ordinances. A neighborhood improvement district created under
4 this act shall comply with all applicable state and federal laws.

5 (6) A city or village that approves a neighborhood improvement
6 district within its boundaries is immune from civil or
7 administrative liability arising from any actions of that
8 neighborhood improvement district to the same extent as protected
9 by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1419.

10 Sec. 9. (1) The day-to-day activities of the neighborhood
11 improvement district and implementation of the district plan shall
12 be managed by a board of directors.

13 (2) The board shall consist of an odd number of directors and
14 shall not be smaller than 5 and not larger than 15 in number. The
15 board may include 1 director nominated by the chief executive of
16 the city or village and approved by the governing body of the city
17 or village.

18 (3) The duties and responsibilities of the board shall be
19 prescribed in the district plan and to the extent applicable shall
20 include all of the following duties and responsibilities:

21 (a) Developing administrative procedures relating to the
22 implementation of the district plan.

23 (b) Recommending amendments to the district plan.

24 (c) Scheduling and conducting an annual meeting of the
25 property owners.

26 (d) Developing a district plan for the next 7-year period.

27 (4) Members of the board shall serve without compensation.

1 However, members of the board may be reimbursed for their actual
2 and necessary expenses incurred in the performance of their
3 official duties as members of the board.

4 Sec. 10. (1) A neighborhood improvement district may be funded
5 in whole or in part by 1 or more assessments on assessable
6 property, as provided in the district plan. An assessment under
7 this act shall be in addition to any taxes or special assessments
8 otherwise imposed on assessable property.

9 (2) An assessment shall be imposed against assessable property
10 only on the basis of the benefits to assessable property afforded
11 by the district plan. There is a rebuttable presumption that a
12 district plan and any project specially benefits all assessable
13 property in a district area.

14 (3) If a district plan provides for an assessment, the
15 treasurer of the city or village in which the district area is
16 located as an agent of the neighborhood improvement district shall
17 collect the assessment imposed by the board under the district plan
18 on all assessable property within the district area in the amount
19 authorized by the district plan.

20 (4) Except as provided in subsection (7), assessments shall be
21 collected by the treasurer of the city or village as an agent of
22 the neighborhood improvement district from each property owner and
23 remitted promptly to the neighborhood improvement district.
24 Assessment revenue is the property of the neighborhood improvement
25 district and not the city or village in which the neighborhood
26 improvement district is located. The neighborhood improvement
27 district may, at the option and under the direction of the

1 treasurer, assist the treasurer of the city or village in
2 collecting the assessment to keep the expenses of collecting the
3 assessment at a minimum.

4 (5) The neighborhood improvement district may institute a
5 civil action to collect any delinquent assessment and interest.

6 (6) An assessment imposed under this act is not a special
7 assessment collected under the general property tax act, 1893 PA
8 206, MCL 211.1 to 211.155.

9 (7) An assessment is delinquent if it has not been paid within
10 90 days after it was due as provided under the district plan
11 imposed under this act. Delinquent assessments shall be collected
12 by the neighborhood improvement district. Delinquent assessments
13 shall accrue interest at a rate of 1.5% per month until paid.

14 (8) If any portion of the assessment has not been paid within
15 90 days after it was due, that portion of the unpaid assessment
16 shall constitute a lien on the property. The lien amount shall be
17 for the unpaid portion of the assessment and shall not include any
18 interest.

19 Sec. 11. (1) Expenses incurred in implementing any project or
20 service of a neighborhood improvement district shall be financed in
21 accordance with the district plan.

22 (2) Assessment revenues under section 10 are the funds of the
23 neighborhood improvement district and not funds of the state or of
24 the city or village in which the neighborhood improvement district
25 is located. All money collected under section 10 shall be deposited
26 in a financial institution in the name of the neighborhood
27 improvement district. Assessment revenues may be deposited in an

1 interest generating account. The neighborhood improvement district
2 shall use the funds only to implement the district plan.

3 (3) All expenditures by a neighborhood improvement district
4 shall be audited annually by a certified public accountant. The
5 audit shall be completed within 9 months of the close of the fiscal
6 year of the neighborhood improvement district. Within 30 days after
7 completion of an audit, the certified public accountant shall
8 transmit a copy of the audit to the board and make copies of the
9 audit available to the property owners and the public.

10 (4) If an annual audit required by this section contains
11 material exceptions and the material exceptions are not
12 substantially corrected within 90 days of the delivery of the
13 audit, the neighborhood improvement district shall be dissolved in
14 accordance with the district plan upon approval of the dissolution
15 by the governing body of the city or village in which the
16 neighborhood improvement district is located.

