

**SUBSTITUTE FOR
HOUSE BILL NO. 5856**

A bill to amend 1996 PA 381, entitled
"Brownfield redevelopment financing act,"
by amending section 2 (MCL 125.2652), as amended by 2013 PA 67.

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
7 created under this act.

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

11 (d) "Baseline environmental assessment activities" means those

1 response activities identified as part of a brownfield plan that
2 are necessary to complete a baseline environmental assessment for
3 an eligible property in the brownfield plan.

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

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

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

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

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

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

23 (vi) Is property owned or under the control of a land bank
24 fast track authority, whether or not located within a qualified
25 local governmental unit. Property included within a brownfield plan
26 prior to the date it meets the requirements of this subdivision to
27 be eligible property shall be considered to become eligible

1 property as of the date the property is determined to have been or
2 becomes qualified as, or is combined with, other eligible property.
3 The sale, lease, or transfer of the property by a land bank fast
4 track authority after the property's inclusion in a brownfield plan
5 shall not result in the loss to the property of the status as
6 blighted property for purposes of this act.

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

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

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

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

19 (i) "Chief executive officer" means the mayor of a city, the
20 village manager of a village, the township supervisor of a
21 township, or the county executive of a county or, if the county
22 does not have an elected county executive, the chairperson of the
23 county board of commissioners.

24 (j) "Combined brownfield plan" means a brownfield plan that
25 also includes the information necessary to submit the plan to the
26 department or Michigan strategic fund under section 15(25).

27 (k) "Department" means the department of environmental

1 quality.

2 (l) "Due care activities" means those response activities
3 identified as part of a brownfield plan that are necessary to allow
4 the owner or operator of an eligible property in the plan to comply
5 with the requirements of section 20107a of the natural resources
6 and environmental protection act, 1994 PA 451, MCL 324.20107a.

7 (m) "Economic opportunity zone" means 1 or more parcels of
8 property that meet all of the following:

9 (i) That together are 40 or more acres in size.

10 (ii) That contain or contained a manufacturing facility that
11 consists or consisted of 500,000 or more square feet.

12 (iii) That are located in a municipality that has a population
13 of 30,000 or less and that is contiguous to a qualified local
14 governmental unit.

15 (n) "Eligible activities" or "eligible activity" means 1 or
16 more of the following:

17 (i) Baseline environmental assessment activities.

18 (ii) Due care activities.

19 (iii) Additional response activities.

20 (iv) For eligible activities on eligible property that was
21 used or is currently used for commercial, industrial, or
22 residential purposes that is in a qualified local governmental
23 unit, that is owned or under the control of a land bank fast track
24 authority, or that is located in an economic opportunity zone, and
25 is a facility, historic resource, functionally obsolete, or
26 blighted, and except for purposes of section 38d of former 1975 PA
27 228, the following additional activities:

1 (A) Infrastructure improvements that directly benefit eligible
2 property.

3 (B) Demolition of structures that is not response activity
4 under section 20101 of the natural resources and environmental
5 protection act, 1994 PA 451, MCL 324.20101.

6 (C) Lead or asbestos abatement.

7 (D) Site preparation that is not response activity under
8 section 20101 of the natural resources and environmental protection
9 act, 1994 PA 451, MCL 324.20101.

10 (E) Assistance to a land bank fast track authority in clearing
11 or quieting title to, or selling or otherwise conveying, property
12 owned or under the control of a land bank fast track authority or
13 the acquisition of property by the land bank fast track authority
14 if the acquisition of the property is for economic development
15 purposes.

16 (F) Assistance to a qualified local governmental unit or
17 authority in clearing or quieting title to, or selling or otherwise
18 conveying, property owned or under the control of a qualified local
19 governmental unit or authority or the acquisition of property by a
20 qualified local governmental unit or authority if the acquisition
21 of the property is for economic development purposes.

22 (v) Relocation of public buildings or operations for economic
23 development purposes.

24 (vi) For eligible activities on eligible property that is a
25 qualified facility that is not located in a qualified local
26 governmental unit and that is a facility, functionally obsolete, or
27 blighted, the following additional activities:

1 (A) Infrastructure improvements that directly benefit eligible
2 property.

3 (B) Demolition of structures that is not response activity
4 under section 20101 of the natural resources and environmental
5 protection act, 1994 PA 451, MCL 324.20101.

