

HOUSE BILL NO. 6041

November 07, 2024, Introduced by Rep. Phil Green and referred to the Committee on Economic Development and Small Business.

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending sections 2 and 4 (MCL 125.2652 and 125.2654), section 2 as amended by 2023 PA 90 and section 4 as amended by 2016 PA 471.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Authority" means a brownfield redevelopment authority
- 3 created under this act.
- 4 (b) "Baseline environmental assessment" means that term as

1 defined in part 201 or 213.

2 (c) "Blighted" means property that meets any of the following
3 criteria as determined by the governing body:

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

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

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

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

14 (v) Is previously developed or tax reverted property owned by
15 a municipality or by this state. The sale, lease, or transfer of
16 previously developed or tax reverted property by a municipality or
17 this state after the property's inclusion in a brownfield plan does
18 not result in the loss to the property of the status as blighted
19 property for purposes of this act.

20 (vi) Is property owned by or under the control of a land bank
21 fast track authority, whether or not located within a qualified
22 local governmental unit. Property included within a brownfield plan
23 before the date it meets the requirements of this subdivision to be
24 eligible property is considered to become eligible property as of
25 the date the property is determined to have been or becomes
26 qualified as, or is combined with, other eligible property. The
27 sale, lease, or transfer of the property by a land bank fast track
28 authority after the property's inclusion in a brownfield plan does
29 not result in the loss to the property of the status as blighted

1 property for purposes of this act.

2 (vii) Has substantial buried subsurface demolition debris
3 present so that the property is unfit for its intended use.

4 (d) "Board" means the board that supervises and controls an
5 authority under section 5.

6 (e) "Brownfield plan" means a plan that meets the requirements
7 of sections 13 and 13b and is adopted under section 14.

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

15 (g) "Chief executive officer" means the mayor of a city, the
16 village manager of a village, the township supervisor of a
17 township, or the county executive of a county or, if the county
18 does not have an elected county executive, the chairperson of the
19 county board of commissioners.

20 (h) "Combined brownfield plan" means a brownfield plan that
21 also includes the information necessary to submit the plan to the
22 department, Michigan state housing development authority, or
23 Michigan strategic fund under section 15(20).

24 (i) "Construction period tax capture revenues" means funds
25 equal to the amount of income tax levied and imposed in a calendar
26 year on wages paid to individuals physically present and working
27 within the eligible property for the construction, renovation, or
28 other improvement of eligible property that is an eligible activity
29 within a transformational brownfield plan. As used in this

1 subdivision, "wages" means that term as defined in section 3401 of
2 the internal revenue code of 1986, 26 USC 3401. To calculate the
3 amount of construction period tax capture revenues for a calendar
4 year under a transformational brownfield plan, the state treasurer
5 shall do all of the following:

6 (i) Require the owner or developer of the eligible property to
7 report the total taxable wages paid to individuals for the
8 construction, renovation, or other improvement of eligible property
9 that is an eligible activity within the transformational brownfield
10 plan. The wages reported under this subparagraph must exclude any
11 wages paid to employees of the owner or developer.

12 (ii) Multiply the amount under subparagraph (i) by the effective
13 rate as determined by the state treasurer at which the income tax
14 is levied on an individual in this state. The state treasurer shall
15 estimate the effective rate by taking into account the effect of
16 any exemptions, additions, subtractions, and credits allowable
17 under part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1
18 to 206.532. The state treasurer may require the owner or developer
19 to submit any information necessary for the calculation under this
20 subparagraph.

21 (iii) The wage information and other information required under
22 this subdivision must be provided to the department of treasury by
23 the owner or developer in a manner prescribed by the state
24 treasurer. The state treasurer may require the owner or developer
25 to provide a review or reconciliation of the wages by an
26 independent auditing firm.

27 (j) "Corrective action" means that term as defined in part 111
28 or part 213.

29 (k) "Department" means the department of environment, Great

1 Lakes, and energy.

2 (l) "Department specific activities" means baseline
3 environmental assessments, due care activities, response
4 activities, and other environmentally related actions that are
5 eligible activities and are identified as a part of a brownfield
6 plan that are in addition to the minimum due care activities
7 required by part 201, including, but not limited to:

8 (i) Response activities that are more protective of the public
9 health, safety, and welfare and the environment than required by
10 section 20107a, 20114, or 21304c of the natural resources and
11 environmental protection act, 1994 PA 451, MCL 324.20107a,
12 324.20114, and 324.21304c.

13 (ii) Removal and closure of underground storage tanks pursuant
14 to part 211 or 213.

15 (iii) Disposal of solid waste, as defined in part 115 of the
16 natural resources and environmental protection act, 1994 PA 451,
17 MCL 324.11501 to 324.11587, from the eligible property, if the
18 solid waste was not generated or accumulated by the authority or
19 the developer.

