

**SUBSTITUTE FOR
HOUSE BILL NO. 5901**

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 2005 PA 115.

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 municipality
3 to an authority or to another person on behalf of the authority in
4 anticipation of repayment by the authority. Evidence of the intent
5 to repay an advance may include, but is not limited to, an executed

1 agreement to repay, provisions contained in a tax increment
2 financing plan approved prior to the advance, or a resolution of
3 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 created
12 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, including
18 the assessed value of property for which specific local taxes are
19 paid in lieu of property taxes as determined in subdivision ~~(y)~~
20 (Z), exceeds the initial assessed value. The state tax commission
21 shall prescribe the method for calculating captured assessed value.

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

27 (h) "Development area" means that area to which a development

1 plan is applicable.

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

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

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

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

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

27 (n) "Fire alarm system" means a system designed to detect and

1 annunciate the presence of fire, or by-products of fire. Fire alarm
2 system includes smoke detectors.

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

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

6 (q) "Initial assessed value" means the assessed value, as
7 equalized, of all the taxable property within the boundaries of the
8 development area at the time the ordinance establishing the tax
9 increment financing plan is approved, as shown by the most recent
10 assessment roll of the municipality for which equalization has been
11 completed at the time the resolution is adopted. Property exempt
12 from taxation at the time of the determination of the initial
13 assessed value shall be included as zero. For the purpose of
14 determining initial assessed value, property for which a specific
15 local tax is paid in lieu of a property tax shall not be considered
16 to be property that is exempt from taxation. The initial assessed
17 value of property for which a specific local tax was paid in lieu
18 of a property tax shall be determined as provided in subdivision
19 ~~(y)~~ (Z). In the case of a municipality having a population of less
20 than 35,000 that established an authority prior to 1985, created a
21 district or districts, and approved a development plan or tax
22 increment financing plan or amendments to a plan, and which plan or
23 tax increment financing plan or amendments to a plan, and which
24 plan expired by its terms December 31, 1991, the initial assessed
25 value for the purpose of any plan or plan amendment adopted as an
26 extension of the expired plan shall be determined as if the plan
27 had not expired December 31, 1991. For a development area

1 designated before 1997 in which a renaissance zone has subsequently
2 been designated pursuant to the Michigan renaissance zone act, 1996
3 PA 376, MCL 125.2681 to 125.2696, the initial assessed value of the
4 development area otherwise determined under this subdivision shall
5 be reduced by the amount by which the current assessed value of the
6 development area was reduced in 1997 due to the exemption of
7 property under section 7ff of the general property tax act, 1893 PA
8 206, MCL 211.7ff, but in no case shall the initial assessed value
9 be less than zero.

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

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

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

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

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

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

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

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

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

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

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

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

26 (u) "Operations" means office maintenance, including salaries
27 and expenses of employees, office supplies, consultation fees,

1 design costs, and other expenses incurred in the daily management
2 of the authority and planning of its activities.

3 (v) "Other protected obligation" means:

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

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

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

27 (iv) An obligation incurred by the authority evidenced by or to

1 finance a contract to purchase real property within a development
2 area or a contract to develop that property within the development
3 area, or both, if all of the following requirements are met:

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

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

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

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

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

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

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

23 (vii) Funds expended to match a grant received by a
24 municipality on behalf of an authority for sidewalk improvements
25 from the Michigan department of transportation if the legislative
26 body of the municipality approved the grant application on April 5,
27 1993 and the grant was received by the municipality in June 1993.

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

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

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

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

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

(ix) AN OBLIGATION INCURRED BY AN AUTHORITY ON OCTOBER 1, 2001 THAT WAS USED TO FINANCE STREETScape CAPITAL PROJECTS, TO THE EXTENT TAXES DESCRIBED IN SUBDIVISION (BB) (ii) WERE CAPTURED IN 2002 THROUGH 2004, IF A PLAN FOR THE SUBSEQUENT REPAYMENT OF THOSE TAXES HAS BEEN APPROVED BY THE STATE TAX COMMISSION <<AND THAT PLAN PROVIDES FOR THE PAYMENT OF INTEREST ON THOSE TAXES AT A RATE DESCRIBED IN SECTION 23(2) OF 1941 PA 122, MCL 205.23>>.

