Michigan Laws Relating to Economic Development and Housing

2nd Edition

June 2009

Published by
Planning & Zoning Center at Michigan State University
A Center within the MSU Land Policy Institute

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Dedication

The Planning & Zoning Center and Land Policy Institute are pleased to dedicate this publication to citizens interested in planning, zoning, economic development and housing, to members of local governing boards and planning commissions, and to professional economic developers, community planners, housing directors, landscape architects, architects, attorneys, zoning administrators and others interested in the economically, socially, and environmentally sustainable, and lawful use and management of Michigan's land and water.

Michigan Laws Relating to Economic Development and Housing

Note: Many more statutes in each category are on the accompanying CD.

Foreword

Introduction

The first edition of **Michigan Laws Relating to Economic Development and Housing** was originally published in 1991 as a service to Michigan residents, elected and appointed officials, community planners, economic developers, housing directors, attorneys, and other interested persons who want the full range of statutes relating to economic development and housing under a single cover. This second edition is a comprehensive update and is the companion to the new 10th edition of **Michigan Laws Relating to Planning** (Dec. 2008), which contains laws relating to land use planning, zoning, subdivision regulation, natural resource protection, and infrastructure development. Both books are a handy reference for quickly looking up an entire statute or relevant excerpt, and serve to preserve the language of the law at a particular point in time. This makes it a useful reference to chart how the law changes over time.

The text of this second edition of **Michigan Laws Relating to Economic Development and Housing** is divided into five categories: 1) State Economic Development: Policy, Funds, Financing and Assistance; 2) Regional and County Economic Development Planning; 3) Local Districts and Authorities (in four subcategories); 4) Housing; and 5) Meetings, Records, Incompatible Offices, Contracts of Public Servants, and Standards of Conduct. Within each category, the statutes are organized in M.C.L. order.

The original impetus for the first edition of **Michigan Laws Relating to Economic Development and Housing** came from community planners around the state and most particularly from the Michigan Society of Planning Officials, now called the Michigan Association of Planning. The 1991 edition was published under the guidance of the Department of Resource Development at Michigan State University. The advisory committee that chose the statutes for the first edition were Professor Kenneth VerBurg, Professor Robert C. Anderson, and Nancy Gendell of Michigan State University, as well as David Birchler, Rick Chapla, James DeGrazia, Gerald Fisher, James Hendricks, Brad Leech, Thomas J. O'Toole, Mary Steffy and Mark Wyckoff. This edition includes those statutes from the 1991 edition that have not been repealed, as well new ones passed since the 1991 edition was published. Additional statutes were identified from statute lists provided by the Michigan Economic Development Authority, Michigan State Housing Development Authority, Michigan Economic Development Association, and a search of Michigan's Compiled Laws. Considerable assistance came from the recent assessment of Michigan's Economic Development statutes by the Michigan Citizen's Research Council (http://www.crcmich.org/EDSurvey/index.html).

This edition is 735 pages, which is 65 pages longer than the 1991 edition. In addition, for the first time, all the laws included between the covers are also included along with dozens more on the accompanying CD. Two versions (book and CD) were prepared because a 1,817 page book is too bulky to easily carry around. The laws in the book are the ones that, in the editor's experience, are either among the most referenced, and/or were in the first edition. The exception is that statutes which are very long (50 pages plus) are on the CD, and all statutes in the Housing and Meetings, Records, etc. categories are on the CD. As time passes, laws are updated, amended and repealed. If at any time you find the need for the most current version of a Michigan law, please visit www.michiganlegislature.org or www.legislature.mi.gov.

There are two tables of contents. The one located in the front lists the contents of the book. The one located in the back, lists the contents of the CD. The CD version of the laws is in MS Word and PDF formats. Many statutes are represented only by relevant excerpts; so be sure to look up the full statute if you find something of interest. Many important statutes are on the CD, so be sure to look there, too.

All of the statutes listed in this edition were electronically copied and pasted from the Michigan Legislature website, www.legislaturemi.gov. These statutes are all related statutes passed, and still in effect, up to the end of January 2009.

Essentials

This book and accompanying CD are possible only with the gracious approval of the copyright holder, the Michigan Legislative Council which authorized the downloading of the selected statutes subject to three caveats:

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Thanks

As with any publication of this scope, there are many to whom I owe my thanks.

First, thanks go to the patient purchasers of this volume. I had not expected this task to take so long (nor for the publication to grow so long). The mechanics are much more complicated than one would imagine, given that all the text already started out in digital form.

Second, three of my graduate students in the MSU Urban and Regional Planning Program spent a considerable amount of time working on this publication (including all the "fun" work, like proofing), they are Sheila Moore, Lincoln Sweet and Jason Ball. In addition, MSU Regional Land Policy Educators, Kurt Schindler and Mary Ann Heidemann played a valuable role in helping identify statutes that should be included in this edition.

Third, my executive secretary, Lin Leslie, exercised the requisite care necessary to ensure accuracy while downloading and converting text, formatting, obtaining quotations from printers, coordinating all the mechanics of production, and handling all sales.

Fourth, Dr. Soji Adelaja, the genius and founder of the MSU Land Policy Institute, whose vision allowed the re-creation of the Planning & Zoning Center at MSU and whose research is providing a new foundation for economic development and prosperity initiatives in Michigan. Visit the LPI web site at: www.landpolicy.msu.edu.

Of course, all content decisions and errors are my responsibility.

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June 2009

P.S. If you spot a statute missing from this book or CD, please email me (Wyckoff@msu.edu) with the reference, so it can be included in the next edition. Thanks.

I. STATE ECONOMIC DEVELOPMENT POLICY, FUNDS, FINANCING & ASSISTANCE

MICHIGAN TOURISM POLICY ACT
Act 106 of 1945

AN ACT to enhance the economic viability of the state through development, improvement, and promotion of the travel, tourism, and convention industry of the state; to create the Michigan travel commission and to prescribe its powers and duties; to create a travel bureau, and to prescribe its powers and duties; to provide for appropriations in carrying out this act and the allocation and disbursement of those appropriations; and to repeal certain acts and parts of acts.

History: 1945, Act 106, Imd. Eff. Apr. 19, 1945 ;-- Am. 1975, Act 145, Imd. Eff. July 9, 1975

The People of the State of Michigan enact:

2.101 Short title; legislative findings; intent.
Sec. 1. (1) This act shall be known and may be cited as the "Michigan tourism policy act".

(2) The legislature finds all of the following:

(a) Tourism is a major source of employment, income, and tax revenues in this state, and the expansion of the tourism industry is vital to the growth of the state's economy.

(b) The tourism industry is important to the state, not only because of the numbers of people it serves and the vast human, financial, and physical resources it employs, but because of the benefits tourism and related activities confer on individuals and on society as a whole.

(c) Investment of state resources is needed to provide a more effective means of marketing travel to, and within, the state, and to optimize the considerable investment of time, energy, capital, and resources being made by the tourism industry.

(d) Coordination of existing state government involvement in tourism promotion at the state level and with local government and the private sector will maximize the economic and employment benefits of the tourism industry.

(3) Through this act the legislature intends to encourage all of the following:

(a) A commitment to the fostering of the economic activity inherent in tourism promotion.

(b) Development of a means to promote and market the state as a destination for tourists on a worldwide basis.

(c) Tourism growth to assist this state in remaining competitive in the world tourism marketplace.

(d) Maximization of the contribution of the tourism-related industries to the state's economic prosperity and expansion of employment opportunities.

(e) Recognition of historic, natural, and scenic environments, and the development of cultural and heritage tourism programs and international marketing strategies, to enhance the state's appeal as a destination for domestic and international tourism.

(f) Provision of timely, up-to-date travel and tourism information on urban and rural locations in various regions of the state to enable state residents to take maximum advantage of travel opportunities within the state.

(g) Health, education, and intercultural appreciation of the geography, natural resources, history, arts, and ethnicity of the state.

(h) The welcome entry of individuals traveling to the state to enhance international understanding and goodwill, consistent with immigration laws, laws protecting the public health, laws governing the importation of goods into the United States, and other applicable laws and regulations.

(i) The collection, analysis, and timely dissemination of data which accurately measures the economic impact of tourism on the state in order to facilitate planning in the public and private sectors.

(j) The establishment of a program to market the travel vacation opportunities available in this state to residents and nonresidents by using any medium or means that the travel bureau, in consultation with the travel commission, determines appropriate.

(k) Public interest in protection of the natural resources and the cultural heritage of the state.

(l) Recognition of state and locally managed recreational opportunities including camping, hunting, fishing, boating, snowmobiling, golfing, skiing, and other outdoor recreation experiences.

History: 1945, Act 106, Imd. Eff. Apr. 19, 1945 ;-- CL 1948, 2.101 ;-- Am. 1975, Act 145, Imd. Eff. July 9, 1975 ;-- Am. 1993, Act 109, Imd. Eff. July 16, 1993 ;-- Am. 1994, Act 102, Imd. Eff. Apr. 18, 1994

2.102 Michigan travel commission; creation; appointment, qualifications, and terms of members; vacancies; compensation and expenses; travel bureau director; chair and vice-chair; meetings; removal from office; quorum; voting; public meeting; documents subject to freedom of information act.

Sec. 2. (1) The Michigan travel commission is created within the department of commerce.

