

# SENATE BILL No. 846

December 2, 2003, Introduced by Senator CASSIS and referred to the Committee on Finance.

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 2003 PA 136.

## 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  
4 the authority in anticipation of repayment by the authority.  
5 Evidence of the intent to repay an advance may include, but is

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

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

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

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

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

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

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

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

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

7       (k) "Downtown district" means an area in a business district  
8 that is specifically designated by ordinance of the governing  
9 body of the municipality pursuant to this act.

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

12       (m) "Eligible obligation" means an obligation issued or  
13 incurred by an authority or by a municipality on behalf of an  
14 authority before August 19, 1993 and its subsequent refunding by  
15 a qualified refunding obligation. Eligible obligation includes  
16 an authority's written agreement entered into before August 19,  
17 1993 to pay an obligation issued after August 18, 1993 and before  
18 December 31, 1996 by another entity on behalf of the authority.

19       (n) "Fiscal year" means the fiscal year of the authority.

20       (o) "Governing body of a municipality" means the elected body  
21 of a municipality having legislative powers.

22       (p) "Initial assessed value" means the assessed value, as  
23 equalized, of all the taxable property within the boundaries of  
24 the development area at the time the ordinance establishing the  
25 tax increment financing plan is approved, as shown by the most  
26 recent assessment roll of the municipality for which equalization  
27 has been completed at the time the resolution is adopted.

1 Property exempt from taxation at the time of the determination of  
2 the initial assessed value shall be included as zero. For the  
3 purpose of determining initial assessed value, property for which  
4 a specific local tax is paid in lieu of a property tax shall not  
5 be considered to be property that is exempt from taxation. The  
6 initial assessed value of property for which a specific local tax  
7 was paid in lieu of a property tax shall be determined as  
8 provided in subdivision (x). In the case of a municipality  
9 having a population of less than 35,000 which established an  
10 authority prior to 1985, created a district or districts, and  
11 approved a development plan or tax increment financing plan or  
12 amendments to a plan, and which plan or tax increment financing  
13 plan or amendments to a plan, and which plan expired by its terms  
14 December 31, 1991, the initial assessed value for the purpose of  
15 any plan or plan amendment adopted as an extension of the expired  
16 plan shall be determined as if the plan had not expired  
17 December 31, 1991. For a development area designated before 1997  
18 in which a renaissance zone has subsequently been designated  
19 pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL  
20 125.2681 to 125.2696, the initial assessed value of the  
21 development area otherwise determined under this subdivision  
22 shall be reduced by the amount by which the current assessed  
23 value of the development area was reduced in 1997 due to the  
24 exemption of property under section 7ff of the general property  
25 tax act, 1893 PA 206, MCL 211.7ff, but in no case shall the  
26 initial assessed value be less than zero.

27 (q) "Municipality" means a city, village, or township.

1 (r) "Obligation" means a written promise to pay, whether  
2 evidenced by a contract, agreement, lease, sublease, bond, or  
3 note, or a requirement to pay imposed by law. An obligation does  
4 not include a payment required solely because of default upon an  
5 obligation, employee salaries, or consideration paid for the use  
6 of municipal offices. An obligation does not include those bonds  
7 that have been economically defeased by refunding bonds issued  
8 under this act. Obligation includes, but is not limited to, the  
9 following:

10 (i) A requirement to pay proceeds derived from ad valorem  
11 property taxes or taxes levied in lieu of ad valorem property  
12 taxes.

13 (ii) A management contract or a contract for professional  
14 services.

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

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

21 (v) A letter of credit, paying agent, transfer agent, bond  
22 registrar, or trustee fee associated with a contract, agreement,  
23 bond, or note.

24 (s) "On behalf of an authority", in relation to an eligible  
25 advance made by a municipality, or an eligible obligation or  
26 other protected obligation issued or incurred by a municipality,  
27 means in anticipation that an authority would transfer tax

1 increment revenues or reimburse the municipality from tax  
2 increment revenues in an amount sufficient to fully make payment  
3 required by the eligible advance made by the municipality, or  
4 eligible obligation or other protected obligation issued or  
5 incurred by the municipality, if the anticipation of the transfer  
6 or receipt of tax increment revenues from the authority is  
7 pursuant to or evidenced by 1 or more of the following:

8 (i) A reimbursement agreement between the municipality and an  
9 authority it established.

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

12 (iii) A resolution of the authority agreeing to make payments  
13 to the incorporating unit.

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

16 (t) "Operations" means office maintenance, including salaries  
17 and expenses of employees, office supplies, consultation fees,  
18 design costs, and other expenses incurred in the daily management  
19 of the authority and planning of its activities.

20 (u) "Other protected obligation" means:

21 (i) A qualified refunding obligation issued to refund an  
22 obligation described in subparagraph (ii), (iii), or (iv), an  
23 obligation that is not a qualified refunding obligation that is  
24 issued to refund an eligible obligation, or a qualified refunding  
25 obligation issued to refund an obligation described in this  
26 subparagraph.

27 (ii) An obligation issued or incurred by an authority or by a

1 municipality on behalf of an authority after August 19, 1993, but  
2 before December 31, 1994, to finance a project described in a tax  
3 increment finance plan approved by the municipality in accordance  
4 with this act before December 31, 1993, for which a contract for  
5 final design is entered into by or on behalf of the municipality  
6 or authority before March 1, 1994 or for which a written  
7 agreement with a developer, titled preferred development  
8 agreement, was entered into by or on behalf of the municipality  
9 or authority in July 1993.

10 (iii) An obligation incurred by an authority or municipality  
11 after August 19, 1993, to reimburse a party to a development  
12 agreement entered into by a municipality or authority before  
13 August 19, 1993, for a project described in a tax increment  
14 financing plan approved in accordance with this act before  
15 August 19, 1993, and undertaken and installed by that party in  
16 accordance with the development agreement.