(w) "Public facility" means a street, plaza, pedestrian mall, and any improvements to a street, plaza, or pedestrian mall including street furniture and beautification, park, parking facility, recreational facility, right-of-way, structure, waterway, bridge, lake, pond, canal, utility line or pipe, building, and access routes to any of the foregoing, designed and dedicated to use by the public generally, or used by a public agency. Public

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

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

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

19 (ii) The net present value of the sum of the tax increment
20 revenues described in subdivision (bb)(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 increment
23 revenues described in subdivision (bb)(ii) and the distributions
24 under section 13b to repay the obligation being refunded, as
25 calculated using a method approved by the department of treasury.

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

1 (i) Was not eligible to create an authority prior to January 3,
2 2005.

3 (ii) Adjoins a municipality that previously created an
4 authority.

5 (iii) Along with the adjoining municipality that previously
6 created an authority, is a member of the same joint planning
7 commission under the joint municipal planning act, 2003 PA 226, MCL
8 125.131 to 125.143.

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

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

22 (bb) "Tax increment revenues" means the amount of ad valorem
23 property taxes and specific local taxes attributable to the
24 application of the levy of all taxing jurisdictions upon the
25 captured assessed value of real and personal property in the
26 development area, subject to the following requirements:

27 (i) Tax increment revenues include ad valorem property taxes

1 and specific local taxes attributable to the application of the
2 levy of all taxing jurisdictions other than the state pursuant to
3 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,
4 and local or intermediate school districts upon the captured
5 assessed value of real and personal property in the development
6 area for any purpose authorized by this act.

7 (ii) Tax increment revenues include ad valorem property taxes
8 and specific local taxes attributable to the application of the
9 levy of the state pursuant to the state education tax act, 1993 PA
10 331, MCL 211.901 to 211.906, and local or intermediate school
11 districts upon the captured assessed value of real and personal
12 property in the development area in an amount equal to the amount
13 necessary, without regard to subparagraph (i), to repay eligible
14 advances, eligible obligations, and other protected obligations.

15 (iii) Tax increment revenues do not include any of the
16 following:

17 (A) Ad valorem property taxes attributable either to a portion
18 of the captured assessed value shared with taxing jurisdictions
19 within the jurisdictional area of the authority or to a portion of
20 value of property that may be excluded from captured assessed value
21 or specific local taxes attributable to such ad valorem property
22 taxes.

23 (B) Ad valorem property taxes excluded by the tax increment
24 financing plan of the authority from the determination of the
25 amount of tax increment revenues to be transmitted to the authority
26 or specific local taxes attributable to such ad valorem property
27 taxes.

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

4 (iv) The amount of tax increment revenues authorized to be
5 included under subparagraph (ii) or (v), and required to be
6 transmitted to the authority under section 14(1), from ad valorem
7 property taxes and specific local taxes attributable to the
8 application of the levy of the state education tax act, 1993 PA
9 331, MCL 211.901 to 211.906, a local school district or an
10 intermediate school district upon the captured assessed value of
11 real and personal property in a development area shall be
12 determined separately for the levy by the state, each school
13 district, and each intermediate school district as the product of
14 sub-subparagraphs (A) and (B):

15 (A) The percentage that the total ad valorem taxes and
16 specific local taxes available for distribution by law to the
17 state, local school district, or intermediate school district,
18 respectively, bears to the aggregate amount of ad valorem millage
19 taxes and specific taxes available for distribution by law to the
20 state, each local school district, and each intermediate school
21 district.

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

25 (v) Tax increment revenues include ad valorem property taxes
26 and specific local taxes, in an annual amount and for each year
27 approved by the state treasurer, attributable to the levy by this

1 state under the state education tax act, 1993 PA 331, MCL 211.901
2 to 211.906, and by local or intermediate school districts, upon the
3 captured assessed value of real and personal property in the
4 development area of an authority established in a city with a
5 population of 750,000 or more to pay for, or reimburse an advance
6 for, not more than \$8,000,000.00 for the demolition of buildings or
7 structures on public or privately owned property within a
8 development area that commences in 2005, or to pay the annual
9 principal of or interest on an obligation, the terms of which are
10 approved by the state treasurer, issued by an authority, or by a
11 city on behalf of an authority, to pay not more than \$8,000,000.00
12 of the costs to demolish buildings or structures on public or
13 privately owned property within a development area that commences
14 in 2005.