(2) The commission shall consist of 13 members appointed by the governor with the advice and consent of the senate. The governor shall select members who are experienced in the travel, tourism, and recreation industry or an associated field. Members of the commission shall be representative of all geographic areas of the state. Not less than 7 members of the commission shall be owners and operators of for-profit businesses from the private sector of the travel, tourism, and recreation industry and shall be experienced in the travel, tourism, and recreation industry. Of the 7 members appointed from the private sector not less than 4 members shall be owners and operators of small businesses. As used in this section, “small businesses” means business concerns incorporated or doing business in this state which employ not more than 100 full-time or part-time employees.

(3) A member of the commission shall be appointed for a term of 4 years. No member may serve more than 2 full 4-year terms. A vacancy on the commission shall be filled in the same manner as the original appointment.

(4) The members of the commission shall serve without compensation. However, members of the commission may be reimbursed for their expenses incurred in the performance of their official duties not to exceed 25 days in a fiscal year pursuant to the standard travel regulations of the department of management and budget.

(5) The commission shall recommend by name the appointment of the travel bureau director to the director of the department of commerce, and elect from its membership annually a chair and vice-chair. The commission shall meet at least quarterly, or more frequently if requested by 8 or more members, or at the call of the chair.

(6) A member of the commission may be removed from office by the governor in accordance with section 10 of article V of the state constitution of 1963.

(7) A majority of the commission constitutes a quorum for the transaction of business at a meeting of the commission. A majority vote of the members present and serving is required for official action of the Michigan travel commission.

(8) The business of the Michigan travel commission shall be conducted at a public meeting of that commission, held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(9) A document prepared, owned, used, in the possession of, or retained by the Michigan travel commission in the performance of an official function is subject to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1945, Act 106, Imd. Eff. Apr. 19, 1945 ;-- CL 1948, 2.102 ;-- Am. 1956, Act 94, Eff. Aug. 11, 1956 ;-- Am. 1960, Act 5, Imd. Eff. Mar. 17, 1960 ;-- Am. 1961, Act 32, Imd. Eff. May 18, 1961 ;-- Am. 1962, Act 52, Eff. Mar. 28, 1963 ;-- Am. 1975, Act 145, Imd. Eff. July 9, 1975 ;-- Am. 1986, Act 233, Imd. Eff. Oct. 6, 1986 ;-- Am. 1993, Act 109, Imd. Eff. July 16, 1993
Compiler's Notes: For transfer of the Michigan travel commission from the department of commerce to the Michigan jobs commission, see E.R.O. No. 1994-10, compiled at MCL 408.48 of the Michigan Compiled Laws.

2.102a Travel bureau; creation; duties.

Sec. 2a. The travel bureau is created within the department of commerce and shall do all of the following:

(a) Implement programs to market this state as a desirable travel destination.

(b) Before funding a promotional effort, identify and document those benefits to the state that the travel bureau determines likely to result from the promotional effort.

(c) Withhold funds for any proposed promotional effort that in the travel bureau's determination will not likely benefit the travel industry in the state or conform with the goals of the master plan described in section 2c.

(d) If the travel bureau expends funds for a promotional effort, identify and document the actual benefits, if any, conferred upon the state by that promotional effort.

(e) Use reasonable means to identify, review, and comment upon the policies and programs of state agencies which directly affect the achievement of the duties and responsibilities of the travel bureau.

(f) Facilitate travel to and within this state to the maximum extent feasible.

(g) From time to time, convene interagency committees, consisting of representatives of units of state government that may be required to devise recommendations to identify and solve tourism problems.

(h) Provide informational assistance and guidance to regional, county, and city tourism development organizations and similar private organizations in planning programs to attract visitors.

History: Add. 1975, Act 145, Imd. Eff. July 9, 1975 ;-- Am. 1993, Act 109, Imd. Eff. July 16, 1993
Compiler's Notes: For transfer of powers and duties of Michigan travel bureau from the department of commerce to the Michigan jobs commission, see E.R.O. No. 1994-10, compiled at MCL 408.48 of the Michigan Compiled Laws.
Admin Rule: R 2.101 et seq. of the Michigan Administrative Code.

2.102b Employee acceptance of free meals or lodging; policy.

Sec. 2b. The travel bureau shall develop with the department of commerce a formal, written policy governing travel bureau employee acceptance of free meals or lodging, and implement that policy within 1 year of the effective date of the amendatory act that added this section.

History: Add. 1993, Act 109, Imd. Eff. July 16, 1993

2.102c Master plan.
Sec. 2c. (1) In consultation with the appropriate divisions of the Michigan department of commerce, the travel bureau and Michigan travel commission shall develop a comprehensive, long-range master plan for a period of not less than 2 years and not more than 5 years that identifies each of the following:

(a) Tourism development and management goals.

(b) Programs proposed to be implemented during the term of the master plan.

(2) The master plan shall be updated as the travel bureau, Michigan travel commission, and the appropriate divisions of the department of commerce determine necessary.

History: Add. 1993, Act 109, Imd. Eff. July 16, 1993

2.102d Annual report.
Sec. 2d. Beginning 1 year after the effective date of the amendatory act that added this section, the travel bureau shall submit to the travel commission, the governor, and the legislature an annual report containing all of the following:

(a) A statement identifying and analyzing expenditures authorized by the travel bureau during the preceding 12 months, and a summary of the results of those expenditures.

(b) A tourism marketing plan for the next fiscal year.

History: Add. 1993, Act 109, Imd. Eff. July 16, 1993

2.103 Michigan travel commission; duties.
Sec. 3. (1) The Michigan travel commission shall do all of the following:

(a) Assist the Michigan travel bureau with the development of a comprehensive long-range master plan.

(b) Annually assess the activities and accomplishments of the Michigan travel bureau, and convey each assessment in writing to the director of the department of commerce.

(c) Work to the maximum extent practicable with those private associations, nonprofit corporations, organizations, or other private entities which promote tourism in this state.

(d) Promulgate rules for the implementation of this act pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(e) Conduct public hearings to obtain input concerning policy development from a broad cross section of travel interests.

(f) Withhold expenditure of state funds otherwise authorized under this act if the Michigan travel bureau determines that the proposed expenditure is for an activity that does not conform with the goals of the master plan described in section 2c or does not benefit the travel industry in the state.

(2) The commission shall authorize the expenditure of funds necessary to carry out this act, and shall be authorized to incur necessary expenses, in accordance with the accounting laws of the state.

(3) The commission, in cooperation with the Michigan travel bureau, may convene committees consisting of qualified professionals and experts in various segments of the tourism industry that may be required to aid in the preparation of, or revision of, all or part of a marketing plan.

History: 1945, Act 106, Imd. Eff. Apr. 19, 1945 ;-- CL 1948, 2.103 ;-- Am. 1956, Act 94, Eff. Aug. 11, 1956 ;-- Am. 1975, Act 145, Imd. Eff. July 9, 1975 ;-- Am. 1993, Act 109, Imd. Eff. July 16, 1993
Compiler's Notes: For transfer of the Michigan travel commission from the department of commerce to the Michigan jobs commission, see E.R.O. No. 1994-10, compiled at MCL 408.48 of the Michigan Compiled Laws.

2.103a Appropriation; basic support and discretionary grants.

Sec. 3a. The legislature shall annually appropriate the sums necessary to implement this act. Amounts as appropriated by the legislature shall be made available for basic support and discretionary grants to eligible local and regional travel authorities and agencies in accordance with the following:

(a) Basic support grants shall be made to eligible agencies and authorities to provide continuing support of advertising and promotional efforts designed to encourage travel for purposes of resort and recreational tourism, business and

conventions, and sightseeing and entertainment. Grant funds shall be utilized to fund the operating expenses of eligible agencies and the direct cost of advertising and promotion. The specific amount of grants, matching requirements, eligible applicants, application procedure, and administrative and reporting requirements shall be established within the guidelines of rules promulgated by the Michigan travel commission.

(b) Basic support grants for the fiscal year ending June 30, 1976, shall be made in accordance with sections 26(a), 26(b), and 26(c) of Act No. 239 of the Public Acts of 1974, and section 6 of this act.

(c) Discretionary grants shall be made to eligible applicants for travel development and marketing projects based upon the extent of impact upon employment, economic stability, and increase in real per capita income. The specific application procedure and project grant requirements shall be established in rules promulgated by the Michigan travel commission.

History: Add. 1975, Act 145, Imd. Eff. July 9, 1975
Admin Rule: R 2.101 et seq. of the Michigan Administrative Code.

2.104, 2.105 Repealed. 1975, Act 145, Imd. Eff. July 9, 1975.

Compiler's Notes: The repealed sections pertained to reports and financial estimates of the Michigan tourist council.

2.106 Repealed. 1975, Act 145, Eff. July 1, 1976.

Compiler's Notes: The repealed section pertained to funds available to regional associations.

2.107, 2.108 Repealed. 1975, Act 145, Imd. Eff. July 9, 1975.

Compiler's Notes: The repealed sections pertained to reversion of unencumbered funds and cooperation with agricultural marketing council.

ECONOMIC EXPANSION
Act 116 of 1963

AN ACT to create a state department of economic expansion and an economic expansion council, and to prescribe their powers and duties; and to repeal certain acts and parts of acts.