17 (5) The board shall publish an annual activity and financial
18 report. The report shall be available to the public. Each year,
19 every property owner shall be notified of the availability of the
20 annual activity and financial report.

21 (6) As used in this section, "financial institution" means a
22 state or nationally chartered bank or a state or federally
23 chartered savings and loan association, savings bank, or credit
24 union whose deposits are insured by an agency of the United States
25 government and that maintains a principal office or branch office
26 located in this state under the laws of this state or of the United
27 States.

1 Sec. 12. A district plan may be amended. Amendments shall be
2 effective if approved by a majority of the property owners voting
3 on the amendment at the annual meeting of property owners or a
4 special meeting called for that purpose. A district plan amendment
5 changing any assessment is effective only if also approved by the
6 governing body of the city or village in which the neighborhood
7 improvement district is located.

8 Sec. 13. (1) Prior to the expiration of any 7-year period, the
9 board shall notify the property owners of a special meeting by
10 first-class mail at least 14 days prior to the scheduled date of
11 the meeting to approve a new district plan for the next 7-year
12 period. Notice under this section shall include the specific
13 location, scheduled date, and time of the meeting.

14 (2) Approval of the new district plan at the special meeting
15 by 60% of the property owners of assessable property voting at that
16 meeting constitutes reauthorization of the neighborhood improvement
17 district for an additional 7-year period, commencing as of the
18 expiration of the 7-year period then in effect. If the new district
19 plan reflects any new assessment, or reflects an extension of any
20 assessment beyond the period previously approved by the city or
21 village in which the neighborhood improvement district is located,
22 the new or extended assessment shall be effective only with the
23 approval of the governing body of the city or village.

24 Sec. 14. (1) Upon written petition duly signed by 20% of the
25 property owners of assessable property within a district area, the
26 board shall place on the agenda of the next annual meeting, if the
27 next annual meeting is to be held not later than 60 days after

1 receipt of the written petition or a special meeting not to be held
2 later than 60 days after receipt of the written petition, the issue
3 of dissolution of the neighborhood improvement district. Notice of
4 the next annual meeting or special meeting described in this
5 subsection shall be made to all property owners by first-class mail
6 not less than 14 days prior to the date of the annual or special
7 meeting. The notice shall include the specific location and the
8 scheduled date and time of the meeting.

9 (2) The neighborhood improvement district shall be dissolved
10 upon a vote of more than 50% of the property owners of assessable
11 property voting at the meeting. A dissolution shall not take effect
12 until all contractual liabilities of the neighborhood improvement
13 district have been paid and discharged.

14 (3) Upon dissolution of a neighborhood improvement district,
15 the board shall dispose of the remaining physical assets of the
16 neighborhood improvement district. The proceeds of any physical
17 assets disposed of by the neighborhood improvement district and all
18 money collected through assessments that is not required to defray
19 the expenses of the neighborhood improvement district shall be
20 refunded on a pro rata basis to persons from whom assessments were
21 collected. If the board finds that the refundable amount is so
22 small as to make impracticable the computation and refunding of the
23 money, it may be transferred to the treasurer of the city or
24 village in which the neighborhood improvement district is located
25 for deposit in the treasury of the city or village to the credit of
26 the general fund.

27 (4) Upon dissolution of a neighborhood improvement district,

1 any remaining assets of the neighborhood improvement district shall
2 be transferred to the treasurer of the city or village in which the
3 neighborhood improvement district is located for deposit in the
4 treasury of the city or village to the credit of the general fund.

5 Sec. 15. (1) The board shall conduct business at a public
6 meeting held in compliance with the open meetings act, 1976 PA 267,
7 MCL 15.261 to 15.275. Public notice of the time, date, and place of
8 the meeting shall be given in the manner required by the open
9 meetings act, 1976 PA 267, MCL 15.261 to 15.275.

10 (2) A meeting of property owners under section 5 shall be
11 conducted at a public meeting held in compliance with the open
12 meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of
13 the time, date, and place of the meeting shall be given in the
14 manner required by the open meetings act, 1976 PA 267, MCL 15.261
15 to 15.275.

16 (3) A writing prepared, owned, used, in the possession of, or
17 retained by the neighborhood improvement district in the
18 performance of its duties under this act is a public record under
19 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

20 (4) All meetings of the board or property owners described in
21 this act shall be conducted within the city or village in which the
22 neighborhood improvement district is or is to be located.