

HOUSE BILL No. 4666

April 26, 2005, Introduced by Reps. Lemmons, III, Clemente, Sheltroun, Cushingberry, Accavitti, Gonzales, Bieda, Gleason, Miller, Condino, Alma Smith, Tobocman, Hunter, Polidori, Waters, Kathleen Law, Clack, Lipsey, Hopgood, Donigan, McConico, Whitmer, Lemmons, Jr. and Cheeks 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 sections 1 and 3 (MCL 125.1651 and 125.1653), section 1 as amended by 2004 PA 196 and section 3 as amended by 2004 PA 521, and by adding section 3e.

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

1 to an authority or to another person on behalf of the authority in
2 anticipation of repayment by the authority. Evidence of the intent
3 to repay an advance may include, but is not limited to, an executed
4 agreement to repay, provisions contained in a tax increment
5 financing plan approved prior to the advance, or a resolution of
6 the authority or the municipality.

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

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

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

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

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

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

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

25 (g) "Chief executive officer" means the mayor or city manager
26 of a city, the president or village manager of a village, or the
27 supervisor of a township or, if designated by the township board

1 for purposes of this act, the township superintendent or township
2 manager of a township.

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

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

7 (j) "Development program" means the implementation of the
8 development plan.

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

20 (l) "Eligible advance" means an advance made before August 19,
21 1993.

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

1 December 31, 1996 by another entity on behalf of the authority.

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

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

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

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

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

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

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

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

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

27 (iii) A payment required on a contract, agreement, bond, or note

1 if the requirement to make or assume the payment arose before
2 August 19, 1993.

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

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

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

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

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

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

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

1 (u) "Operations" means office maintenance, including salaries
2 and expenses of employees, office supplies, consultation fees,
3 design costs, and other expenses incurred in the daily management
4 of the authority and planning of its activities.

5 (v) "Other protected obligation" means:

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

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

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

1 development agreement.

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

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

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

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

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

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

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

22 (vi) A loan from a municipality to an authority if the loan was
23 approved by the legislative body of the municipality on April 18,
24 1994.

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

1 body of the municipality approved the grant application on April 5,
2 1993 and the grant was received by the municipality in June 1993.

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

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

10 (B) The obligation was part of a development plan and the tax
11 increment financing plan was approved by a municipality on May 6,
12 1991.

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

16 (D) The authority or municipality captured school taxes during
17 1994.

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

1 the barrier free design requirements of the state construction code
2 promulgated under the Stille-DeRossett-Hale single state
3 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

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

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

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

23 (y) "Specific local tax" means a tax levied under 1974 PA 198,
24 MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA
25 255, MCL 207.651 to 207.668, the technology park development act,
26 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL 211.181
27 to 211.182. The initial assessed value or current assessed value of

1 property subject to a specific local tax shall be the quotient of
2 the specific local tax paid divided by the ad valorem millage rate.
3 However, after 1993, the state tax commission shall prescribe the
4 method for calculating the initial assessed value and current
5 assessed value of property for which a specific local tax was paid
6 in lieu of a property tax.

7 (z) "State fiscal year" means the annual period commencing
8 October 1 of each year.

9 (aa) "Tax increment revenues" means the amount of ad valorem
10 property taxes and specific local taxes attributable to the
11 application of the levy of all taxing jurisdictions upon the
12 captured assessed value of real and personal property in the
13 development area, subject to the following requirements:

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

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

1 advances, eligible obligations, and other protected obligations.

2 (iii) Tax increment revenues do not include any of the
3 following:

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

10 (B) Ad valorem property taxes excluded by the tax increment
11 financing plan of the authority from the determination of the
12 amount of tax increment revenues to be transmitted to the authority
13 or specific local taxes attributable to such ad valorem property
14 taxes.

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

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

1 sub-subparagraphs (A) and (B):

2 (A) The percentage that the total ad valorem taxes and
3 specific local taxes available for distribution by law to the
4 state, local school district, or intermediate school district,
5 respectively, bears to the aggregate amount of ad valorem millage
6 taxes and specific taxes available for distribution by law to the
7 state, each local school district, and each intermediate school
8 district.