History: 1963, Act 116, Imd. Eff. May 10, 1963

The People of the State of Michigan enact:

125.1201 Economic expansion department; organization, subject to approval of governor.

Sec. 1. There is created a department of state government to be known as the department of economic expansion, consisting of the executive director of economic expansion as head of the department, a deputy executive director of economic expansion if appointed, such departmental divisions as the executive director establishes, and such other employees as are hereinafter provided for. The organization of the department is subject to the approval of the governor.

History: 1963, Act 116, Imd. Eff. May 10, 1963
Compiler's Notes: For transfer of authority, powers, duties, functions, and management-related functions of the Department of Economic Expansion and the Economic Expansion Council, to the Chief Executive Officer of Michigan Jobs Commission, see E.R.O. No. 1993-3, compiled at MCL 408.46 of the Michigan Compiled Laws.

125.1202 Executive director; deputy executive director; appointment.

Sec. 2. The governor shall appoint, with the advise and consent of the senate, an executive director of economic expansion who shall serve at the pleasure of the governor. The executive director may appoint a deputy executive director of economic expansion.

History: 1963, Act 116, Imd. Eff. May 10, 1963
Compiler's Notes: In the first sentence of this section, “advise and consent” evidently should read “advice and consent”.

125.1203 Economic development department; transfer of records, files, property.

Sec. 3. The records, files and property of the department of economic development are transferred to the department of economic expansion. Wherever reference is made in the laws of this state to the department of economic development or the commission of economic development, such reference shall be deemed to mean the department of economic expansion and wherever reference is made in the laws of this state to the chairman of the commission of economic development, such reference shall be deemed to mean the executive director of the department of economic expansion.

History: 1963, Act 116, Imd. Eff. May 10, 1963

125.1204 Economic expansion program; activities.

Sec. 4. The executive director shall plan and direct the carrying out of an economic expansion program for the state, except as to planning functions transferred to the executive office of the governor by Act No. 380 of the Public Acts of 1965, as amended, being sections 16.101 to 16.608 of the Compiled Laws of 1948. The program shall aid the creation of new job opportunities, encourage the expansion, development and diversification of industry, commerce and agriculture and the bringing of new industry to this state, and create an atmosphere in which the businesses of the state may prosper and its citizens may enjoy the benefits of a growing economy. The program shall include, but not be restricted to, the following activities:

(a) Investigation and study of conditions affecting the economy of the state, technical studies and statistical research and surveys necessary or useful for the expansion of the economy, and collection and dissemination of such information as may be beneficial to public and private organizations.

(b) Encouragement of scientific research, and the development of new and more extensive use of forest, mineral and other resources, through the universities and colleges of the state, and other public and private agencies.

(c) Conducting research and recommendations of programs necessary to provide training for vocational skills needed to take full advantage of the state's human resources.

(d) Recommendations to the governor and the legislature, for the study and improvement of conditions, and for the elimination of restrictions, trade barriers and burdens imposed by law or otherwise, which may adversely affect or retard the legitimate development and expansion of industry, commerce or agriculture.

(e) Study and advice to the governor, the legislature, industry and interested organizations and associations as to means and methods of providing financing for economic expansion in the state.

(f) Promotion and encouragement of the expansion and development of markets in domestic and international trade for products of the state.

(g) Publicizing of the material, economic and cultural advantages of the state which make it a desirable place for business and residence.

(h) Advise and cooperate with, regional, county, municipal and other local planning agencies within the state, for the purpose of encouraging cultural, economic and physical self-improvement of the communities and coordination of state and local planning under direction of the governor.

(i) Confer and cooperate with the executive, legislative and planning authorities of the United States and neighboring states, and of the counties and municipalities of such neighboring states, for the purpose of bringing about coordination between the development of such neighboring states, counties and municipalities, and the development of this state under direction of the governor.

(j) To conduct research and make recommendations to the governor for the general purpose of guiding and accomplishing a coordinated and efficient development of the state in accordance with present and future needs and to best utilize the state's natural, material and human resources. Upon direction of the governor the department shall utilize and coordinate the research facilities of state departments and institutions in the interest of Michigan's economic and other development.

History: 1963, Act 116, Imd. Eff. May 10, 1963 ;-- Am. 1967, Act 88, Eff. Nov. 2, 1967

125.1205 Economic expansion department; powers.
Sec. 5. The department of economic expansion, in addition to its other powers and duties, may:

(a) Accept, with legislative approval, grants of funds made by the United States or any department or agency thereof or other public or private agency or individual in this state or other states.

(b) Enter into contracts with boards, commissions and agencies, both public and private, and with individuals to carry out the purposes of this act.

(c) Succeed to the rights and carry out the obligations of this state with respect to existing contracts executed on behalf of the state by the department of economic development and execute necessary amendments thereto with the power to carry out the obligations set forth in such amendments.

(d) Act as the state's official liaison agency with federal agencies concerned with economic development and public works programs.

History: 1963, Act 116, Imd. Eff. May 10, 1963

125.1206 Economic expansion department; acceptance of grants; transfer of records, files, property, and employees of department of administration.
Sec. 6. Upon the request of the governing body of any city, village, county, township or regional planning district, the department of economic expansion may apply for and accept grants without further legislative approval from the federal government for planning assistance for the local units of government, which includes but is not limited to surveys, land use studies, urban renewal plans, technical services and other planning work. State costs shall be reimbursed to the state by the local units of government. The department may accept and expend grants from the federal government and other public or private sources, contract with reference thereto, and enter into other contracts and exercise all other powers necessary to carry out the purposes of this section. The records, files and property of the department of administration relating to this power are transferred to the department of economic expansion. Employees of the department of administration as designated by the state controller are transferred to the department of economic expansion on the effective date of this act retaining their civil service classifications without further examination or qualification. Such employees shall perform such duties as may be assigned to them by the executive director.

History: 1963, Act 116, Imd. Eff. May 10, 1963

125.1207 Economic expansion council; members, appointment, term, chairman, officers, quorum, committees, report, compensation, expenses.
Sec. 7. There is created an agency of the state to be known as the economic expansion council consisting of 25 members including the executive director of the department of economic expansion as an ex-officio member. The governor shall appoint the other members of the council for terms of office coterminous with that of the governor and until their successors are appointed. The governor shall appoint the chairman of the council who shall serve at the pleasure of the governor. The council shall elect such other officers it deems necessary, determine their terms of office and shall adopt such other rules and regulations necessary to govern its procedure and business. The council shall meet at the call of the governor or the chairman. Ten members constitute a quorum. The chairman may appoint, with the approval of the governor, such committees, including an executive committee, as may be necessary to carry out the duties of the council. The membership of the committees, except the executive committee, is not restricted to members of the council. The council shall advise the governor and the department of economic expansion in the areas in which

the department is granted authority under section 4. The council shall be responsible to the governor and shall make an annual report to him and the legislature concerning the activities of the council. Members of the council shall serve without compensation but shall be entitled to reasonable and necessary expenses incurred in the discharge of their duties.

History: 1963, Act 116, Imd. Eff. May 10, 1963

125.1208 Repeal.
Sec. 8. Act No. 302 of the Public Acts of 1947, as amended, being sections 125.1 to 125.8 of the Compiled Laws of 1948, and section 17 of Act No. 51 of the First Extra Session of 1948, as added by Act No. 110 of the Public Acts of 1960, being section 18.17 of the Compiled Laws of 1948, are repealed.
History: 1963, Act 116, Imd. Eff. May 10, 1963

FEDERAL MANPOWER FUNDS

FEDERAL FUNDS
Act 122 of 1965

AN ACT to authorize local governments to comply with, and accept and match federal funds under certain federal acts.

History: 1965, Act 122, Imd. Eff. July 8, 1965

The People of the State of Michigan enact:

125.1281 Acceptance and expenditure of federal funds; matching funds.
Sec. 1. A county, city, village or township may take any necessary action consistent with state law to comply with the provisions of Public Law 415 of the 87th Congress, known as the "manpower development and training act of 1962", as amended, and Public Law 452 of the 88th Congress, known as the "economic opportunity act of 1964", as amended, and may accept and expend federal funds available under, and provide matching funds, facilities and services to the extent required by, such laws.

History: 1965, Act 122, Imd. Eff. July 8, 1965

INCOME TAX ACT OF 1967 (EXCERPT)
Act 281 of 1967

206.31 Taxable income; deductions; other deductions not allowed; taxpayers residing in renaissance zone; applicable provisions; annual return; withholding form; interest and penalty; taxable income derived from illegal activity; calculation of net operating loss; change of taxpayer status; definitions.

Sec. 31. (1) Notwithstanding any other provision of this act and for the 1997 tax year and each tax year after 1997, "taxable income" means taxable income as determined under section 30 and, except as otherwise provided, subsequently adjusted under this section.

(2) For the 1997 tax year and each tax year after 1997 and to the extent and for the duration provided in the Michigan renaissance zone act, Act No. 376 of the Public Acts of 1996, being sections 125.2681 to 125.2696 of the Michigan Compiled Laws, to determine taxable income, a qualified taxpayer may deduct, to the extent included in adjusted gross income, an amount equal to the sum of all of the following:

(a) Except as provided in subdivisions (b), (c), and (d), income earned or received during the period of time that the qualified taxpayer was a resident of a renaissance zone.

(b) Interest and dividends received in the tax year during the period that the qualified taxpayer was a resident of a renaissance zone.

(c) Capital gains received in the tax year prorated based on the percentage of time that the asset was held by the qualified taxpayer while the qualified taxpayer was a resident of the renaissance zone.