20 (iv) Dust control related to construction activities.

21 (v) Removal and disposal of lake or river sediments exceeding
22 part 201 criteria from, at, or related to an economic development
23 project if the upland property is either a facility or would become
24 a facility as a result of the deposition of dredged spoils.

25 (vi) Industrial cleaning.

26 (vii) Sheet piling and shoring necessary for the removal of
27 materials exceeding part 201 criteria at projects requiring a
28 permit pursuant to part 301, 303, or 325 of the natural resources
29 and environmental protection act, 1994 PA 451, MCL 324.30101 to

1 324.30113, 324.30301 to 324.30328, and 324.32501 to 324.32515a.

2 (viii) Lead, mold, or asbestos abatement ~~when~~**if** lead, mold, or
3 asbestos pose an imminent and significant threat to human health.

4 (ix) Environmental insurance.

5 (m) "Due care activities" means those response activities
6 identified as part of a brownfield plan that are necessary to allow
7 the owner or operator of an eligible property in the plan to comply
8 with the requirements of section 20107a or 21304c of the natural
9 resources and environmental protection act, 1994 PA 451, MCL
10 324.20107a and 324.21304c.

11 (n) "Economic opportunity zone" means 1 or more parcels of
12 property that meet all of the following:

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

14 (ii) That contain or contained a manufacturing operation or an
15 enclosed mall that consists or consisted of 300,000 or more square
16 feet.

17 (iii) That are located in a municipality that is contiguous to a
18 qualified local governmental unit.

19 (o) "Eligible activities" or "eligible activity" means 1 or
20 more of the following:

21 (i) For all eligible properties, eligible activities include
22 all of the following:

23 (A) Department specific activities.

24 (B) Relocation of public buildings or operations for economic
25 development purposes.

26 (C) Reasonable costs of environmental insurance.

27 (D) Reasonable costs incurred to develop and prepare
28 brownfield plans, combined brownfield plans, or work plans for the
29 eligible property, including legal and consulting fees that are not

1 in the ordinary course of acquiring and developing real estate.

2 (E) Reasonable costs of brownfield plan and work plan
3 implementation, including, but not limited to, tracking and
4 reporting of data and plan compliance, including costs to
5 implement, monitor, and maintain compliance with the income and
6 price monitoring responsibilities associated with housing
7 development activities, and the reasonable costs incurred to
8 estimate and determine actual costs incurred, whether those costs
9 are incurred by a municipality, authority, or private developer.

10 (F) Demolition of structures or site improvements that are not
11 a response activity, including removal of manufactured debris
12 composed of discarded, unused, or unusable manufactured by-products
13 left on the site by a previous owner. The removal of the
14 manufactured by-products left on the site described in this sub-
15 subparagraph is not eligible for interest reimbursement under sub-
16 subparagraph (H).

17 (G) Lead, asbestos, or mold abatement.

18 (H) Except as otherwise provided in sub-subparagraph (F), the
19 repayment of principal of and interest on any obligation issued by
20 an authority to pay the costs of eligible activities attributable
21 to an eligible property.

22 (ii) For housing property located in a community that has
23 identified a specific housing need and has absorption data or job
24 growth data included in the brownfield plan, eligible activities
25 include all of the following:

26 (A) The activities described in subparagraph (i).

27 (B) Housing development activities.

28 (C) Infrastructure improvements that are necessary for housing
29 property and support housing development activities.

1 (D) Site preparation that is not a response activity and that
2 supports housing development activities.

3 (iii) For eligible properties located in a qualified local
4 governmental unit, or an economic opportunity zone, or that are a
5 former mill, eligible activities include all of the following:

6 (A) The activities described in subparagraph (i).

7 (B) Infrastructure improvements that directly benefit eligible
8 property.

9 (C) Site preparation that is not a response activity.

10 (iv) For eligible properties that are owned by or under the
11 control of a land bank fast track authority, or a municipality or
12 authority, eligible activities include all of the following:

13 (A) The eligible activities described in subparagraphs (i),
14 (ii), and (iii).

15 (B) Assistance to a land bank fast track authority in clearing
16 or quieting title to, or selling or otherwise conveying, property
17 owned by or under the control of a land bank fast track authority
18 or the acquisition of property by the land bank fast track
19 authority if the acquisition of the property is for economic
20 development purposes.

21 (C) Assistance to a municipality or authority in clearing or
22 quieting title to, or selling or otherwise conveying, property
23 owned by or under the control of a municipality or authority or the
24 acquisition of property by a qualified local governmental unit or
25 authority if the acquisition of the property is for economic
26 development purposes.