17 (iv) An obligation incurred by the authority evidenced by or  
18 to finance a contract to purchase real property within a  
19 development area or a contract to develop that property within  
20 the development area, or both, if all of the following  
21 requirements are met:

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

23 (B) Before June 30, 1995, the authority enters a contract for  
24 the development of the real property located within the  
25 development area.

26 (C) In 1993, the authority or municipality on behalf of the  
27 authority received approval for a grant from both of the

1 following:

2 (I) The department of natural resources for site reclamation  
3 of the real property.

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

6 (v) An ongoing management or professional services contract  
7 with the governing body of a county which was entered into before  
8 March 1, 1994 and which was preceded by a series of limited term  
9 management or professional services contracts with the governing  
10 body of the county, the last of which was entered into before  
11 August 19, 1993.

12 (vi) A loan from a municipality to an authority **or an**  
13 **obligation or advance issued or incurred by a municipality on**  
14 **behalf of an authority** if the loan, obligation, or advance was  
15 approved by the legislative body of the municipality on **or after**  
16 **April 18, 1994 but prior to July 1, 1994. For purposes of this**  
17 **subparagraph, the amortization terms of the loan, obligation, or**  
18 **advance shall be as established by or pursuant to the approving**  
19 **action of the legislative body, provided that if the approving**  
20 **action does not establish the amortization terms, the terms shall**  
21 **be established by order of the chief executive officer of the**  
22 **municipality executed within 60 days of the effective date of the**  
23 **amendatory act which amended this subparagraph or, if no order is**  
24 **executed within that period, shall be considered to amortize on a**  
25 **level-payment basis over 10 years at an interest rate of 5% per**  
26 **annum.**

27 (vii) Funds expended to match a grant received by a



1 municipality on behalf of an authority for sidewalk improvements  
2 from the Michigan department of transportation if the legislative  
3 body of the municipality approved the grant application on  
4 April 5, 1993 and the grant was received by the municipality in  
5 June 1993.

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

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

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

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

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

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

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

9 (w) "Qualified refunding obligation" means an obligation  
10 issued or incurred by an authority or by a municipality on behalf  
11 of an authority to refund an obligation if the refunding  
12 obligation meets both of the following:

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

19 (ii) The net present value of the sum of the tax increment  
20 revenues described in subdivision (z)(ii) and the distributions  
21 under section 13b to repay the refunding obligation will not be  
22 greater than the net present value of the sum of the tax  
23 increment revenues described in subdivision (z)(ii) and the  
24 distributions under section 13b to repay the obligation being  
25 refunded, as calculated using a method approved by the department  
26 of treasury.

27 (x) "Specific local tax" means a tax levied under 1974 PA

1 198, MCL 207.551 to 207.572, the commercial redevelopment act,  
2 1978 PA 255, MCL 207.651 to 207.668, the technology park  
3 development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA  
4 189, MCL 211.181 to 211.182. The initial assessed value or  
5 current assessed value of property subject to a specific local  
6 tax shall be the quotient of the specific local tax paid divided  
7 by the ad valorem millage rate. However, after 1993, the state  
8 tax commission shall prescribe the method for calculating the  
9 initial assessed value and current assessed value of property for  
10 which a specific local tax was paid in lieu of a property tax.

11 (y) "State fiscal year" means the annual period commencing  
12 October 1 of each year.

13 (z) "Tax increment revenues" means the amount of ad valorem  
14 property taxes and specific local taxes attributable to the  
15 application of the levy of all taxing jurisdictions upon the  
16 captured assessed value of real and personal property in the  
17 development area, subject to the following requirements:

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

25 (ii) Tax increment revenues include ad valorem property taxes  
26 and specific local taxes attributable to the application of the  
27 levy of the state pursuant to the state education tax act, 1993

1 PA 331, MCL 211.901 to 211.906, and local or intermediate school  
2 districts upon the captured assessed value of real and personal  
3 property in the development area in an amount equal to the amount  
4 necessary, without regard to subparagraph (i), to repay eligible  
5 advances, eligible obligations, and other protected obligations.

6 (iii) Tax increment revenues do not include any of the  
7 following:

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

14 (B) Ad valorem property taxes excluded by the tax increment  
15 financing plan of the authority from the determination of the  
16 amount of tax increment revenues to be transmitted to the  
17 authority or specific local taxes attributable to such ad valorem  
18 property taxes.

19 (C) Ad valorem property taxes exempted from capture under  
20 section 3(3) or specific local taxes attributable to such ad  
21 valorem property taxes.

22 (iv) The amount of tax increment revenues authorized to be  
23 included under subparagraph (ii), and required to be transmitted  
24 to the authority under section 14(1), from ad valorem property  
25 taxes and specific local taxes attributable to the application of  
26 the levy of the state education tax act, 1993 PA 331, MCL 211.901  
27 to 211.906, a local school district or an intermediate school

1 district upon the captured assessed value of real and personal  
2 property in a development area shall be determined separately for  
3 the levy by the state, each school district, and each  
4 intermediate school district as the product of sub-subparagraphs  
5 (A) and (B):

6       (A) The percentage which the total ad valorem taxes and  
7 specific local taxes available for distribution by law to the  
8 state, local school district, or intermediate school district,  
9 respectively, bears to the aggregate amount of ad valorem millage  
10 taxes and specific taxes available for distribution by law to the  
11 state, each local school district, and each intermediate school  
12 district.

13       (B) The maximum amount of ad valorem property taxes and  
14 specific local taxes considered tax increment revenues under  
15 subparagraph (ii).