9 (B) The maximum amount of ad valorem property taxes and
10 specific local taxes considered tax increment revenues under
11 subparagraph (ii), (v), OR (vi).

12 (v) TAX INCREMENT REVENUES INCLUDE AD VALOREM PROPERTY TAXES
13 AND SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THE APPLICATION OF THE
14 LEVY OF THE STATE UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331,
15 MCL 211.901 TO 211.906, AND LOCAL OR INTERMEDIATE SCHOOL DISTRICTS
16 UPON THE CAPTURED ASSESSED VALUE OF REAL AND PERSONAL PROPERTY IN
17 ANY PART OF A DOWNTOWN DISTRICT DESIGNATED AS A DOWNTOWN EXPANSION
18 ZONE PURSUANT TO SECTION 3E.

19 (vi) TO THE EXTENT AUTHORIZED UNDER SECTION 3E AND NOT
20 OTHERWISE CONSIDERED TAX INCREMENT REVENUES UNDER SUBPARAGRAPH (ii),
21 TAX INCREMENT REVENUES INCLUDE AD VALOREM PROPERTY TAXES AND
22 SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THE APPLICATION OF THE LEVY OF
23 THE STATE UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL
24 211.901 TO 211.906, AND LOCAL OR INTERMEDIATE SCHOOL DISTRICTS UPON
25 THE CAPTURED ASSESSED VALUE OF REAL AND PERSONAL PROPERTY IN ANY
26 DEVELOPMENT AREA OF AN AUTHORITY.

27 Sec. 3. (1) When the governing body of a municipality

1 determines that it is necessary for the best interests of the
2 public to halt property value deterioration and increase property
3 tax valuation where possible in its business district, to eliminate
4 the causes of that deterioration, and to promote economic growth,
5 or to permit the development of a new commercial property with a
6 total cash value after development of not less than
7 \$100,000,000.00, which includes more than 2 detached buildings
8 containing together not less than 500,000 square feet, the
9 governing body may, by resolution, declare its intention to create
10 and provide for the operation of an authority. **THE DETERMINATIONS**
11 **REQUIRED UNDER THIS SUBSECTION FOR THE CREATION OF AN AUTHORITY**
12 **SHALL NOT BE REQUIRED FOR THE EXPANSION OF A DOWNTOWN DISTRICT OF**
13 **AN EXISTING AUTHORITY TO INCLUDE A DOWNTOWN EXPANSION ZONE**
14 **DESIGNATED UNDER SECTION 3E.**

15 (2) In the resolution of intent, the governing body shall set
16 a date for the holding of a public hearing on the adoption of a
17 proposed ordinance creating the authority and designating the
18 boundaries of the downtown district. Notice of the public hearing
19 shall be published twice in a newspaper of general circulation in
20 the municipality, not less than 20 or more than 40 days before the
21 date of the hearing. Not less than 20 days before the hearing, the
22 governing body proposing to create the authority shall also mail
23 notice of the hearing to the property taxpayers of record in the
24 proposed district and for a public hearing to be held after
25 February 15, 1994 to the governing body of each taxing jurisdiction
26 levying taxes that would be subject to capture if the authority is
27 established and a tax increment financing plan is approved. Failure

1 of a property taxpayer to receive the notice shall not invalidate
2 these proceedings. Notice of the hearing shall be posted in at
3 least 20 conspicuous and public places in the proposed downtown
4 district not less than 20 days before the hearing. The notice shall
5 state the date, time, and place of the hearing, and shall describe
6 the boundaries of the proposed downtown district. A citizen,
7 taxpayer, or property owner of the municipality or an official from
8 a taxing jurisdiction with millage that would be subject to capture
9 has the right to be heard in regard to the establishment of the
10 authority and the boundaries of the proposed downtown district. The
11 governing body of the municipality shall not incorporate land into
12 the downtown district not included in the description contained in
13 the notice of public hearing, but it may eliminate described lands
14 from the downtown district in the final determination of the
15 boundaries.

16 (3) Not more than 60 days after a public hearing held after
17 February 15, 1994, the governing body of a taxing jurisdiction
18 levying ad valorem property taxes that would otherwise be subject
19 to capture may exempt its taxes from capture by adopting a
20 resolution to that effect and filing a copy with the clerk of the
21 municipality proposing to create the authority. The resolution
22 takes effect when filed with that clerk and remains effective until
23 a copy of a resolution rescinding that resolution is filed with
24 that clerk.