27 (v) For eligible activities on eligible property that is
28 included in a transformational brownfield plan, any demolition,
29 construction, restoration, alteration, renovation, or improvement

1 of buildings or site improvements on eligible property, including
2 infrastructure improvements that directly benefit eligible
3 property.

4 (vi) For eligible activities on eligible property that is a
5 qualified facility that is not located in a qualified local
6 governmental unit and that is a facility, functionally obsolete, or
7 blighted, the following additional activities:

8 (A) The activities described in subparagraph (i).

9 (B) Infrastructure improvements that directly benefit eligible
10 property.

11 (C) Site preparation that is not a response activity.

12 (p) "Eligible property" means either of the following:

13 (i) Except as otherwise provided in sub-subparagraph (G),
14 property for which eligible activities are identified under a
15 brownfield plan that was used or is currently used for commercial,
16 industrial, public, or residential purposes, including personal
17 property located on the property, or former dumps, landfills, and
18 other areas filled with nonnative material, to the extent included
19 in the brownfield plan, and that meets 1 or more of the following
20 conditions listed in sub-subparagraphs (A) to (F):

21 (A) Is in a qualified local governmental unit and is a
22 facility or a site or property as those terms are defined in part
23 213, historic resource, functionally obsolete, or blighted and
24 includes parcels that are adjacent or contiguous to that property
25 if the development of the adjacent and contiguous parcels is
26 estimated to increase the captured taxable value of that property.

27 (B) Is not in a qualified local governmental unit and is a
28 facility, historic resource, functionally obsolete, blighted, or a
29 site or property as those terms are defined in part 213, and

1 includes parcels that are adjacent or contiguous to that property
2 if the development of the adjacent and contiguous parcels is
3 estimated to increase the captured taxable value of that property.

4 (C) Is tax reverted property owned by or under the control of
5 a land bank fast track authority.

6 (D) Is a transit-oriented development or transit-oriented
7 property.

8 (E) Is located in a qualified local governmental unit and
9 contains a targeted redevelopment area.

10 (F) Is undeveloped property that was eligible property in a
11 previously approved brownfield plan abolished under section 14(8).

12 (G) Eligible property does not include qualified agricultural
13 property exempt under section 7ee of the general property tax act,
14 1893 PA 206, MCL 211.7ee, from the tax levied by a local school
15 district for school operating purposes to the extent provided under
16 section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

17 (ii) Housing property for which eligible activities are
18 identified under a brownfield plan, including personal property
19 located on the property, to the extent included in the brownfield
20 plan.

21 (q) "Environmental insurance" means liability insurance for
22 environmental contamination and cleanup that is not otherwise
23 required by state or federal law.

24 (r) "Facility" means that term as defined in part 201.

25 (s) "Fiscal year" means the fiscal year of the authority.

26 (t) "Former mill" means a former mill that has not been used
27 for industrial purposes for the immediately preceding 2 years, that
28 is not located in a qualified local governmental unit, that is a
29 facility or is a site or a property as those terms are defined in

1 part 213, functionally obsolete, or blighted, and that is located
2 within 15 miles of a river that is a federal superfund site listed
3 under the comprehensive environmental response, compensation, and
4 liability act of 1980, 42 USC 9601 to 9675, and that is located in
5 a municipality with a population of less than 10,000.

6 (u) "Functionally obsolete" means that the property is unable
7 to be used to adequately perform the function for which it was
8 intended due to a substantial loss in value resulting from factors
9 such as overcapacity, changes in technology, deficiencies or
10 superadequacies in design, or other similar factors that affect the
11 property itself or the property's relationship with other
12 surrounding property.

13 (v) "Governing body" means the elected body having legislative
14 powers of a municipality creating an authority under this act.

15 (w) "Historic resource" means that term as defined in section
16 90a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

17 (x) "Housing development activities" means 1 or more of the
18 following:

19 (i) Reimbursement provided to owners of rental housing units
20 for qualified rehabilitation.

21 (ii) Costs for infrastructure available for public use and
22 safety improvements necessary for a housing project.

23 (iii) Costs of demolition and renovation of existing buildings
24 and site preparation, to the extent necessary to accommodate an
25 income qualified purchaser household or income qualified renting
26 household.

27 (iv) Temporary household relocation costs for an income
28 qualified household for a period not to exceed 1 year.

29 (v) Acquisition cost for blighted or obsolete rental units, to

1 the extent the acquisition would promote rehabilitation or adaptive
2 reuse of the blighted or obsolete rental unit to accommodate an
3 income qualified purchaser household or income qualified renting
4 household.

5 (vi) Reimbursement provided to a developer to fill a financing
6 gap associated with the development of housing units priced for
7 income qualified households and to assist with costs related to
8 infrastructure improvements and site preparation that are not a
9 response activity and that are necessary for new housing
10 development for income qualified households on eligible property.