(d) Income received by the qualified taxpayer from winning an on-line lottery game sponsored by this state only if the date on which the drawing for that game was held was after the taxpayer became a resident of a renaissance zone and income received by the qualified taxpayer from winning an instant lottery game sponsored by this state only if the taxpayer was a resident of a renaissance zone on the validation date of the lottery ticket for that game.

(3) Income used to calculate a deduction under any other section of this act shall not be used to calculate a deduction under this section.

(4) If a qualified taxpayer completes the residency requirements under subsection (11)(d) before the end of the tax year in which the qualified taxpayer first resided in the renaissance zone, the qualified taxpayer may claim the deduction allowed under this section for that tax year. If the qualified taxpayer completes the residency requirements under subsection (11)(d) in a tax year subsequent to the tax year in which the qualified taxpayer first resided in the renaissance zone, the following apply:

(a) If the qualified taxpayer completes the residency requirement in a tax year subsequent to the tax year in which the taxpayer first resided in the renaissance zone and before the date for filing the annual return under this act for the tax year in which the taxpayer first resided in the renaissance zone, the taxpayer may claim the deduction allowed under this section for the tax year in which the taxpayer first resided in the renaissance zone.

(b) If the qualified taxpayer completes the residency requirement in a tax year subsequent to the tax year in which the taxpayer first resided in the renaissance zone and after the date for filing the annual return under this act for the tax year in which the taxpayer first resided in the renaissance zone, the taxpayer may claim the deduction allowed under this section for the tax year in which the residency requirement is completed on the annual return for the tax year in which the residency requirement is completed and may claim the deduction for the tax year in which the qualified taxpayer first resided in the renaissance zone by filing an amended return for the tax year in which the qualified taxpayer first resided in the renaissance zone.

(5) To be eligible for the deduction under this section, a taxpayer shall file an annual return under this act.

(6) A qualified taxpayer shall file a withholding form prescribed by the department with his or her employer within 10 days after the date the taxpayer completes the requirements under subsection (11)(d).

(7) If the department finds that a taxpayer has claimed a deduction under this section to which he or she is not entitled, the taxpayer is subject to the interest and penalty provisions under Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws.

(8) Any portion of taxable income derived from illegal activity conducted anywhere shall not be used to calculate a deduction under this section.

(9) The net operating loss deduction allowed under section 30(1)(p) shall be calculated without regard to the deductions allowed under this section.

(10) If a taxpayer who was a qualified taxpayer during the tax year changes status and is not a qualified taxpayer or vice versa, income subject to tax under this act shall be determined separately for income in each status.

(11) As used in this section:

(a) "Domicile" means a place where a person has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she intends to return, and domicile continues until another permanent establishment is established.

(b) "Qualified taxpayer" means a taxpayer that is a resident of a renaissance zone and that has gross income not exceeding $1,000,000.00 for any tax year for which the taxpayer claims a credit under this section.

(c) "Renaissance zone" means that term as defined in Act No. 376 of the Public Acts of 1996.

(d) "Resident" means an individual domiciled in an area that is designated a renaissance zone for a period of 183 consecutive days. A taxpayer may begin calculating the 183-day period during the 183 days immediately preceding the designation of the area as a renaissance zone. Resident includes the estate of an individual who was a resident of a renaissance zone at the time of death. After a taxpayer has completed the 183-day residency requirement under this subdivision, the taxpayer is considered to have been a resident of that renaissance zone beginning from the first day used to determine if the 183-day residency requirement has been met.

History: Add. 1996, Act 448, Imd. Eff. Dec. 19, 1996

MICHIGAN ECONOMIC GROWTH AUTHORITY ACT
Act 24 of 1995

AN ACT to promote economic growth and job creation within this state; to create and regulate the Michigan economic growth authority; to prescribe the powers and duties of the authority and of state and local officials; to assess and collect a fee; to approve certain plans and the use of certain funds; and to

provide qualifications for and determine eligibility for tax credits and other incentives for authorized businesses and for qualified taxpayers.

History: 1995, Act 24, Imd. Eff. Apr. 18, 1995 ;-- Am. 2000, Act 144, Imd. Eff. June 6, 2000
Popular Name: MEGA

207.801 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan economic growth authority act".

History: 1995, Act 24, Imd. Eff. Apr. 18, 1995
Popular Name: MEGA

207.802 Legislative findings.

Sec. 2. The legislature finds that it is in the public interest to promote economic growth and to encourage private investment, job creation, and job upgrading for residents in this state.

History: 1995, Act 24, Imd. Eff. Apr. 18, 1995
Popular Name: MEGA

207.803 Definitions.

Sec. 3. As used in this act:

(a) "Affiliated business" means a business that is at least 50% owned and controlled, directly or indirectly, by an associated business.

(b) "Associated business" means a business that owns at least 50% of and controls, directly or indirectly, an authorized business.

(c) "Authorized business" means 1 of the following:

(i) A single eligible business with a unique federal employer identification number that has met the requirements of section 8 and with which the authority has entered into a written agreement for a tax credit under section 9.

(ii) A single eligible business with a unique federal employer identification number that has met the requirements of section 8, except as provided in this subparagraph, and with which the authority has entered into a written agreement for a tax credit under section 9. An eligible business is not required to create qualified new jobs or maintain retained jobs if qualified new jobs are

created or retained jobs are maintained by an associated business, subsidiary business, affiliated business, or an employee leasing company or professional employer organization that has entered into a contractual service agreement with the authorized business in which the employee leasing company or professional employer organization withholds income and social security taxes on behalf of the authorized business.

(d) "Authority" means the Michigan economic growth authority created under section 4.

(e) "Business" means proprietorship, joint venture, partnership, limited liability partnership, trust, business trust, syndicate, association, joint stock company, corporation, cooperative, limited liability company, or any other organization.

(f) "Distressed business" means a business that meets all of the following as verified by the Michigan economic growth authority:

(i) Four years immediately preceding the application to the authority under this act, the business had 150 or more full-time jobs in this state.

(ii) Within the immediately preceding 4 years, there has been a reduction of not less than 30% of the number of full-time jobs in this state during any consecutive 3-year period. The highest number of full-time jobs within the consecutive 3-year period shall be used in order to determine the percentage reduction of full-time jobs in this subparagraph.

(iii) Is not a seasonal employer as defined in section 27 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.27.

(g) "Eligible business" means a distressed business or business that proposes to maintain retained jobs after December 31, 1999 or to create qualified new jobs in this state after April 18, 1995 in manufacturing, mining, research and development, wholesale and trade, film and digital media production, or office operations or a business that is a qualified high-technology business or a business that is a tourism attraction facility or a qualified lodging facility. Except for a retail establishment that meets the criteria in section 8(11), an eligible business does not include retail establishments, professional sports stadiums, or that portion of an eligible business used exclusively for retail sales. Professional sports stadium does not include a sports stadium in existence on

June 6, 2000 that is not used by a professional sports team on the date that an application related to that professional sports stadium is filed under section 8.

(h) "Facility" means a site or sites within this state in which an authorized business or subsidiary business maintains retained jobs or creates qualified new jobs.

(i) "Film and digital media production" means the development, preproduction, production, postproduction, and distribution of single media or multimedia entertainment content for distribution or exhibition to the general public in 2 or more states by any means and media in any digital media format, film, or video tape, including, but not limited to, a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games, video games, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website. Film and digital media production also includes the development, preproduction, production, postproduction, and distribution of a trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment in a film or digital media production. Film or digital media production does not include the production of any of the following:

(i) A production for which records are required to be maintained with respect to any performer in the production under 18 USC 2257.

(ii) A production that includes obscene matter or an obscene performance as described in 1984 PA 343, MCL 752.361 to 752.374.

(iii) A production that primarily consists of televised news or current events.

(iv) A production that primarily consists of a live sporting event.

(v) A production that primarily consists of political advertising.

(vi) A radio program.

(vii) A weather show.

(viii) A financial market report.

(ix) A talk show.

(x) A game show.

(xi) A production that primarily markets a product or service.

(xii) An awards show or other gala event production.

(xiii) A production with the primary purpose of fund-raising.

(xiv) A production that primarily is for employee training or in-house corporate advertising or other similar production.

(j) "Full-time job" means a job performed by an individual for 35 hours or more each week and whose income and social security taxes are withheld by 1 or more of the following:

(i) An authorized business.

(ii) An employee leasing company.

(iii) A professional employer organization on behalf of the authorized business.

(iv) Another person as provided in section 8(1)(c).

(v) A business that sells all or part of its assets to an eligible business that receives a credit under section 8(1) or (5).

(k) "Local governmental unit" means a county, city, village, or township in this state.

(l) "High-technology activity" means 1 or more of the following:

(i) Advanced computing, which is any technology used in the design and development of any of the following:

(A) Computer hardware and software.

(B) Data communications.

(C) Information technologies.

(D) Film and digital media production.

(ii) Advanced materials, which are materials with engineered properties created through the development of specialized process and synthesis technology.

(iii) Biotechnology, which is any technology that uses living organisms, cells, macromolecules, microorganisms, or substances from living organisms to make or modify a product, improve plants or animals, or develop microorganisms for useful purposes. Biotechnology does not include human cloning as defined in section 16274 of the public health code, 1978 PA 368, MCL 333.16274, or stem cell research with embryonic tissue.