6 (C) Lead or asbestos abatement.

7 (D) Site preparation that is not response activity under
8 section 20101 of the natural resources and environmental protection
9 act, 1994 PA 451, MCL 324.20101.

10 (vii) For eligible activities on eligible property that is not
11 located in a qualified local governmental unit and that is a
12 facility, historic resource, functionally obsolete, or blighted,
13 the following additional activities:

14 (A) Demolition of structures that is not response activity
15 under section 20101 of the natural resources and environmental
16 protection act, 1994 PA 451, MCL 324.20101.

17 (B) Lead or asbestos abatement.

18 (viii) Reasonable costs of developing and preparing brownfield
19 plans, combined brownfield plans, and work plans.

20 (ix) For property that is not located in a qualified local
21 governmental unit and that is a facility, functionally obsolete, or
22 blighted, that is a former mill that has not been used for
23 industrial purposes for the immediately preceding 2 years, that is
24 located along a river that is a federal superfund site listed under
25 the comprehensive environmental response, compensation, and
26 liability act of 1980, 42 USC 9601 to 9675, and that is located in
27 a city with a population of less than 10,000 persons, the following

1 additional activities:

2 (A) Infrastructure improvements that directly benefit the
3 property.

4 (B) Demolition of structures that is not response activity
5 under section 20101 of the natural resources and environmental
6 protection act, 1994 PA 451, MCL 324.20101.

7 (C) Lead or asbestos abatement.

8 (D) Site preparation that is not response activity under
9 section 20101 of the natural resources and environmental protection
10 act, 1994 PA 451, MCL 324.20101.

11 (x) For eligible activities on eligible property that is
12 located north of the 45th parallel, that is a facility,
13 functionally obsolete, or blighted, and the owner or operator of
14 which makes new capital investment of \$250,000,000.00 or more in
15 this state, the following additional activities:

16 (A) Demolition of structures that is not response activity
17 under section 20101 of the natural resources and environmental
18 protection act, 1994 PA 451, MCL 324.20101.

19 (B) Lead or asbestos abatement.

20 (xi) Reasonable costs of environmental insurance.

21 (o) Except as otherwise provided in this subdivision,
22 "eligible property" means property for which eligible activities
23 are identified under a brownfield plan that was used or is
24 currently used for commercial, industrial, public, or residential
25 purposes, including personal property located on the property, to
26 the extent included in the brownfield plan, and that is 1 or more
27 of the following:

1 (i) Is in a qualified local governmental unit and is a
2 facility, historic resource, functionally obsolete, or blighted and
3 includes parcels that are adjacent or contiguous to that property
4 if the development of the adjacent and contiguous parcels is
5 estimated to increase the captured taxable value of that property.

6 (ii) Is not in a qualified local governmental unit and is a
7 facility, and includes parcels that are adjacent or contiguous to
8 that property if the development of the adjacent and contiguous
9 parcels is estimated to increase the captured taxable value of that
10 property.

11 (iii) Is tax reverted property owned or under the control of a
12 land bank fast track authority.

13 (iv) Is not in a qualified local governmental unit, is a
14 qualified facility, and is a facility, functionally obsolete, or
15 blighted, if the eligible activities on the property are limited to
16 the eligible activities identified in subdivision (n) (vi) .

17 (v) Is not in a qualified local governmental unit and is a
18 facility, historic resource, functionally obsolete, or blighted, if
19 the eligible activities on the property are limited to the eligible
20 activities identified in subdivision (n) (vii) .

21 (vi) Is not in a qualified local governmental unit and is a
22 facility, functionally obsolete, or blighted, if the eligible
23 activities on the property are limited to the eligible activities
24 identified in subdivision (n) (ix) .

25 (vii) Is located north of the 45th parallel, is a facility,
26 functionally obsolete, or blighted, and the owner or operator makes
27 new capital investment of \$250,000,000.00 or more in this state.

1 Eligible property does not include qualified agricultural property
2 exempt under section 7ee of the general property tax act, 1893 PA
3 206, MCL 211.7ee, from the tax levied by a local school district
4 for school operating purposes to the extent provided under section
5 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

6 (viii) Is a transit-oriented development.

7 (ix) Is a transit-oriented facility.