25 (4) ~~Not~~ **EXCEPT AS PROVIDED BY SUBSECTION (7),** NOT less than
26 60 days after the public hearing, if the governing body of the
27 municipality intends to proceed with the establishment of the

1 authority, it shall adopt, by majority vote of its members, an
2 ordinance establishing the authority and designating the boundaries
3 of the downtown district within which the authority shall exercise
4 its powers. The adoption of the ordinance is subject to any
5 applicable statutory or charter provisions in respect to the
6 approval or disapproval by the chief executive or other officer of
7 the municipality and the adoption of an ordinance over his or her
8 veto. This ordinance shall be filed with the secretary of state
9 promptly after its adoption and shall be published at least once in
10 a newspaper of general circulation in the municipality.

11 (5) ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION (7), THE** governing
12 body of the municipality may alter or amend the boundaries of the
13 downtown district to include or exclude lands from the downtown
14 district pursuant to the same requirements for adopting the
15 ordinance creating the authority.

16 (6) A municipality that has created an authority may enter
17 into an agreement with an adjoining municipality that has created
18 an authority to jointly operate and administer those authorities
19 under an interlocal agreement under the urban cooperation act of
20 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

21 **(7) THE GOVERNING BODY OF A MUNICIPALITY MAY ALTER OR AMEND**
22 **THE BOUNDARIES OF AN EXISTING DOWNTOWN DISTRICT TO INCLUDE LANDS**
23 **ONLY WITHIN AN AREA DESIGNATED AS A DOWNTOWN EXPANSION ZONE UNDER**
24 **SECTION 3E AT ANY TIME AFTER A PUBLIC HEARING MEETING THE**
25 **REQUIREMENTS OF SUBSECTION (2) IS CALLED AND HELD BY THE GOVERNING**
26 **BODY OF A MUNICIPALITY.**

27 **SEC. 3E. (1) AN AUTHORITY MAY APPLY TO THE MICHIGAN ECONOMIC**

1 DEVELOPMENT CORPORATION FOR THE FOLLOWING DESIGNATIONS:

2 (A) THE DESIGNATION OF A DEVELOPMENT AREA WITHIN ITS EXISTING
3 DISTRICT AS A DEVELOPMENT AREA IN WHICH TAX INCREMENT REVENUES, AS
4 DEFINED BY SECTION 1(AA)(vi), MAY BE CAPTURED BY THE AUTHORITY FOR
5 PURPOSES PERMITTED UNDER SUBSECTION (6).

6 (B) THE DESIGNATION OF AN AREA CONTIGUOUS TO ITS EXISTING
7 DISTRICT AS A DOWNTOWN EXPANSION ZONE.

8 (2) THE FORM OF THE APPLICATION SHALL BE IN A FORM SPECIFIED
9 BY THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION AND SHALL CONTAIN
10 INFORMATION THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION CONSIDERS
11 NECESSARY TO MAKE THE DETERMINATIONS REQUIRED UNDER THIS SECTION,
12 INCLUDING ALL OF THE FOLLOWING:

13 (A) THE BOUNDARIES OF THE PROPOSED DOWNTOWN EXPANSION ZONE TO
14 BE ADDED TO THE AUTHORITY'S EXISTING DISTRICT.

15 (B) THE DESCRIPTION OF THE EXISTING DEVELOPMENT AREA PROPOSED
16 TO BE DESIGNATED UNDER SUBSECTION (1)(A) AS A DEVELOPMENT AREA IN
17 WHICH TAX INCREMENT REVENUES, AS DEFINED BY SECTION 1(AA)(vi), MAY
18 BE CAPTURED BY THE AUTHORITY FOR THE PURPOSES PERMITTED UNDER
19 SUBSECTION (6).

20 (C) THE PROPOSED USES OF TAX INCREMENT REVENUES WITHIN OR FOR
21 THE BENEFIT OF THE DOWNTOWN EXPANSION ZONE.