(iv) Electronic device technology, which is any technology that involves microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics, and optical and optic-electrical devices, or data and digital communications and imaging devices.

(v) Engineering or laboratory testing related to the development of a product.

(vi) Technology that assists in the assessment or prevention of threats or damage to human health or the environment, including, but not limited to, environmental cleanup technology, pollution prevention technology, or development of alternative energy sources.

(vii) Medical device technology, which is any technology that involves medical equipment or products other than a pharmaceutical product that has therapeutic or diagnostic value and is regulated.

(viii) Product research and development.

(ix) Advanced vehicles technology, which is any technology that involves electric vehicles, hybrid vehicles, or alternative fuel vehicles, or components used in the construction of electric vehicles, hybrid vehicles, or alternative fuel vehicles. For purposes of this act:

(A) "Electric vehicle" means a road vehicle that draws propulsion energy only from an on-board source of electrical energy.

(B) "Hybrid vehicle" means a road vehicle that can draw propulsion energy from both a consumable fuel and a rechargeable energy storage system.

(x) Tool and die manufacturing.

(xi) Competitive edge technology as defined in section 88a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2088a.

(xii) Digital media, including internet publishing and broadcasting, video gaming, web development, and entertainment technology.

(xiii) Music production, including record production and development, sound recording studios, and integrated high-technology record production and distribution.

(xiv) Film and video, including motion picture and video production and distribution, postproduction services, and teleproduction and production services.

(m) "New capital investment" means 1 or more of the following:

(i) New construction. As used in this subparagraph:

(A) "New construction" means property not in existence on the date the authorized business enters into a written agreement with the authority and not replacement construction. New construction includes the physical addition of equipment or furnishings, subject to section 27(2)(a) to (o) of the general property tax act, 1893 PA 206, MCL 211.27.

(B) "Replacement construction" means that term as defined in section 34d(1)(b)(v) of the general property tax act, 1893 PA 206, MCL 211.34d.

(ii) The purchase of new personal property. As used in this subparagraph, "new personal property" means personal property that is not subject to or that is exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, on the date the authorized business enters into a written agreement with the authority.

(n) "Qualified high-technology business" means a business or facility whose primary business activity is high-technology activity or a qualified high-wage activity.

(o) "Qualified high-wage activity" means a business that has an average wage of 300% or more of the federal minimum wage. Qualified high-wage activity may also include, but is not limited to, 1 or more of the following as long as they have an average wage of 300% or more of the federal minimum wage:

(i) Architecture and design, including architectural design, graphic design, interior design, fashion design, and industrial design.

(ii) Advertising and marketing, including advertising and marketing firms and agencies, public relations agencies, and display advertising.

(p) "Qualified lodging facility" means 1 or more of the following:

(i) Lodging facilities that constitute a portion of a tourism attraction facility and represent less than 50% of the total cost of the tourism attraction facility, or the lodging facilities are to be located on recreational property owned or leased by the municipal, state, or federal government.

(ii) The lodging facilities involve the restoration or rehabilitation of a structure that is listed individually in the national register of historic places or are located in a national register historic district and certified by this state as contributing to the historic significance of the district, and the rehabilitation or restoration project has been approved in advance by this state.

(q) "Qualified new job" means 1 of the following:

(i) A full-time job created by an authorized business at a facility that is in excess of the number of full-time jobs the authorized business maintained in this state prior to the expansion or location, as determined by the authority.

(ii) For jobs created after July 1, 2000, a full-time job at a facility created by an eligible business that is in excess of the number of full-time jobs maintained by that eligible business in this state up to 90 days before the eligible business became an authorized business, as determined by the authority.

(iii) For a distressed business, a full-time job at a facility that is in excess of the number of full-time jobs maintained by that eligible business in this state on the date the eligible business became an authorized business.

(r) "Retained jobs" means the number of full-time jobs at a facility of an authorized business maintained in this state on a specific date as that date and number of jobs is determined by the authority.

(s) "Rural business" means an eligible business located in a county with a population of 90,000 or less.

(t) "Subsidiary business" means a business that is directly or indirectly controlled or at least 80% owned by an authorized business.

(u) "Tourism attraction facility" means a cultural or historical site, a recreation or entertainment facility, an area of natural phenomena or scenic beauty, or an entertainment destination center as determined by the Michigan economic growth authority as follows:

(i) In making a determination, the Michigan economic growth authority shall consider all of the following:

(A) Whether the facility will actually attract tourists.

(B) Whether 50% or more of the persons using the facility reside outside a 100-mile radius.

(C) Whether 50% or more of the gross receipts are from admissions, food, or nonalcoholic drinks.

(D) Whether the facility offers a unique experience.

(ii) The Michigan economic growth authority shall not determine any of the following as a tourism attraction facility:

(A) Facilities, other than an entertainment destination center, that are primarily devoted to the retail sale of goods, a theme restaurant destination attraction, or a tourism attraction where the attraction is a secondary and subordinate component to the sale of goods.

(B) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the state would remain overnight in commercial lodging at or near the facility.

(v) "Written agreement" means a written agreement made pursuant to section 8. A written agreement may address new jobs, qualified new jobs, full-time jobs, retained jobs, or any combination of new jobs, qualified new jobs, full-time jobs, or retained jobs.

History: 1995, Act 24, Imd. Eff. Apr. 18, 1995 ;-- Am. 2000, Act 144, Imd. Eff. June 6, 2000 ;-- Am. 2000, Act 428, Imd. Eff. Jan. 9, 2001 ;-- Am. 2003, Act 248, Imd. Eff. Dec. 29, 2003 ;-- Am. 2004, Act 81, Imd. Eff. Apr. 22, 2004 ;-- Am. 2004, Act 398, Imd. Eff. Oct. 15, 2004 ;-- Am. 2006, Act 21, Imd. Eff. Feb. 14, 2006 ;-- Am. 2006, Act 117, Imd. Eff. Apr. 11, 2006 ;-- Am. 2006, Act 188, Imd. Eff. June 19, 2006 ;-- Am. 2006, Act 281, Imd. Eff. July 10, 2006 ;-- Am. 2007, Act 62, Imd. Eff. Sept. 19, 2007 ;-- Am. 2008, Act 87, Imd. Eff. Apr. 8, 2008 ;-- Am. 2008, Act 108, Imd. Eff. Apr. 28, 2008 ;-- Am. 2008, Act 257, Imd. Eff. Aug. 4, 2008
Popular Name: MEGA

207.804 Michigan economic growth authority; creation within Michigan strategic fund; duties; membership, appointment, and terms of members; vacancy; compensation; expenses.

Sec. 4. (1) The Michigan economic growth authority is created within the Michigan strategic fund. The Michigan strategic fund shall provide staff for the authority and shall carry out the administrative duties and functions as directed by the authority. The budgeting, procurement, and related functions as directed by the authority are under the supervision of the president of the Michigan strategic fund.

(2) The authority consists of the following 8 members:

(a) The president of the Michigan strategic fund, or his or her designee, as chairperson of the authority.

(b) The state treasurer or his or her designee.

(c) The director of the department of labor and economic growth, or his or her designee.

(d) The director of the state transportation department, or his or her designee.

(e) Four other members appointed by the governor by and with the advice and consent of the senate who are not employed by this state and who have knowledge, skill, and experience in the academic, business, local government, labor, or financial fields.

(3) A member shall be appointed for a term of 4 years, except that of the members first appointed by the governor, 2 shall be appointed for a term of 2 years and 2 for a term of 4 years from the dates of their appointments. A vacancy shall be filled for the balance of the unexpired term in the same manner as an original appointment by the governor and by and with the advice and consent of the senate.

(4) Except as otherwise provided by law, a member of the authority shall not receive compensation for services, but the authority may reimburse each member for expenses necessarily incurred in the performance of his or her duties.

History: 1995, Act 24, Imd. Eff. Apr. 18, 1995 ;-- Am. 2003, Act 248, Imd. Eff. Dec. 29, 2003 ;-- Am. 2006, Act 484, Imd. Eff. Dec. 29, 2006
Compiler's Notes: For transfer of the position as member of Michigan economic growth authority designated for the director of the Michigan jobs commission to the president and chief executive officer of the Michigan economic development corporation to the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of the position as member of the Michigan economic growth authority designated for the director of the department of management and budget to the director of the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.
Popular Name: MEGA

207.805 Michigan economic growth authority; powers; quorum; meetings; business conducted at public meeting; confidential information; written statement; disclosure; "financial or proprietary information" defined.
Sec. 5. (1) The powers of the authority are vested in the authority members in office. Regardless of the existence of a vacancy, a majority of the members of the authority constitutes a quorum necessary for the transaction of business at a meeting or the exercise of a power or function of the authority. Action may be taken by the authority at a meeting upon a vote of the majority of the members present. Members of the authority may be present in person at a meeting of the authority or, if authorized by the bylaws of the authority, by use of telecommunications or other electronic equipment.

(2) The authority shall meet at the call of the chairperson or as may be provided by the authority. Meetings of the authority may be held anywhere within this state.