8 (x) Is located in a qualified local governmental unit and
9 contains a targeted redevelopment area, as designated by resolution
10 of the governing body and approved by the Michigan strategic fund,
11 of not less than 40 and not more than 500 contiguous parcels. A
12 qualified local governmental unit is limited to designating no more
13 than 2 targeted redevelopment areas for the purposes of this
14 section in a calendar year. The Michigan strategic fund may approve
15 no more than 5 redevelopment areas for the purposes of this section
16 in a calendar year.

17 (p) "Environmental insurance" means liability insurance for
18 environmental contamination and cleanup that is not otherwise
19 required by state or federal law.

20 (q) "Facility" means that term as defined in section 20101 of
21 the natural resources and environmental protection act, 1994 PA
22 451, MCL 324.20101.

23 (r) "Fiscal year" means the fiscal year of the authority.

24 (s) "Functionally obsolete" means that the property is unable
25 to be used to adequately perform the function for which it was
26 intended due to a substantial loss in value resulting from factors
27 such as overcapacity, changes in technology, deficiencies or

1 superadequacies in design, or other similar factors that affect the
2 property itself or the property's relationship with other
3 surrounding property.

4 (t) "Governing body" means the elected body having legislative
5 powers of a municipality creating an authority under this act.

6 (u) "Historic resource" means that term as defined in section
7 90a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

8 (v) "Infrastructure improvements" means a street, road,
9 sidewalk, parking facility, pedestrian mall, alley, bridge, sewer,
10 sewage treatment plant, property designed to reduce, eliminate, or
11 prevent the spread of identified soil or groundwater contamination,
12 drainage system, waterway, waterline, water storage facility, rail
13 line, utility line or pipeline, transit-oriented development,
14 transit-oriented facility, or other similar or related structure or
15 improvement, together with necessary easements for the structure or
16 improvement, owned or used by a public agency or functionally
17 connected to similar or supporting property owned or used by a
18 public agency, or designed and dedicated to use by, for the benefit
19 of, or for the protection of the health, welfare, or safety of the
20 public generally, whether or not used by a single business entity,
21 provided that any road, street, or bridge shall be continuously
22 open to public access and that other property shall be located in
23 public easements or rights-of-way and sized to accommodate
24 reasonably foreseeable development of eligible property in
25 adjoining areas. Infrastructure improvements also include 1 or more
26 of the following whether publicly or privately owned or operated or
27 located on public or private property:

1 (i) Underground parking.

2 (ii) Multilevel parking structures.

3 (iii) Urban storm water management systems.

4 (w) "Initial taxable value" means the taxable value of an
5 eligible property identified in and subject to a brownfield plan at
6 the time the resolution adding that eligible property in the
7 brownfield plan is adopted, as shown either by the most recent
8 assessment roll for which equalization has been completed at the
9 time the resolution is adopted or, if provided by the brownfield
10 plan, by the next assessment roll for which equalization will be
11 completed following the date the resolution adding that eligible
12 property in the brownfield plan is adopted. Property exempt from
13 taxation at the time the initial taxable value is determined shall
14 be included with the initial taxable value of zero. Property for
15 which a specific tax is paid in lieu of property tax shall not be
16 considered exempt from taxation. The state tax commission shall
17 prescribe the method for calculating the initial taxable value of
18 property for which a specific tax was paid in lieu of property tax.

19 (x) "Land bank fast track authority" means an authority
20 created under the land bank fast track act, 2003 PA 258, MCL
21 124.751 to 124.774.

22 (y) "Local taxes" means all taxes levied other than taxes
23 levied for school operating purposes.

24 (z) "Michigan strategic fund" means the Michigan strategic
25 fund created under the Michigan strategic fund act, 1984 PA 270,
26 MCL 125.2001 to 125.2094.

27 (aa) "Municipality" means all of the following:

1 (i) A city.

2 (ii) A village.

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

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

8 (v) A county.

9 (bb) "Owned or under the control of" means that a land bank
10 fast track authority has 1 or more of the following:

11 (i) An ownership interest in the property.

12 (ii) A tax lien on the property.

13 (iii) A tax deed to the property.

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

16 (v) A right to collect delinquent taxes, penalties, or
17 interest on the property.

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

19 (cc) "Qualified facility" means a landfill facility area of
20 140 or more contiguous acres that is located in a city and that
21 contains a landfill, a material recycling facility, and an asphalt
22 plant that are no longer in operation.

