

# HOUSE BILL No. 4248

February 15, 2011, Introduced by Rep. Huuki and referred to the Committee on Commerce.

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 section 1 (MCL 125.1651), as amended by 2008 PA 225.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent

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

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

6 (i) For valuations made before January 1, 1995, the state  
7 equalized valuation as determined under the general property tax  
8 act, 1893 PA 206, MCL 211.1 to 211.155.

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

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

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

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

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

23 (g) "Chief executive officer" means the mayor or city manager  
24 of a city, the president or village manager of a village, or the  
25 supervisor of a township or, if designated by the township board  
26 for purposes of this act, the township superintendent or township  
27 manager of a township.

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

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

5 (j) "Development program" means the implementation of the  
6 development plan.

7 (k) "Downtown district" means that part of an area in a  
8 business district that is specifically designated by ordinance of  
9 the governing body of the municipality pursuant to this act. A  
10 downtown district may include 1 or more separate and distinct  
11 geographic areas in a business district as determined by the  
12 municipality if the municipality enters into an agreement with a  
13 qualified township under section 3(7) or if the municipality is a  
14 city that surrounds another city and that other city lies between  
15 the 2 separate and distinct geographic areas. If the downtown  
16 district contains more than 1 separate and distinct geographic area  
17 in the downtown district, the separate and distinct geographic  
18 areas shall be considered 1 downtown district.

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

21 (m) "Eligible obligation" means an obligation issued or  
22 incurred by an authority or by a municipality on behalf of an  
23 authority before August 19, 1993 and its subsequent refunding by a  
24 qualified refunding obligation. Eligible obligation includes an  
25 authority's written agreement entered into before August 19, 1993  
26 to pay an obligation issued after August 18, 1993 and before  
27 December 31, 1996 by another entity on behalf of the authority.

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

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

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

7           (q) "Initial assessed value" means the assessed value, as  
8     equalized, of all the taxable property within the boundaries of the  
9     development area at the time the ordinance establishing the tax  
10    increment financing plan is approved, as shown by the most recent  
11    assessment roll of the municipality for which equalization has been  
12    completed at the time the resolution is adopted. Property exempt  
13    from taxation at the time of the determination of the initial  
14    assessed value shall be included as zero. For the purpose of  
15    determining initial assessed value, property for which a specific  
16    local tax is paid in lieu of a property tax shall not be considered  
17    to be property that is exempt from taxation. The initial assessed  
18    value of property for which a specific local tax was paid in lieu  
19    of a property tax shall be determined as provided in subdivision

20    (z). In the case of a municipality having a population of less than  
21    35,000 that established an authority prior to 1985, created a  
22    district or districts, and approved a development plan or tax  
23    increment financing plan or amendments to a plan, and which plan or  
24    tax increment financing plan or amendments to a plan, and which  
25    plan expired by its terms December 31, 1991, the initial assessed  
26    value for the purpose of any plan or plan amendment adopted as an  
27    extension of the expired plan shall be determined as if the plan

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

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

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

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

24 (ii) A management contract or a contract for professional  
25 services.

26 (iii) A payment required on a contract, agreement, bond, or note  
27 if the requirement to make or assume the payment arose before

1 August 19, 1993.

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

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

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

19 (i) A reimbursement agreement between the municipality and an  
20 authority it established.

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

23 (iii) A resolution of the authority agreeing to make payments to  
24 the incorporating unit.

25 (iv) Provisions in a tax increment financing plan describing  
26 the project for which the obligation was incurred.

27 (u) "Operations" means office maintenance, including salaries

1 and expenses of employees, office supplies, consultation fees,  
2 design costs, and other expenses incurred in the daily management  
3 of the authority and planning of its activities.

4 (v) "Other protected obligation" means:

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

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

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

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

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

6           (B) Before June 30, 1995, the authority enters a contract for  
7 the development of the real property located within the development  
8 area.

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

11           (I) The department of natural resources for site reclamation  
12 of the real property.

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

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

21           (vi) A loan from a municipality to an authority if the loan was  
22 approved by the legislative body of the municipality on April 18,  
23 1994.

24           (vii) Funds expended to match a grant received by a  
25 municipality on behalf of an authority for sidewalk improvements  
26 from the Michigan department of transportation if the legislative  
27 body of the municipality approved the grant application on April 5,



1 1993 and the grant was received by the municipality in June 1993.

2 (viii) For taxes captured in 1994, an obligation described in  
3 this subparagraph issued or incurred to finance a project. An  
4 obligation is considered issued or incurred to finance a project  
5 described in this subparagraph only if all of the following are  
6 met:

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

9 (B) The obligation was part of a development plan and the tax  
10 increment financing plan was approved by a municipality on May 6,  
11 1991.

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

15 (D) The authority or municipality captured school taxes during  
16 1994.