(3) The business of the authority shall be conducted at a public meeting of the authority held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given as provided by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A record or portion of a record, material, or other data received, prepared, used, or retained by the authority in connection with an application for a tax credit under section 9 that relates to financial or proprietary information submitted by the applicant that is considered by the applicant and acknowledged by the authority as confidential shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. A designee of the authority shall make the determination as to whether the authority acknowledges as confidential any financial or proprietary information submitted by the applicant and considered by the applicant as confidential. Unless considered proprietary information, the authority shall not acknowledge routine financial information as confidential. If the designee of the authority determines that information submitted to the authority is financial or proprietary information and is confidential, the designee of the authority shall release a written statement, subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, which states all of the following:

(a) The name and business location of the person requesting that the information submitted be confidential as financial or proprietary information.

(b) That the information submitted was determined by the designee of the authority to be confidential as financial or proprietary information.

(c) A broad nonspecific overview of the financial or proprietary information determined to be confidential.

(4) The authority shall not disclose financial or proprietary information not subject to disclosure pursuant to subsection (3) without consent of the applicant submitting the information.

(5) As used in this section, "financial or proprietary information" means information that has not been publicly disseminated or is unavailable from

other sources, the release of which might cause the applicant significant competitive harm. Financial or proprietary information does not include a written agreement under this act.

History: 1995, Act 24, Imd. Eff. Apr. 18, 1995 ;-- Am. 2003, Act 248, Imd. Eff. Dec. 29, 2003 ;-- Am. 2008, Act 108, Imd. Eff. Apr. 28, 2008
Popular Name: MEGA

207.806 Michigan economic growth authority; powers.
Sec. 6. The authority shall have powers necessary or convenient to carry out and effectuate the purpose of this act, including, but not limited to, the following:

(a) To authorize eligible businesses to receive tax credits to foster job creation in this state.

(b) To determine which businesses qualify for tax credits under this act.

(c) To determine the amount and duration of tax credits authorized under this act.

(d) To issue certificates and enter into written agreements specifying the conditions under which tax credits are authorized and the circumstances under which those tax credits may be reduced or terminated.

(e) To charge and collect reasonable administrative fees.

(f) To delegate to the chairperson of the authority, staff, or others the functions and powers it considers necessary and appropriate to administer the programs under this act.

(g) To assist an eligible business to obtain the benefits of a tax credit, incentive, or inducement program provided by this act or by law.

(h) To determine the eligibility of and issue certificates to certain qualified taxpayers for credits allowed under former section 38g(3) of 1975 PA 228 and section 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431, and to develop the application process and necessary forms to claim the credit under former section 38g(3) of 1975 PA 228 and section 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431. The Michigan economic growth

authority annually shall prepare and submit to the house of representatives and senate committees responsible for tax policy and economic development issues a report on the credits under former section 38g(3) of 1975 PA 228 and section 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431. The report shall include, but is not limited to, all of the following:

(i) A listing of the projects under former section 38g(3) of 1975 PA 228 and section 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431, that were approved in the previous calendar year.

(ii) The total amount of eligible investment approved under former section 38g(3) of 1975 PA 228 and section 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431, in the previous calendar year.

(i) To approve the capture of school operating taxes and work plans as provided in sections 13 and 15 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2663 and 125.2665.

(j) To determine the eligibility of and issue certificates to certain qualified taxpayers for credits allowed under section 407 of the Michigan business tax act, 2007 PA 36, MCL 208.1407.

(k) To determine the eligibility of and issue certificates to certain taxpayers for credits allowed under sections 431a and 431b of the Michigan business tax act, 2007 PA 36, MCL 208.1431a and 208.1431b.

(l) To determine the eligibility of and issue certificates to certain taxpayers for credits allowed under sections 432 to 432d of the Michigan business tax act, 2007 PA 36, MCL 208.1432 to 208.1432d.

(m) To determine the eligibility of and issue certificates to certain taxpayers for credits allowed under section 434 of the Michigan business tax act, 2007 PA 36, MCL 208.1434.

History: 1995, Act 24, Imd. Eff. Apr. 18, 1995 ;-- Am. 2000, Act 144, Imd. Eff. June 6, 2000 ;-- Am. 2003, Act 248, Imd. Eff. Dec. 29, 2003 ;-- Am. 2007, Act 150, Imd. Eff. Dec. 14, 2007 ;-- Am. 2008, Act 110, Imd. Eff. Apr. 28, 2008 ;-- Am. 2008, Act 262, Imd. Eff. Aug. 6, 2008 ;-- Am. 2008, Act 548, Imd. Eff. Jan. 13, 2009
Popular Name: MEGA

207.807 Application for tax credit; written agreement; form.
Sec. 7. (1) An eligible business may apply to the authority to enter into a written agreement which authorizes a tax credit under section 9.

(2) The form of the application shall be as specified by the authority from time to time. The authority may request such information, in addition to that contained in an application, as may be needed to permit the authority to discharge its responsibilities under section 8.

History: 1995, Act 24, Imd. Eff. Apr. 18, 1995
Popular Name: MEGA

207.808 Agreement for tax credit; determination; requirements; amount and duration of tax credits; factors; written agreement; criteria; limitation on new agreements; execution; repayment provision; conditions; agreement with eligible business not meeting criteria.
Sec. 8. (1) After receipt of an application, the authority may enter into an agreement with an eligible business for a tax credit under section 9 if the authority determines that all of the following are met:

(a) Except as provided in subsection (5), the eligible business creates 1 or more of the following as determined by the authority and provided with written agreement:

(i) A minimum of 50 qualified new jobs at the facility if expanding in this state.

(ii) A minimum of 50 qualified new jobs at the facility if locating in this state.

(iii) A minimum of 25 qualified new jobs at the facility if the facility is located in a neighborhood enterprise zone as determined under the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786, is located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, or is located in a federally designated empowerment zone, rural enterprise community, or enterprise community.

(iv) A minimum of 5 qualified new jobs at the facility if the eligible business is a qualified high-technology business.

(v) A minimum of 5 qualified new jobs at the facility if the eligible business is a rural business.

(b) Except as provided in subsection (5), the eligible business agrees to maintain 1 or more of the following for each year that a credit is authorized under this act:

(i) A minimum of 50 qualified new jobs at the facility if expanding in this state.

(ii) A minimum of 50 qualified new jobs at the facility if locating in this state.

(iii) A minimum of 25 qualified new jobs at the facility if the facility is located in a neighborhood enterprise zone as determined under the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786, is located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, or is located in a federally designated empowerment zone, rural enterprise community, or enterprise community.

(iv) If the eligible business is a qualified high-technology business, all of the following apply:

(A) A minimum of 5 qualified new jobs at the facility.

(B) A minimum of 25 qualified new jobs at the facility within 5 years after the date of the expansion or location as determined by the authority and a minimum of 25 qualified new jobs at the facility each year thereafter for which a credit is authorized under this act.

(v) If the eligible business is a rural business, all of the following apply:

(A) A minimum of 5 qualified new jobs at the facility.

(B) A minimum of 25 qualified new jobs at the facility within 5 years after the date of the expansion or location as determined by the authority.

(c) Except as provided in subsection (5) and as otherwise provided in this subdivision, in addition to the jobs specified in subdivision (b), the eligible business, if already located within this state, agrees to maintain a number of full-time jobs equal to or greater than the number of full-time jobs it maintained in this state prior to the expansion, as determined by the authority. After an eligible business has entered into a written agreement as provided in subsection (2), the authority may adjust the number of full-time jobs required to be maintained by the authorized business under this subdivision, in order to adjust

for decreases in full-time jobs in the authorized business in this state due to the divestiture of operations, provided a single other person continues to maintain those full-time jobs in this state. The authority shall not approve a reduction in the number of full-time jobs to be maintained unless the authority has determined that it can monitor the maintenance of the full-time jobs in this state by the other person, and the authorized business agrees in writing that the continued maintenance of the full-time jobs in this state by the other person, as determined by the authority, is a condition of receiving tax credits under the written agreement. A full-time job maintained by another person under this subdivision, that otherwise meets the requirements of section 3(i), shall be considered a full-time job, notwithstanding the requirement that a full-time job be performed by an individual employed by an authorized business, or an employee leasing company or professional employer organization on behalf of an authorized business.

(d) Except as otherwise provided in this subdivision, the wage paid for each retained job and qualified new job is equal to or greater than 150% of the federal minimum wage. However, if the eligible business is a qualified high-wage activity, then the wage paid for each qualified new job is equal to or greater than 300% of the federal minimum wage. However, beginning on the effective date of the amendatory act that added this sentence, the authority may include the value of the health care benefit in determining the wage paid for each retained job or qualified new job for an eligible business under this act.

(e) The plans for the expansion, retention, or location are economically sound.

(f) Except for an eligible business described in subsection (5)(c), the eligible business has not begun construction of the facility.

(g) The expansion, retention, or location of the eligible business will benefit the people of this state by increasing opportunities for employment and by strengthening the economy of this state.

(h) The tax credits offered under this act are an incentive to expand, retain, or locate the eligible business in Michigan and address the competitive disadvantages with sites outside this state.

(i) A cost/benefit analysis reveals that authorizing the eligible business to receive tax credits under this act will result in an overall positive fiscal impact to the state.

(j) If the eligible business is a qualified high-technology business described in section 3(m)(i), the eligible business agrees that not less than 25% of the total operating expenses of the business will be maintained for research and development for the first 3 years of the written agreement.