22 (3) THE DESIGNATIONS PERMITTED UNDER THIS SECTION BY THE
23 MICHIGAN ECONOMIC DEVELOPMENT CORPORATION SHALL BE BASED UPON A
24 FINDING BY THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION THAT THE
25 APPLICATION DEMONSTRATES THAT THE PROPOSED DOWNTOWN EXPANSION ZONE
26 WOULD SATISFY THE FOLLOWING CRITERIA:

27 (A) THE PUBLIC FACILITIES TO BE DEVELOPED IN THE DOWNTOWN

1 EXPANSION ZONE WILL ATTRACT PRIVATE BUSINESSES TO OR RETAIN PRIVATE
2 BUSINESSES IN THE DOWNTOWN DISTRICT OF THE AUTHORITY AND CONTRIBUTE
3 TO THE HOUSING AND ECONOMIC GROWTH AND DEVELOPMENT OF THE DOWNTOWN
4 DISTRICT OF THE AUTHORITY.

5 (B) THE PUBLIC FACILITIES PLANNED TO BE DEVELOPED WILL ENHANCE
6 THE ATTRACTIVENESS OF THE DOWNTOWN EXPANSION ZONE TO BUSINESSES,
7 RESIDENTS, AND VISITORS TO THE DOWNTOWN DISTRICT.

8 (C) THE PROPOSED DOWNTOWN EXPANSION ZONE WILL BE DEVELOPED TO
9 TAKE ADVANTAGE OF THE UNIQUE CHARACTERISTICS AND SPECIALTIES
10 OFFERED BY THE PUBLIC AND PRIVATE RESOURCES AVAILABLE IN THE AREA
11 IN WHICH THE PROPOSED DOWNTOWN EXPANSION ZONE WILL BE LOCATED.

12 (D) THE AUTHORITY WILL BE ABLE TO COMPLY WITH THE REQUIREMENTS
13 OF SUBSECTION (6), INCLUDING THE REIMBURSEMENT OF THE STATE AND
14 LOCAL OR INTERMEDIATE SCHOOL DISTRICTS FROM TAX INCREMENT REVENUES
15 FROM ANY DEVELOPMENT AREA INCLUDING THE DOWNTOWN EXPANSION ZONE.

16 (E) THE DESIGNATION OF THE PROPOSED DOWNTOWN EXPANSION ZONE
17 WILL ASSIST IN PREVENTING OR HALTING A DETERIORATION OF PROPERTY
18 VALUATION IN AREAS SURROUNDING THE AUTHORITY'S DOWNTOWN DISTRICT.

19 (F) THE PROPOSED DOWNTOWN EXPANSION ZONE IS PART OF OR
20 ADJACENT TO AN AREA THAT REPRESENTS THE HISTORIC DOWNTOWN AREA OF
21 THE MUNICIPALITY.

22 (4) WHEN THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION DECIDES
23 TO MAKE A DESIGNATION UNDER SUBSECTION (1), IT SHALL ENTER INTO AN
24 AGREEMENT WITH THE AUTHORITY TO IMPLEMENT THE TERMS OF THE
25 DESIGNATION, WHICH SHALL INCLUDE ALL OF THE FOLLOWING:

26 (A) A DESCRIPTION OF THE BOUNDARIES OF THE DOWNTOWN EXPANSION
27 ZONE AND THE DEVELOPMENT AREA TO BE CREATED FOR THE DOWNTOWN

1 EXPANSION ZONE.

2 (B) A DESCRIPTION OF THE EXISTING DEVELOPMENT AREA OF THE
3 AUTHORITY OF WHICH THE DEVELOPMENT AREA CREATED FOR THE DOWNTOWN
4 EXPANSION ZONE SHALL BE CONSIDERED TO BE A PART DURING THE TERM OF
5 THE AGREEMENT.

6 (C) A DESCRIPTION OF THE PUBLIC FACILITIES TO BE DEVELOPED
7 WITHIN OR FOR THE DOWNTOWN EXPANSION ZONE.

8 (D) A STATEMENT OF THE MAXIMUM COST OF PUBLIC FACILITIES TO BE
9 DEVELOPED WITHIN OR FOR THE DOWNTOWN EXPANSION ZONE.