17 (w) "Public facility" means a street, plaza, pedestrian mall,  
18 and any improvements to a street, plaza, or pedestrian mall  
19 including street furniture and beautification, park, parking  
20 facility, recreational facility, right-of-way, structure, waterway,  
21 bridge, lake, pond, canal, utility line or pipe, building, and  
22 access routes to any of the foregoing, designed and dedicated to  
23 use by the public generally, or used by a public agency. Public  
24 facility includes an improvement to a facility used by the public  
25 or a public facility as those terms are defined in section 1 of  
26 1966 PA 1, MCL 125.1351, which improvement is made to comply with  
27 the barrier free design requirements of the state construction code

1 promulgated under the Stille-DeRossett-Hale single state  
2 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.  
3 Public facility also includes the acquisition, construction,  
4 improvement, and operation of a building owned or leased by the  
5 authority to be used as a retail business incubator.

6 (x) "Qualified refunding obligation" means an obligation  
7 issued or incurred by an authority or by a municipality on behalf  
8 of an authority to refund an obligation if 1 or more of the  
9 following apply:

10 (i) The obligation is issued to refund a qualified refunding  
11 obligation issued in November 1997 and any subsequent refundings of  
12 that obligation issued before January 1, 2010 or the obligation is  
13 issued to refund a qualified refunding obligation issued on May 15,  
14 1997 and any subsequent refundings of that obligation issued before  
15 January 1, 2010 in an authority in which 1 parcel or group of  
16 parcels under common ownership represents 50% or more of the  
17 taxable value captured within the tax increment finance district  
18 and that will ultimately provide for at least a 40% reduction in  
19 the taxable value of the property as part of a negotiated  
20 settlement as a result of an appeal filed with the state tax  
21 tribunal. Qualified refunding obligations issued under this  
22 subparagraph are not subject to the requirements of section 611 of  
23 the revised municipal finance act, 2001 PA 34, MCL 141.2611, if  
24 issued before January 1, 2010. The duration of the development  
25 program described in the tax increment financing plan relating to  
26 the qualified refunding obligations issued under this subparagraph  
27 is hereby extended to 1 year after the final date of maturity of

1 the qualified refunding obligations.

2 (ii) The refunding obligation meets both of the following:

3 (A) The net present value of the principal and interest to be  
4 paid on the refunding obligation, including the cost of issuance,  
5 will be less than the net present value of the principal and  
6 interest to be paid on the obligation being refunded, as calculated  
7 using a method approved by the department of treasury.

8 (B) The net present value of the sum of the tax increment  
9 revenues described in subdivision (bb) (ii) and the distributions  
10 under section 13b to repay the refunding obligation will not be  
11 greater than the net present value of the sum of the tax increment  
12 revenues described in subdivision (bb) (ii) and the distributions  
13 under section 13b to repay the obligation being refunded, as  
14 calculated using a method approved by the department of treasury.

15 (iii) THE OBLIGATION IS ISSUED TO REFUND AN OTHER PROTECTED  
16 OBLIGATION ISSUED AS A CAPITAL APPRECIATION BOND DELIVERED TO THE  
17 MICHIGAN MUNICIPAL BOND AUTHORITY ON DECEMBER 21, 1994 AND ANY  
18 SUBSEQUENT REFUNDINGS OF THAT OBLIGATION ISSUED BEFORE JANUARY 1,  
19 2012. QUALIFIED REFUNDING OBLIGATIONS ISSUED UNDER THIS  
20 SUBPARAGRAPH ARE NOT SUBJECT TO THE REQUIREMENTS OF SECTION 305(2),  
21 (3), (5), AND (6), SECTION 501, SECTION 503, OR SECTION 611 OF THE  
22 REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2305, 141.2501,  
23 141.2503, AND 141.2611, IF ISSUED BEFORE JANUARY 1, 2012. THE  
24 DURATION OF THE DEVELOPMENT PROGRAM DESCRIBED IN THE TAX INCREMENT  
25 FINANCING PLAN RELATING TO THE QUALIFIED REFUNDING OBLIGATIONS  
26 ISSUED UNDER THIS SUBPARAGRAPH IS EXTENDED TO 1 YEAR AFTER THE  
27 FINAL DATE OF MATURITY OF THE QUALIFIED REFUNDING OBLIGATIONS. THE

1 OBLIGATION MAY BE PAYABLE THROUGH THE YEAR 2025 AT AN INTEREST RATE  
2 NOT EXCEEDING THE MAXIMUM RATE PERMITTED BY LAW, NOTWITHSTANDING  
3 THE BOND MATURITY DATES CONTAINED IN THE NOTICE OF INTENT TO ISSUE  
4 BONDS PUBLISHED BY THE MUNICIPALITY. AN OBLIGATION ISSUED UNDER  
5 THIS SUBPARAGRAPH IS A QUALIFIED REFUNDING OBLIGATION ONLY TO THE  
6 EXTENT THAT REVENUES DESCRIBED IN SUBDIVISION (BB) (ii) AND  
7 DISTRIBUTIONS UNDER SECTION 13B TO REPAY THE QUALIFIED REFUNDING  
8 OBLIGATION DO NOT EXCEED \$750,000.00.