(2) If the authority determines that the requirements of subsection (1), (5), (9), or (11) have been met, the authority shall determine the amount and duration of tax credits to be authorized under section 9, and shall enter into a written agreement as provided in this section. The duration of the tax credits shall not exceed 20 years or for an authorized business that is a distressed business, 3 years. In determining the amount and duration of tax credits authorized, the authority shall consider the following factors:

(a) The number of qualified new jobs to be created or retained jobs to be maintained.

(b) The average wage and health care benefit level of the qualified new jobs or retained jobs relative to the average wage and health care benefit paid by private entities in the county in which the facility is located.

(c) The total capital investment or new capital investment the eligible business will make.

(d) The cost differential to the business between expanding, locating, or retaining new jobs in Michigan and a site outside of Michigan.

(e) The potential impact of the expansion, retention, or location on the economy of Michigan.

(f) The cost of the credit under section 9, the staff, financial, or economic assistance provided by the local government unit, or local economic development corporation or similar entity, and the value of assistance otherwise provided by this state.

(g) Whether the expansion, retention, or location will occur in this state without the tax credits offered under this act.

(h) Whether the authorized business reuses or redevelops property that was previously used for an industrial or commercial purpose in locating the facility.

(3) A written agreement between an eligible business and the authority shall include, but need not be limited to, all of the following:

(a) A description of the business expansion, retention, or location that is the subject of the agreement.

(b) Conditions upon which the authorized business designation is made.

(c) A statement by the eligible business that a violation of the written agreement may result in the revocation of the designation as an authorized business and the loss or reduction of future credits under section 9.

(d) A statement by the eligible business that a misrepresentation in the application may result in the revocation of the designation as an authorized business and the refund of credits received under section 9.

(e) A method for measuring full-time jobs before and after an expansion, retention, or location of an authorized business in this state.

(f) A written certification from the eligible business regarding all of the following:

(i) The eligible business will follow a competitive bid process for the construction, rehabilitation, development, or renovation of the facility, and that this process will be open to all Michigan residents and firms. The eligible business may not discriminate against any contractor on the basis of its affiliation or nonaffiliation with any collective bargaining organization.

(ii) The eligible business will make a good faith effort to employ, if qualified, Michigan residents at the facility.

(iii) The eligible business will make a good faith effort to employ or contract with Michigan residents and firms to construct, rehabilitate, develop, or renovate the facility.

(iv) The eligible business is encouraged to make a good faith effort to utilize Michigan-based suppliers and vendors when purchasing goods and services.

(g) A condition that if the eligible business qualified under subsection (5)(b)(ii) and met the subsection (1)(e) requirement by filing a chapter 11 plan of reorganization, the plan must be confirmed by the bankruptcy court within 6 years of the date of the agreement or the agreement is rescinded.

(4) Upon execution of a written agreement as provided in this section, an eligible business is an authorized business.

(5) Through December 31, 2007, after receipt of an application, the authority may enter into a written agreement with an eligible business that meets 1 or more of the following criteria:

(a) Is located in this state on the date of the application, makes new capital investment of $250,000,000.00 in this state, and maintains 500 retained jobs, as determined by the authority.

(b) Meets 1 or more of the following criteria:

(i) Relocates production of a product to this state after the date of the application, makes capital investment of $500,000,000.00 in this state, and maintains 500 retained jobs, as determined by the authority.

(ii) Maintains 150 retained jobs at a facility, maintains 1,000 or more full-time jobs in this state, and makes new capital investment in this state.

(iii) Is located in this state on the date of the application, maintains at least 100 retained jobs at a single facility, and agrees to make new capital investment at that facility equal to the greater of $100,000.00 per retained job maintained at that facility or $10,000,000.00 to be completed or contracted for not later than December 31, 2007.

(iv) Maintains 300 retained jobs at a facility; the facility is at risk of being closed and if it were to close, the work would go to a location outside this state, as determined by the authority; new management or new ownership is proposed for the facility that is committed to improve the viability of the facility, unless otherwise provided in this subparagraph; and the tax credits offered under this act are necessary for the facility to maintain operations. The authority may not enter into a written agreement under this subparagraph after December 31, 2007. Of the written agreements entered into under this subparagraph, the authority may enter into 3 written agreements under this subparagraph that are

excluded from the requirements of subsection (1)(e), (f), (h), and (i) if the authority considers it in the public interest and if the eligible business would have met the requirements of subsection (1)(g), (h), and (k) within the immediately preceding 6 months from the signing of the written agreement for a tax credit. Of the 3 written agreements described in this subparagraph, the authority may also waive the requirement for new management if the existing management and labor make a commitment to improve the viability and productivity of the facility to better meet international competition as determined by the authority.

(v) Maintains 100 retained jobs at a facility; is a rural business, unless otherwise provided in this subparagraph; the facility is at risk of being closed and if it were to close, the work would go to a location outside this state, as determined by the authority; new management or new ownership is proposed for the facility that is committed to improve the viability of the facility; and the tax credits offered under this act are necessary for the facility to maintain operations. The authority may not enter into a written agreement under this subparagraph after December 31, 2007. Of the written agreements entered into under this subparagraph, the authority may enter into 3 written agreements under this subparagraph that are excluded from the requirements of subsection (1)(e), (f), and (h) if the authority considers it in the public interest and if the eligible business would have met the requirements of subsection (1)(g), (h), and (e) within the immediately preceding 6 months from the signing of the written agreement for a tax credit. Of the 3 written agreements described in this subparagraph, the authority may also waive the requirement that the business be a rural business if the business is located in a county with a population of 500,000 or more and 600,000 or less.

(vi) Maintains 175 retained jobs and makes new capital investment at a facility in a county with a population of not less than 7,500 but not greater than 8,000.

(vii) Is located in this state on the date of the application, maintains at least 675 retained jobs at a facility, agrees to create 400 new jobs, and agrees to make a new capital investment of at least $45,000,000.00 to be completed or contracted for not later than December 31, 2007. Of the written agreements entered into under this subparagraph, the authority may enter into 1 written agreement under this subparagraph that is excluded from the requirements of subsection (1)(f) if the authority considers it in the public interest.

(viii) Is located in this state on the date of the application, makes new capital investment of $250,000,000.00 or more in this state, and makes that capital investment at a facility located north of the 45th parallel.

(c) Is a distressed business.

(6) Each year, the authority shall not execute new written agreements that in total provide for more than 400 yearly credits over the terms of those agreements entered into that year for eligible businesses that are not qualified high-technology businesses, distressed businesses, rural businesses, or an eligible business described in subsection (11).

(7) The authority shall not execute more than 50 new written agreements each year for eligible businesses that are qualified high-technology businesses or rural business. Only 25 of the 50 written agreements for businesses that are qualified high-technology businesses or rural business may be executed each year for qualified rural businesses.

(8) The authority shall not execute more than 20 new written agreements each year for eligible businesses that are distressed businesses. The authority shall not execute more than 5 of the written agreements described in this subsection each year for distressed businesses that had 1,000 or more full-time jobs at a facility 4 years immediately preceding the application to the authority under this act. The authority shall not execute more than 5 new written agreements each year for eligible businesses described in subsection (11). The authority shall not execute more than 4 new written agreements each year for eligible businesses described in subsection (11) in local governmental units that have a population greater than 16,000.

(9) Beginning January 1, 2008, after receipt of an application, the authority may enter into a written agreement with an eligible business that does not meet the criteria described in subsection (1), if the eligible business meets all of the following:

(a) Agrees to retain not fewer than 50 jobs.

(b) Agrees to invest, through construction, acquisition, transfer, purchase, contract, or any other method as determined by the authority, at a facility equal to $50,000.00 or more per retained job maintained at the facility.

(c) Certifies to the authority that, without the credits under this act and without the new capital investment, the facility is at risk of closing and the work and jobs would be removed to a location outside of this state.

(d) Certifies to the authority that the management or ownership is committed to improving the long-term viability of the facility in meeting the national and international competition facing the facility through better management techniques, best practices, including state of the art lean manufacturing practices, and market diversification.

(e) Certifies to the authority that it will make best efforts to keep jobs in Michigan when making plant location and closing decisions.

(f) Certifies to the authority that the workforce at the facility demonstrates its commitment to improving productivity and profitability at the facility through various means.

(10) Beginning on the effective date of the amendatory act that added this subsection, if the authority enters into a written agreement with an eligible business, the written agreement shall include a repayment provision of all or a portion of the credits received by the eligible business for a facility if the eligible business moves full-time jobs outside this state during the term of the written agreement and for a period of years after the term of the written agreement, as determined by the authority.

(11) Beginning January 1, 2008, after receipt of an application, the authority may enter into a written agreement with an eligible business that does not meet the criteria described in subsection (1), if the eligible business meets all of the following:

(a) Agrees to create or retain not fewer than 15 jobs.

(b) Agrees to occupy property that is a historic resource as that term is defined in section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, and that is located in a downtown district as defined in section 1 of 1975 PA 197, MCL 125.1651.

(c) The average wage paid for each retained job and full-time job is equal to or greater than 150% of the federal minimum wage.