11 (y) "Housing property" means 1 or more of the following:

12 (i) A property on which 1 or more units of residential housing
13 are proposed to be constructed, rehabilitated, or otherwise
14 designed to be used as a dwelling.

15 (ii) One or more units of residential housing proposed to be
16 constructed or rehabilitated and located in a mixed-use project.

17 (z) "Income qualified household" means a person, a family, or
18 unrelated persons living together, whose annual household income is
19 not more than 120% of the area median income. As used in this
20 subdivision:

21 (i) "Area median income" means the median income for the area
22 as determined under section 8 of the United States housing act of
23 1937, 42 USC 1437f, adjusted for family size.

24 (ii) "Household income" means all income received by all
25 individuals who are not less than 24 years of age when the
26 household income is determined and who reside in a household while
27 members of the household.

28 (aa) "Income qualified purchaser household" means a purchaser
29 who is, or who is a member of, an income qualified household.

1 (bb) "Income qualified renting household" means a renter who
2 is, or who is a member of, an income qualified household.

3 (cc) "Income tax" means the tax levied and imposed under part
4 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

5 (dd) "Income tax capture revenues" means, with respect to each
6 eligible property subject to a transformational brownfield plan,
7 funds equal to the amount for each tax year by which the aggregate
8 income tax from individuals residing within the eligible property
9 subject to a transformational brownfield plan exceeds the initial
10 income tax value. Subject to subparagraph (iii), the state treasurer
11 shall calculate annually the income tax capture revenues associated
12 with each transformational brownfield plan. In calculating income
13 tax capture revenues, the state treasurer shall subtract from the
14 aggregate amount of income tax credits under sections 255, 265,
15 266, **266a**, and chapter 9 of the income tax act of 1967, 1967 PA
16 281, MCL 206.255, 206.265, 206.266, **206.266a**, and 206.501 to
17 206.532. The state treasurer shall require the owner or developer
18 of the eligible property to provide to the department of treasury
19 all of the following information at the end of each calendar year,
20 including the year in which the resolution adding that eligible
21 property in the transformational brownfield plan is adopted:

22 (i) A list of addresses for all residential units, rental or
23 owner-occupied, within the eligible property.

24 (ii) Any other information that may be necessary to calculate
25 the income tax capture revenues. The information required under
26 this subdivision must be provided in a manner prescribed by the
27 state treasurer.

28 (iii) Notwithstanding anything to the contrary in this
29 subdivision, instead of the reporting and calculation methods

1 otherwise provided for, the owner or developer of a
2 transformational brownfield project site may elect to utilize a
3 safe harbor method of calculating income tax capture revenues.
4 Under this safe harbor method, the Michigan strategic fund shall
5 establish a safe harbor amount of annual income tax capture
6 revenues for each eligible property when the Michigan strategic
7 fund approves the transformational brownfield plan, and those
8 amounts shall serve as the basis for the transmittal of income tax
9 capture revenues to the owner or developer of the transformational
10 project site under section 8a(4). The Michigan strategic fund shall
11 establish the safe harbor amount for an eligible property by
12 imputing a standard annual taxable income for households residing
13 within the eligible property or portion of the eligible property.
14 The safe harbor is effective only to the extent that the
15 residential units within the eligible property or portion of the
16 eligible property are actively leased or, in the case of units made
17 available for sale, sold in an arms-length transaction. Imputations
18 as to standard household taxable income may vary based on location
19 and other relevant factors. The Michigan strategic fund may adjust
20 the safe harbor amount for an eligible property, or portion of the
21 eligible property, after the time of transformational brownfield
22 plan approval as required to reflect changes in the
23 transformational brownfield plan for the transformational project
24 site that may occur after approval of the transformational
25 brownfield plan, if those changes do not result in an aggregate
26 increase in the level of income tax capture revenues from the
27 amount initially established. The owner or developer of the
28 transformational project site may elect to utilize the safe harbor
29 method of accounting at any time before the first reimbursement of

1 income tax capture revenues under the transformational brownfield
2 plan. An election to utilize the safe harbor method of accounting,
3 once made, cannot be rescinded.

4 (ee) "Industrial cleaning" means cleaning or removal of
5 contaminants from within a structure necessary to achieve the
6 intended use of the property.

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

27 (i) Underground parking.

28 (ii) Multilevel parking structures.

29 (iii) Urban stormwater management systems.

1 (gg) "Initial income tax value" means, with respect to each
2 eligible property subject to a transformational brownfield plan,
3 the aggregate amount of income tax less credits under sections 255,
4 265, 266, **266a**, and chapter 9 of the income tax act of 1967, 1967
5 PA 281, MCL 206.255, 206.265, 206.266, **206.266a**, and 206.501 to
6 206.532, from individuals residing within the eligible property for
7 the tax year in which the resolution adding that eligible property
8 in the transformational brownfield plan is adopted.