9 (y) "Qualified township" means a township that meets all of  
10 the following requirements:

11 (i) Was not eligible to create an authority prior to January 3,  
12 2005.

13 (ii) Adjoins a municipality that previously created an  
14 authority.

15 (iii) Along with the adjoining municipality that previously  
16 created an authority, is a member of the same joint planning  
17 commission under the joint municipal planning act, 2003 PA 226, MCL  
18 125.131 to 125.143.

19 (z) "Specific local tax" means a tax levied under 1974 PA 198,  
20 MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA  
21 255, MCL 207.651 to 207.668, the technology park development act,  
22 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL 211.181  
23 to 211.182. The initial assessed value or current assessed value of  
24 property subject to a specific local tax shall be the quotient of  
25 the specific local tax paid divided by the ad valorem millage rate.  
26 However, after 1993, the state tax commission shall prescribe the  
27 method for calculating the initial assessed value and current

1 assessed value of property for which a specific local tax was paid  
2 in lieu of a property tax.

3 (aa) "State fiscal year" means the annual period commencing  
4 October 1 of each year.

5 (bb) "Tax increment revenues" means the amount of ad valorem  
6 property taxes and specific local taxes attributable to the  
7 application of the levy of all taxing jurisdictions upon the  
8 captured assessed value of real and personal property in the  
9 development area, subject to the following requirements:

10 (i) Tax increment revenues include ad valorem property taxes  
11 and specific local taxes attributable to the application of the  
12 levy of all taxing jurisdictions other than the state pursuant to  
13 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,  
14 and local or intermediate school districts upon the captured  
15 assessed value of real and personal property in the development  
16 area for any purpose authorized by this act.

17 (ii) Tax increment revenues include ad valorem property taxes  
18 and specific local taxes attributable to the application of the  
19 levy of the state pursuant to the state education tax act, 1993 PA  
20 331, MCL 211.901 to 211.906, and local or intermediate school  
21 districts upon the captured assessed value of real and personal  
22 property in the development area in an amount equal to the amount  
23 necessary, without regard to subparagraph (i), to repay eligible  
24 advances, eligible obligations, and other protected obligations.

25 (iii) Tax increment revenues do not include any of the  
26 following:

27 (A) Ad valorem property taxes attributable either to a portion

1 of the captured assessed value shared with taxing jurisdictions  
2 within the jurisdictional area of the authority or to a portion of  
3 value of property that may be excluded from captured assessed value  
4 or specific local taxes attributable to such ad valorem property  
5 taxes.

6 (B) Ad valorem property taxes excluded by the tax increment  
7 financing plan of the authority from the determination of the  
8 amount of tax increment revenues to be transmitted to the authority  
9 or specific local taxes attributable to such ad valorem property  
10 taxes.

11 (C) Ad valorem property taxes exempted from capture under  
12 section 3(3) or specific local taxes attributable to such ad  
13 valorem property taxes.

14 (iv) The amount of tax increment revenues authorized to be  
15 included under subparagraph (ii) or (v), and required to be  
16 transmitted to the authority under section 14(1), from ad valorem  
17 property taxes and specific local taxes attributable to the  
18 application of the levy of the state education tax act, 1993 PA  
19 331, MCL 211.901 to 211.906, a local school district or an  
20 intermediate school district upon the captured assessed value of  
21 real and personal property in a development area shall be  
22 determined separately for the levy by the state, each school  
23 district, and each intermediate school district as the product of  
24 sub-subparagraphs (A) and (B):

25 (A) The percentage that the total ad valorem taxes and  
26 specific local taxes available for distribution by law to the  
27 state, local school district, or intermediate school district,

1 respectively, bears to the aggregate amount of ad valorem millage  
2 taxes and specific taxes available for distribution by law to the  
3 state, each local school district, and each intermediate school  
4 district.

5 (B) The maximum amount of ad valorem property taxes and  
6 specific local taxes considered tax increment revenues under  
7 subparagraph (ii) or (v).

8 (v) Tax increment revenues include ad valorem property taxes  
9 and specific local taxes, in an annual amount and for each year  
10 approved by the state treasurer, attributable to the levy by this  
11 state under the state education tax act, 1993 PA 331, MCL 211.901  
12 to 211.906, and by local or intermediate school districts, upon the  
13 captured assessed value of real and personal property in the  
14 development area of an authority established in a city with a  
15 population of 750,000 or more to pay for, or reimburse an advance  
16 for, not more than \$8,000,000.00 for the demolition of buildings or  
17 structures on public or privately owned property within a  
18 development area that commences in 2005, or to pay the annual  
19 principal of or interest on an obligation, the terms of which are  
20 approved by the state treasurer, issued by an authority, or by a  
21 city on behalf of an authority, to pay not more than \$8,000,000.00  
22 of the costs to demolish buildings or structures on public or  
23 privately owned property within a development area that commences  
24 in 2005.