10 (E) THE TERMS OF ENFORCEMENT OF THE AGREEMENT, WHICH MAY
11 INCLUDE THE DEFINITION OF EVENTS OF DEFAULT, CURE PERIODS, LEGAL
12 AND EQUITABLE REMEDIES AND RIGHTS, AND PENALTIES AND DAMAGES,
13 ACTUAL OR LIQUIDATED, UPON THE OCCURRENCE OF AN EVENT OF DEFAULT.

14 (F) THE FINANCIAL COMMITMENTS OF ANY PARTY TO THE AGREEMENT
15 AND OF ANY OWNER OR DEVELOPER OF PROPERTY WITHIN THE DOWNTOWN
16 EXPANSION ZONE.

17 (G) COVENANTS AND RESTRICTIONS, IF ANY, UPON ALL OR A PORTION
18 OF THE PROPERTIES CONTAINED WITHIN THE DOWNTOWN EXPANSION ZONE AND
19 TERMS OF ENFORCEMENT OF ANY COVENANTS OR RESTRICTIONS.

20 (H) ANY LIMITATIONS IMPOSED BY THE STATE TREASURER AT HIS OR
21 HER DISCRETION UPON THE TERM OR AMOUNT OF TAX INCREMENT REVENUES
22 AVAILABLE UNDER SECTION 1(AA)(v) OR (vi).

23 (I) THE TERM OF THE AGREEMENT.

24 (J) CONDITIONS FOR THE EFFECTIVENESS OF THE AGREEMENT, WHICH
25 SHALL INCLUDE APPROVAL OF THE CREATION OF THE DOWNTOWN EXPANSION
26 ZONE AND A DEVELOPMENT PLAN FOR THE DOWNTOWN EXPANSION ZONE.

27 (5) THE TAX INCREMENT FINANCING PLAN FOR THE DEVELOPMENT AREA

1 CREATED FOR A DOWNTOWN EXPANSION ZONE AND FOR ALL EXISTING
2 DEVELOPMENT AREAS SHALL PROVIDE BOTH FOR THE CAPTURE AND USE OF TAX
3 INCREMENT REVENUES FROM THE EXISTING DEVELOPMENT AREA DESIGNATED
4 UNDER SUBSECTION (1)(A) AND FOR TAX INCREMENT REVENUES FROM THE
5 DEVELOPMENT AREA CREATED FOR THE DOWNTOWN EXPANSION ZONE. FOR THE
6 PURPOSE OF PERMITTING TAX INCREMENT REVENUES FROM THE EXISTING
7 DEVELOPMENT AREA TO BE USED FOR PUBLIC FACILITIES WITHIN OR FOR THE
8 BENEFIT OF THE DOWNTOWN EXPANSION ZONE, THE DOWNTOWN EXPANSION ZONE
9 SHALL BE CONSIDERED PART OF THE EXISTING DEVELOPMENT AREA
10 DESIGNATED UNDER SUBSECTION (1)(A). HOWEVER, TAX INCREMENT REVENUES
11 FROM A DEVELOPMENT AREA CREATED FOR A DOWNTOWN EXPANSION ZONE SHALL
12 BE CALCULATED SEPARATELY FROM THE CALCULATION OF TAX INCREMENT
13 REVENUES MADE FOR THE EXISTING DEVELOPMENT AREA OF THE AUTHORITY OF
14 WHICH THE DOWNTOWN EXPANSION ZONE IS CONSIDERED A PART. AFTER THE
15 AGREEMENT ENTERED INTO UNDER THIS SECTION HAS EXPIRED OR BEEN
16 TERMINATED, THE AUTHORITY SHALL NOT BE ENTITLED TO RECEIVE TAX
17 INCREMENT REVENUES, AS DEFINED BY SECTION 1(AA)(v) AND (vi), FROM
18 THE DEVELOPMENT AREA CREATED FOR A DOWNTOWN EXPANSION ZONE, AND THE
19 DEVELOPMENT AREA CREATED FOR THE DOWNTOWN EXPANSION ZONE SHALL NOT
20 BE CONSIDERED A PART OF ANY OTHER DEVELOPMENT AREA WITHIN THE
21 DOWNTOWN DISTRICT.