9 (hh) "Initial sales and use tax value" means, with respect to
10 each eligible property subject to a transformational brownfield
11 plan, the aggregate amount of sales tax and use tax collected from
12 persons located within the eligible property for the tax year in
13 which the resolution adding that eligible property in the
14 transformational brownfield plan is adopted. For persons with
15 multiple business locations, the applicable amount of sales tax and
16 use tax for purposes of this act is only the sales tax and use tax
17 collections attributable to the business location within the
18 eligible property.

19 (ii) "Initial taxable value" means the taxable value of an
20 eligible property identified in and subject to a brownfield plan at
21 the time the resolution adding that eligible property in the
22 brownfield plan is adopted, as shown either by the most recent
23 assessment roll for which equalization has been completed at the
24 time the resolution is adopted or, if provided by the brownfield
25 plan, by the next assessment roll for which equalization will be
26 completed following the date the resolution adding that eligible
27 property in the brownfield plan is adopted. Property exempt from
28 taxation at the time the initial taxable value is determined is
29 included with the initial taxable value of zero. Property for which

1 a specific tax is paid in lieu of property tax is not considered
2 exempt from taxation. The state tax commission shall prescribe the
3 method for calculating the initial taxable value of property for
4 which a specific tax was paid in lieu of property tax. The initial
5 assessed value may be modified by lowering the initial assessed
6 value once during the term of the brownfield plan through an
7 amendment as provided in section 14 after the tax increment
8 financing plan fails to generate captured taxes for 3 consecutive
9 years due to declines in assessed value.

10 (jj) "Initial withholding tax value" means, with respect to
11 each eligible property subject to a transformational brownfield
12 plan, the amount of income tax withheld under chapter 17 of the
13 income tax act of 1967, 1967 PA 281, MCL 206.701 to ~~206.715,~~
14 **206.718**, from individuals employed within the eligible property for
15 the calendar year in which the resolution adding the eligible
16 property to the plan is adopted. The initial withholding tax value
17 does not include construction period tax capture revenues.

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

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

23 (mm) "Michigan state housing development authority" means the
24 Michigan state housing development authority created in section 21
25 of the state housing development authority act of 1966, 1966 PA
26 346, MCL 125.1421.

27 (nn) "Michigan strategic fund" means the Michigan strategic
28 fund created under the Michigan strategic fund act, 1984 PA 270,
29 MCL 125.2001 to 125.2094.

1 (oo) "Mixed-use" means a real estate project with planned
2 integration of some combination of retail, office, residential, or
3 hotel uses.

4 (pp) "Municipality" means all of the following:

5 (i) A city.

6 (ii) A village.

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

9 (iv) A township in those areas of the township that are in a
10 village on the concurrence by resolution of the village in which
11 the zone would be located.

12 (v) A county.

13 (qq) "Owned by or under the control of" means that a land bank
14 fast track authority, a municipality, or a qualified local
15 governmental unit has 1 or more of the following:

16 (i) An ownership interest in the property.

17 (ii) A tax lien on the property.

18 (iii) A tax deed to the property.

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

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

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

24 (rr) "Part 111", "part 201", "part 211", or "part 213" means
25 that part as described as follows:

26 (i) Part 111 of the natural resources and environmental
27 protection act, 1994 PA 451, MCL 324.11101 to 324.11153.

28 (ii) Part 201 of the natural resources and environmental

1 protection act, 1994 PA 451, MCL 324.20101 to 324.20142.

2 (iii) Part 211 of the natural resources and environmental
3 protection act, 1994 PA 451, MCL 324.21101 to 324.21113.

4 (iv) Part 213 of the natural resources and environmental
5 protection act, 1994 PA 451, MCL 324.21301a to 324.21334.

6 (ss) "Previously developed property" means property that was
7 part of an existing developed residential, commercial, or
8 industrial zone and contained a structure serviced by utilities, or
9 former dumps, landfills, and other areas filled with nonnative
10 material.

11 (tt) "Qualified facility" means a landfill facility area of 15
12 or more contiguous acres that is located in a city and that
13 contains, contained, or is adjacent to a landfill, a material
14 recycling facility, or an asphalt plant that is no longer in
15 operation.

16 (uu) "Qualified local governmental unit" means that term as
17 defined in the obsolete property rehabilitation act, 2000 PA 146,
18 MCL 125.2781 to 125.2797.