23 (dd) "Qualified local governmental unit" means that term as
24 defined in the obsolete property rehabilitation act, 2000 PA 146,
25 MCL 125.2781 to 125.2797.

26 (ee) "Qualified taxpayer" means that term as defined in
27 sections 38d and 38g of former 1975 PA 228, or section 437 of the

1 Michigan business tax act, 2007 PA 36, MCL 208.1437, or a recipient
2 of a community revitalization incentive as described in section 90a
3 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

4 (ff) "Response activity" means either of the following:

5 (i) Response activity as that term is defined in section 20101
6 of the natural resources and environmental protection act, 1994 PA
7 451, MCL 324.20101.

8 (ii) Corrective action as that term is defined in section
9 21302 of the natural resources and environmental protection act,
10 1994 PA 451, MCL 324.21302.

11 (gg) "Specific taxes" means a tax levied under 1974 PA 198,
12 MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA
13 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224,
14 MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the
15 technology park development act, 1984 PA 385, MCL 207.701 to
16 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL
17 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA
18 147, MCL 207.771 to 207.786; the commercial rehabilitation act,
19 2005 PA 210, MCL 207.841 to 207.856; or that portion of the tax
20 levied under the tax reverted clean title act, 2003 PA 260, MCL
21 211.1021 to 211.1025a, that is not required to be distributed to a
22 land bank fast track authority.

23 (hh) "State brownfield redevelopment fund" means the state
24 brownfield redevelopment fund created in section 8a.

25 (ii) "Tax increment revenues" means the amount of ad valorem
26 property taxes and specific taxes attributable to the application
27 of the levy of all taxing jurisdictions upon the captured taxable

1 value of each parcel of eligible property subject to a brownfield
2 plan and personal property located on that property, regardless of
3 whether those taxes began to be levied after the brownfield plan
4 was adopted. Tax increment revenues do not include any of the
5 following:

6 (i) Ad valorem property taxes specifically levied for the
7 payment of principal of and interest on either obligations approved
8 by the electors or obligations pledging the unlimited taxing power
9 of the local governmental unit, and specific taxes attributable to
10 those ad valorem property taxes.

11 (ii) For tax increment revenues attributable to eligible
12 property also exclude the amount of ad valorem property taxes or
13 specific taxes captured by a downtown development authority, tax
14 increment finance authority, or local development finance authority
15 if those taxes were captured by these other authorities on the date
16 that eligible property became subject to a brownfield plan under
17 this act.

18 (iii) Ad valorem property taxes levied under 1 or more of the
19 following or specific taxes attributable to those ad valorem
20 property taxes:

21 (A) The zoological authorities act, 2008 PA 49, MCL 123.1161
22 to 123.1183.

23 (B) The art institute authorities act, 2010 PA 296, MCL
24 123.1201 to 123.1229.

25 **(C) THE REGIONAL TRANSIT AUTHORITY ACT, 2012 PA 387, MCL**
26 **124.541 TO 124.558.**

27 **(iv) AD VALOREM PROPERTY TAXES OR SPECIFIC LOCAL TAXES LEVIED**

1 FOR A MILLAGE APPROVED BY THE ELECTORS AFTER DECEMBER 31, 2016,
2 EXCEPT FOR 1 OR MORE OF THE FOLLOWING:

3 (A) A MILLAGE APPROVED BY THE ELECTORS UNDER SECTION 34D(11)
4 OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.34D.

5 (B) A RENEWAL OF A MILLAGE THAT WAS AUTHORIZED ON OR BEFORE
6 DECEMBER 31, 2016.

7 (jj) "Taxable value" means the value determined under section
8 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

9 (kk) "Taxes levied for school operating purposes" means all of
10 the following:

11 (i) The taxes levied by a local school district for operating
12 purposes.

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

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

17 (ll) "Transit-oriented development" means infrastructure
18 improvements that are located within 1/2 mile of a transit station
19 or transit-oriented facility that promotes transit ridership or
20 passenger rail use as determined by the board and approved by the
21 municipality in which it is located.

22 (mm) "Transit-oriented facility" means a facility that houses
23 a transit station in a manner that promotes transit ridership or
24 passenger rail use.

25 (nn) "Work plan" means a plan that describes each individual
26 activity to be conducted to complete eligible activities and the
27 associated costs of each individual activity.

1 (oo) "Zone" means, for an authority established before June 6,
2 2000, a brownfield redevelopment zone designated under this act.