22 (6) TAX INCREMENT REVENUES, AS DEFINED BY SECTION 1(AA)(vi),
23 AVAILABLE TO AN AUTHORITY UNDER A DESIGNATION PERMITTED UNDER
24 SUBSECTION (1)(A) SHALL BE USED ONLY FOR PURPOSES OF DEVELOPMENT OR
25 ACQUISITION OF A PUBLIC FACILITY WITHIN OR FOR THE BENEFIT OF THE
26 DOWNTOWN EXPANSION ZONE OR TO PAY THE PRINCIPAL OF AND INTEREST ON
27 OBLIGATIONS ISSUED BY OR ON BEHALF OF THE AUTHORITY FOR THOSE

PURPOSES. TAX INCREMENT REVENUES AVAILABLE TO AN AUTHORITY FROM A DEVELOPMENT AREA CREATED FOR A DOWNTOWN EXPANSION ZONE DESIGNATED UNDER SUBSECTION (1)(B) SHALL ONLY BE USED DURING THE TERM OF THE AGREEMENT MADE UNDER THIS SECTION FOR REIMBURSING THE STATE AND LOCAL OR INTERMEDIATE SCHOOL DISTRICTS FOR ANY TAX INCREMENT REVENUES, AS DEFINED BY SECTION 1(AA)(vi), THAT WERE RECEIVED BY THE AUTHORITY AND USED FOR PURPOSES PERMITTED UNDER THIS SECTION.

(7) AN AUTHORITY MAY NOT SHARE WITH TAXING JURISDICTIONS OR EXCLUDE BY THE TAX INCREMENT FINANCING PLAN ANY PORTION OF THE TAX INCREMENT REVENUES OR CAPTURED ASSESSED VALUE ATTRIBUTABLE TO PROPERTY WITHIN THE DEVELOPMENT AREA CREATED FOR THE DOWNTOWN EXPANSION ZONE.

(8) AN AGREEMENT MADE UNDER THIS SECTION MAY NOT BE MADE AFTER DECEMBER 31, 2006, BUT ANY AGREEMENT MADE ON OR BEFORE DECEMBER 31, 2006 MAY BE AMENDED AFTER THAT DATE. THE AGGREGATE MAXIMUM COST OF PUBLIC FACILITIES THAT MAY BE APPROVED UNDER AGREEMENTS THAT MAY BE ENTERED INTO UNDER THIS SECTION AND SECTION 3A OF 1980 PA 450, MCL 125.1803A, SHALL NOT EXCEED \$100,000,000.00.

(9) AS USED IN THIS SECTION:

(A) "MICHIGAN ECONOMIC DEVELOPMENT CORPORATION" MEANS THE PUBLIC BODY CORPORATE CREATED UNDER SECTION 28 OF ARTICLE VII OF THE STATE CONSTITUTION OF 1963 AND THE URBAN COOPERATION ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO 124.512, BY A CONTRACTUAL INTERLOCAL AGREEMENT EFFECTIVE APRIL 5, 1999 BETWEEN LOCAL PARTICIPATING ECONOMIC DEVELOPMENT CORPORATIONS FORMED UNDER THE ECONOMIC DEVELOPMENT CORPORATIONS ACT, 1974 PA 338, MCL 125.1601 TO 125.1636, AND THE MICHIGAN STRATEGIC FUND. IF THE MICHIGAN ECONOMIC

1 DEVELOPMENT CORPORATION IS UNABLE FOR ANY REASON TO PERFORM ITS
2 DUTIES UNDER THIS ACT, THOSE DUTIES MAY BE EXERCISED BY THE
3 MICHIGAN STRATEGIC FUND OR ITS SUCCESSOR.

4 (B) "PUBLIC FACILITY" MEANS THAT TERM AS DEFINED BY SECTION
5 1(W), BUT SHALL NOT INCLUDE A SCHOOL, LIBRARY, PUBLIC INSTITUTION
6 OR ADMINISTRATION BUILDING, OR ANY OTHER PUBLIC OR PRIVATE FACILITY
7 THAT IS NOT DESIGNED AND DEDICATED FOR USE PRIMARILY BY THE GENERAL
8 PUBLIC.