19 (vv) "Qualified rehabilitation" means rehabilitation of
20 existing structures that is necessary to make a housing unit
21 suitable for sale to an income qualified purchaser household or
22 rent to an income qualified renting household. Qualified
23 rehabilitation also includes proposed rehabilitation that will
24 bring the structure into conformance with minimum local building
25 code standards for occupancy or improve the livability of the units
26 while meeting minimum local building code standards. As used in
27 this subsection, "existing structures" includes any structure
28 designed to be used as a dwelling.

29 (ww) "Qualified taxpayer" means that term as defined in

1 sections 38d and 38g of former 1975 PA 228, or section 437 of the
2 Michigan business tax act, 2007 PA 36, MCL 208.1437, or a recipient
3 of a community revitalization incentive as described in section 90a
4 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

5 (xx) "Release" means that term as defined in part 201 or part
6 213.

7 (yy) "Response activity" means either of the following:

8 (i) Response activity as that term is defined in part 201.

9 (ii) Corrective action.

10 (zz) "Sales tax" means the tax levied under the general sales
11 tax act, 1933 PA 167, MCL 205.51 to 205.78.

12 (aaa) "Sales and use tax capture revenues" means, with respect
13 to each eligible property subject to a transformational brownfield
14 plan, the amount for each calendar year by which the sales tax and
15 use tax collected from persons within the eligible property exceeds
16 the initial sales and use tax value. For persons with multiple
17 business locations, the applicable amount of sales tax and use tax
18 for purposes of this act is only the sales tax and use tax
19 collections attributable to the business location within the
20 eligible property. To calculate sales and use tax capture revenues
21 for a calendar year under a transformational brownfield plan, the
22 state treasurer or the Michigan strategic fund shall do all of the
23 following:

24 (i) The state treasurer shall develop methods and processes
25 that are necessary for each applicable person within the eligible
26 property to report the amount of sales and use tax from that
27 location.

28 (ii) The Michigan strategic fund shall include all of the
29 following provisions in the development or reimbursement agreement

1 for any transformational brownfield plan that utilizes sales and
2 use tax capture revenues:

3 (A) That the owner or developer of the eligible property shall
4 require each applicable person occupying the eligible property to
5 comply with the reporting requirements under this section through a
6 contract requirement, lease requirement, or other similar means.

7 (B) That reimbursement of sales and use tax capture revenues
8 is limited to amounts that are reported in accordance with this
9 section, and this state has no obligation with respect to sales and
10 use tax capture revenues that are not reported or paid.

11 (bbb) "Specific taxes" means all of the following:

12 (i) A tax levied under any of the following:

13 (A) 1974 PA 198, MCL 207.551 to 207.572.

14 (B) The commercial redevelopment act, 1978 PA 255, MCL 207.651
15 to 207.668.

16 (C) The enterprise zone act, 1985 PA 224, MCL 125.2101 to
17 125.2123.

18 (D) 1953 PA 189, MCL 211.181 to 211.182.

19 (E) The technology park development act, 1984 PA 385, MCL
20 207.701 to 207.718.

21 (F) The obsolete property rehabilitation act, 2000 PA 146, MCL
22 125.2781 to 125.2797.

23 (G) The neighborhood enterprise zone act, 1992 PA 147, MCL
24 207.771 to 207.786.

25 (H) The commercial rehabilitation act, 2005 PA 210, MCL
26 207.841 to 207.856.

27 (I) The attainable housing facilities act, 2022 PA 236, MCL
28 207.901 to 207.916.

29 (J) The residential housing facilities act, 2022 PA 237, MCL

1 207.951 to 207.966.

2 (ii) That portion of the tax levied under the tax reverted
3 clean title act, 2003 PA 260, MCL 211.1021 to 211.1025a, that is
4 not required to be distributed to a land bank fast track authority.

5 (ccc) "State brownfield redevelopment fund" means the state
6 brownfield redevelopment fund created in section 8a.

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

17 (eee) "Tax increment revenues" means the amount of ad valorem
18 property taxes and specific taxes attributable to the application
19 of the levy of all taxing jurisdictions on the captured taxable
20 value of each parcel of eligible property subject to a brownfield
21 plan and personal property located on that property, regardless of
22 whether those taxes began to be levied after the brownfield plan
23 was adopted. Tax increment revenues also include the amount of any
24 payment in lieu of taxes under section 15a(3) of the state housing
25 development authority act of 1966, 1966 PA 346, MCL 125.1415a, paid
26 on an eligible property subject to a brownfield plan, less the
27 amount of property taxes levied on the eligible property subject to
28 the brownfield plan for the year the eligible property became
29 subject to the brownfield plan. Tax increment revenues do not

1 include any of the following:

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

7 (ii) For tax increment revenues attributable to eligible
8 property, the amount of ad valorem property taxes or specific taxes
9 captured by a downtown development authority under part 2 of the
10 recodified tax increment financing act, 2018 PA 57, MCL 125.4201 to
11 125.4230, tax increment finance authority under part 3 of the
12 recodified tax increment financing act, 2018 PA 57, MCL 125.4301 to
13 125.4329, corridor improvement authority under part 6 of the
14 recodified tax increment financing act, 2018 PA 57, MCL 125.4602 to
15 125.4629, or local development finance authority under part 4 of
16 the recodified tax increment financing act, 2018 PA 57, MCL
17 125.4401 to 125.4420, if those taxes were captured by these other
18 authorities on the date that eligible property became subject to a
19 brownfield plan under this act, unless these other authorities
20 agree to forgo or transfer their taxes in support of the brownfield
21 plan.

22 (iii) Ad valorem property taxes levied under 1 or more of the
23 following or specific taxes attributable to those ad valorem
24 property taxes:

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

27 (B) The art institute authorities act, 2010 PA 296, MCL
28 123.1201 to 123.1229.

29 (iv) **Except as otherwise provided in section 4(6), ad valorem**

1 property taxes or specific local taxes attributable to those ad
2 valorem property taxes levied for a separate millage for a specific
3 purpose not described in subparagraphs (i) to (iii) approved by the
4 electors. For purposes of this subparagraph, a separate millage for
5 a specific purpose does not include a millage approved by the
6 electors under section 34d(11) of the general property tax act,
7 1893 PA 206, MCL 211.34d.

8 (fff) "Taxable value" means the value determined under section
9 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

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

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

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

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

18 (hhh) "Transformational brownfield plan" means a brownfield
19 plan that meets the requirements of section 13c and is adopted
20 under section 14a and, as designated by resolution of the governing
21 body and approved by the Michigan strategic fund, will have a
22 transformational impact on local economic development and community
23 revitalization based on the extent of brownfield redevelopment and
24 growth in population, commercial activity, and employment that will
25 result from the plan. To be designated a transformational
26 brownfield plan, a transformational brownfield plan under this
27 subdivision must be for mixed-use development unless waived by the
28 Michigan strategic fund as provided under section 14a(26) and must
29 be expected to result in the following levels of capital

1 investment:

2 (i) In a municipality that is not a county and that has a
3 population of not less than 600,000, \$500,000,000.00.

4 (ii) In a municipality that is not a county and that has a
5 population of not less than 150,000 and not more than 599,999,
6 \$100,000,000.00.

7 (iii) In a municipality that is not a county and that has a
8 population of not less than 100,000 and not more than 149,999,
9 \$75,000,000.00.

10 (iv) In a municipality that is not a county and that has a
11 population of not less than 50,000 and not more than 99,999,
12 \$50,000,000.00.

13 (v) In a municipality that is not a county and that has a
14 population of not less than 25,000 and not more than 49,999,
15 \$25,000,000.00.

16 (vi) In a municipality that is not a county and that has a
17 population of less than 25,000, \$15,000,000.00.

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

23 (jjj) "Transit-oriented property" means property that houses a
24 transit station in a manner that promotes transit ridership or
25 passenger rail use.

26 (kkk) "Use tax" means the tax levied under the use tax act,
27 1937 PA 94, MCL 205.91 to 205.111, including both the local
28 community stabilization share and the state share as those terms
29 are defined in section 2c of the use tax act, 1937 PA 94, MCL

1 205.92c.

2 (iii) "Withholding tax capture revenues" means, with respect to
 3 each eligible property subject to a transformational brownfield
 4 plan, the amount for each calendar year by which the income tax
 5 withheld under chapter 17 of the income tax act of 1967, 1967 PA
 6 281, MCL 206.701 to ~~206.715,~~ **206.718**, from individuals employed
 7 within the eligible property exceeds the initial withholding tax
 8 value. Withholding tax capture revenues do not include income tax
 9 from individuals domiciled within the eligible property or
 10 construction period tax capture revenues. To calculate withholding
 11 tax capture revenues for a calendar year under a transformational
 12 brownfield plan, the state treasurer or the Michigan strategic fund
 13 shall do all of the following:

14 (i) The state treasurer shall require the owner or developer of
 15 the eligible property to provide the department of treasury with
 16 notice not more than 10 days from the date an employer commences or
 17 terminates occupancy within the eligible property. As used in this
 18 subdivision, "employer" means that term as defined in section 8 of
 19 the income tax act of 1967, 1967 PA 281, MCL 206.8.

20 (ii) The state treasurer shall develop methods and processes
 21 that are necessary for each employer occupying the eligible
 22 property to report the amount of withholding under chapter 17 of
 23 the income tax act of 1967, 1967 PA 281, MCL 206.701 to ~~206.715,~~
 24 **206.718**, from individuals employed within the eligible property.

25 (iii) The Michigan strategic fund shall include the following
 26 provisions in the development or reimbursement agreement for any
 27 transformational brownfield plan that utilizes withholding tax
 28 capture revenues:

29 (A) That the owner or developer of the eligible property shall

1 require each employer occupying the eligible property to comply
2 with the reporting requirements under this section through a
3 contract requirement, lease requirement, or other similar means.

4 (B) That reimbursement of withholding tax capture revenues is
5 limited to amounts that are reported in accordance with chapter 17
6 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to ~~206.715,~~
7 **206.718**, and this state has no obligation with respect to
8 withholding tax capture revenues that are not reported or paid.

9 (iv) Notwithstanding anything to the contrary in this
10 subdivision, instead of the reporting and calculation methods
11 otherwise provided for, the owner or developer of a
12 transformational project site may elect to utilize a safe harbor
13 method of calculating withholding tax capture revenues. Under this
14 safe harbor method, the Michigan strategic fund shall establish a
15 safe harbor amount of annual withholding tax capture revenues for
16 each eligible property when the Michigan strategic fund approves
17 the transformational brownfield plan, and those amounts shall serve
18 as the basis for the transmittal of withholding tax capture
19 revenues to the owner or developer of the transformational project
20 site under section 8a(4). The Michigan strategic fund shall
21 establish the safe harbor amount for an eligible property by
22 imputing a standard level of employee occupancy that corresponds to
23 the size and use of the eligible property or portion of the
24 eligible property and a safe harbor average annual taxable wage for
25 the individuals employed within the eligible property or portion of
26 the eligible property. The safe harbor is effective only to the
27 extent the eligible property or portion of the eligible property is
28 actively occupied, as evidenced by the existence of a binding lease
29 agreement or similar instrument. Imputations as to occupancy and

1 wages may vary between projects based on location, the type and use
 2 of the eligible property, and other relevant factors. The Michigan
 3 strategic fund may adjust the safe harbor amount for an eligible
 4 property, or portion of the eligible property, after the time of
 5 plan approval as required to reflect changes in the
 6 transformational brownfield plan for the transformational project
 7 site that may occur after approval of the transformational
 8 brownfield plan, if those changes do not result in an aggregate
 9 increase in the level of withholding tax capture revenues from the
 10 amount initially established. The owner or developer of the
 11 transformational project site may elect to utilize the safe harbor
 12 method of accounting at any time before the first reimbursement of
 13 withholding tax capture revenues under the plan. An election to
 14 utilize the safe harbor method of accounting, once made, cannot be
 15 rescinded.

16 (mmm) "Work plan" means a plan that describes each individual
 17 activity to be conducted to complete eligible activities and the
 18 associated costs of each individual activity.

19 (nnn) "Zone" means, for an authority established before June
 20 6, 2000, a brownfield redevelopment zone designated under this act.

21 Sec. 4. (1) A governing body may declare by resolution adopted
 22 by a majority of its members elected and serving its intention to
 23 create and provide for the operation of an authority.

24 (2) In the resolution of intent, the governing body shall set
 25 a date for holding a public hearing on the adoption of a proposed
 26 resolution creating the authority. The notice of the public hearing
 27 ~~shall~~**must** state the date, time, and place of the hearing. At that
 28 hearing, a citizen, taxpayer, official from a taxing jurisdiction
 29 whose millage may be subject to capture under a brownfield plan, or

1 property owner of the municipality has the right to be heard in
2 regard to the establishment of the authority.

3 (3) Not ~~more~~**later** than 30 days after the public hearing, if
4 the governing body intends to proceed with the establishment of the
5 authority, the governing body shall adopt, by majority vote of its
6 members elected and serving, a resolution establishing the
7 authority. The adoption of the resolution is subject to all
8 applicable statutory or charter provisions with respect to the
9 approval or disapproval by the chief executive or other officer of
10 the municipality and the adoption of a resolution over ~~his or her~~
11 **that officer's** veto. This resolution ~~shall~~**must** be filed with the
12 secretary of state promptly after its adoption.

13 (4) The proceedings establishing an authority ~~shall be~~**are**
14 presumptively valid unless contested in a court of competent
15 jurisdiction ~~within~~**not later than** 60 days after the filing of the
16 resolution with the secretary of state.

17 (5) The exercise by an authority of the powers conferred by
18 this act ~~shall be considered to be~~**is** an essential governmental
19 function and benefit to, and a legitimate public purpose of, ~~the~~
20 **this** state, the authority, and the municipality or units.

21 (6) **An authority created before the effective date of the**
22 **amendatory act that added this subsection may capture taxes**
23 **described in section 2(eee) (iv) if both of the following**
24 **requirements are met:**

25 (a) **The taxes were levied before the effective date of the**
26 **amendatory act that added this subdivision.**

27 (b) **The authority has obligations that are unpaid.**