History: 1995, Act 24, Imd. Eff. Apr. 18, 1995 ;-- Am. 2000, Act 144, Imd. Eff. June 6, 2000 ;-- Am. 2003, Act 248, Imd. Eff. Dec. 29, 2003 ;-- Am. 2004, Act 81, Imd. Eff. Apr. 22, 2004 ;-- Am. 2004, Act 398, Imd. Eff. Oct. 15, 2004 ;-- Am. 2005, Act 185, Imd. Eff. Oct. 24, 2005 ;-- Am. 2006, Act 21, Imd. Eff. Feb. 14, 2006 ;-- Am. 2006, Act 117, Imd. Eff. Apr. 11, 2006 ;-- Am. 2006, Act 283, Imd. Eff. July 10, 2006 ;-- Am. 2006, Act 484, Imd. Eff. Dec. 29, 2006 ;-- Am. 2007, Act 62, Imd. Eff. Sept. 19, 2007 ;-- Am. 2008, Act 110, Imd. Eff. Apr. 28, 2008 ;-- Am. 2008, Act 257, Imd. Eff. Aug. 4, 2008
Compiler's Notes: In the last sentence of subsection (1)(c), the citation to "section 3(i) evidently should read "section 3(i)".
Popular Name: MEGA

207.808a Fee or donation.

Sec. 8a. Beginning on the effective date of the amendatory act that added this section, the authority shall not require an eligible business, as a condition of becoming an authorized business, to pay an unreasonable fee to or make a donation to the Michigan economic development corporation or a foundation or fund associated with the Michigan economic development corporation.

History: Add. 2003, Act 248, Imd. Eff. Dec. 29, 2003
Popular Name: MEGA

207.809 Eligibility for credits; issuance of certificate.

Sec. 9. (1) An authorized business is eligible for the credits provided in sections 37c, 37d, and 38g(19) to (24) of the single business tax act, 1975 PA 228, MCL 208.37c, 208.37d, and 208.38g, and sections 407 and 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1407 and 208.1431.

(2) The authority shall issue a certificate each year to an authorized business that states the following:

(a) That the eligible business is an authorized business.

(b) The amount of the tax credit for the designated tax year.

(c) The taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer.

History: 1995, Act 24, Imd. Eff. Apr. 18, 1995 ;-- Am. 2000, Act 144, Imd. Eff. June 6, 2000 ;-- Am. 2007, Act 150, Imd. Eff. Dec. 14, 2007
Popular Name: MEGA

207.810 Report to legislature.
Sec. 10. The authority shall report to both houses of the legislature yearly on October 1 on the activities of the authority. The report shall include, but is not limited to, all of the following:

(a) The total amount of capital investment attracted under this act.

(b) The total number of qualified new jobs created under this act.

(c) The total number of new written agreements.

(d) Name and location of all authorized businesses and the names and addresses of all of the following:

(i) The directors and officers of the corporation if the authorized business is a corporation.

(ii) The partners of the partnership or limited liability partnership if the authorized business is a partnership or limited liability partnership.

(iii) The members of the limited liability company if the authorized business is a limited liability company.

(e) The amount and duration of the tax credit separately for each authorized business.

(f) The amount of any fee, donation, or other payment of any kind from the authorized business to the Michigan economic development corporation or a foundation or fund associated with the Michigan economic development corporation paid or made in the previous reporting year end or, if it is the first reporting year for the authorized business, for the immediately preceding 3 calendar years.

(g) The total number of new written agreements entered into under section 8(5) and, of those written agreements, the number in which the board determined that it was in the public interest to waive 1 or more of the requirements of section 8(1).

History: 1995, Act 24, Imd. Eff. Apr. 18, 1995 ;-- Am. 2003, Act 248, Imd. Eff. Dec. 29, 2003 ;-- Am. 2006, Act 283, Imd. Eff. July 10, 2006
Popular Name: MEGA

TRANSPORTATION ECONOMIC DEVELOPMENT FUND
Act 231 of 1987

AN ACT to create a transportation economic development fund in the state treasury; to prescribe the uses of and distributions from this fund; to create the office of economic development and to prescribe its powers and duties; to prescribe the powers and duties of the state transportation department, state transportation commission, and certain other bodies; and to permit the issuance of certain bonds.

History: 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989

The People of the State of Michigan enact:

247.901 Definitions.
Sec. 1. As used in this act:

(a) “Administrator” means the person appointed by the department, in accordance with the policies of the commission and civil service rules, to serve as director of the office of economic development.

(b) “Advanced traffic management systems” means the application of new technology designed to monitor, control, and manage the flow of traffic in real-time on a transportation network through traffic detection, communications, traffic control, and information processing technologies. Advanced traffic management systems do not include on-board navigation systems or electronic route guidance systems in a motor vehicle.

(c) “Commercial forest land” means land defined as commercial forest in Michigan's fourth forest inventory completed in May 1981 and reported by the United States department of agriculture in the resource bulletin NC-68 available from the United States forest service's north central experiment station.

(d) “Commission” means the state transportation commission.

(e) “County road agency” means the board of county road commissioners, or if a board does not exist in a county, the agency designated by county charter.

(f) “Department” means the state transportation department.

(g) “Fund” means the economic development fund created in section 2.

(h) “National lakeshore” means land conveyed by this state to the United States and which the United States has designated as national lakeshore.

(i) “National park” means land set aside and designated as a national park by the United States.

(j) “Project” means a transportation road construction or improvement.

(k) “Qualified county” means a county in which a national lakeshore or a national park is located, or a county in which 34% or more of all the land is commercial forest land.

(l) “Rural county” means any county in this state with a population of 400,000 or less.

(m) “Urban county” means a county in this state with a population greater than 400,000.

History: 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1991, Act 188, Imd. Eff. Dec. 27, 1991

247.902 Transportation economic development fund and office of economic development; establishment; purposes; sources of revenue.
Sec. 2. (1) The transportation economic development fund is established and shall be set up and maintained in the state treasury as a separate fund for the purposes of enhancing this state's ability to compete in an international economy, serving as a catalyst for the economic growth of this state, and to improve the quality of life in the rural and urban areas of this state.

(2) The office of economic development is established within the department.

(3) The office of economic development shall administer the fund in accordance with the adopted policies of the commission.

(4) The fund shall consist of the following:

(a) Revenue from the Michigan transportation fund pursuant to section 10 of Act No. 51 of the Public Acts of 1951, being section 247.660 of the Michigan Compiled Laws.

(b) Revenue from the increases in fees as described in section 819 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.819 of the Michigan Compiled Laws.

History: 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989

247.903 Allocation of funds for projects; notice; hearings; funding projects under MCL 247.907(3) and 247.909(1)(a); coordination of projects; department as contracting agent; assistance to commission; appropriation for administration of fund; duties of commission and office of economic development.

Sec. 3. (1) Money from the fund shall be allocated for projects to be funded pursuant to section 11(3)(a) and (b) in accordance with the adopted policies of the commission. No funds shall be committed to any project, nor shall any project be authorized for any funds under this act, until the commission notifies the senate committee on transportation and tourism and the house committee on transportation and the subcommittees on transportation of the senate and house appropriations committees of the proposed projects in the manner provided in section 18k of Act No. 51 of the Public Acts of 1951, being section 247.668k of the Michigan Compiled Laws. Hearings may be conducted to afford interested parties the opportunity to address aspects of the selection process, the final project list, proposed funding, and related issues. If such hearings are not conducted by the senate committee on transportation and tourism and the house committee on transportation and the subcommittees on transportation of the senate and house appropriations committees within 30 days, if both the senate and house are in session, or 60 days, if either the senate or the house or both are not in session of project notification by the commission, the department may proceed with project authorization for funding.

(2) The commission shall not commit funds to any project in a new category for funding under section 7(3) or section 9(1)(a), added by this amendatory act, or future amendatory acts, before the commission notifies the legislative committees of the criteria for approval of projects under these categories in the same manner described in this section.

(3) Projects in section 11(3)(a) shall be coordinated with projects in section 11(3)(c) through the designated representatives on the urban task forces and regional rural task forces respectively.

(4) The department may be the contracting agent for all projects to be funded by this act. Contracts shall be awarded consistent with the policies of the commission.

(5) The administrator or the person acting in that capacity shall assist the commission in reviewing recommendations for funding projects under this act.

(6) Of the money appropriated to the fund, not more than 1% as annually appropriated by the legislature shall be appropriated for administration of the fund.

(7) The commission shall do the following:

(a) Establish criteria for the awarding of projects.

(b) Exercise such oversight as it may consider appropriate to facilitate its development of policy for administration of the fund.

(c) Review all projects recommended for funding to assure that they satisfy commission policies and criteria. Funds shall not be allocated to projects unless they are in accord with commission policy and criteria.

(8) The office of economic development shall review each project application and recommend the award of funding to selected projects in accordance with the adopted policies of the commission.

History: 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993

247.905 Repealed. 1993, Act 149, Imd. Eff. Aug. 19, 1993.

Compiler's Notes: The repealed section pertained to evaluation criteria and minimum requirements for projects.

247.906 Applications for projects; solicitation; form.
Sec. 6. (1) The administrator may solicit project applications for the projects that may be funded under section 11(3)(a) each calendar quarter.

(2) The requirements of the application form shall be prepared by the administrator in accordance with the adopted policies of the commission.

History: 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993

247.907 Submission of application; minimum requirements.
Sec. 7. (1) An applicant shall submit an application for funding on a form approved pursuant to section 6.

(2) The department or a city, village, or county road agency may submit an application. Two or more cities, villages, or county road agencies or a combination of 2 or more of these units may jointly submit an application.

(3) The following minimum requirements shall be met by each applicant in order for the application to be considered:

(a) A particular transportation need shall be shown for the project.

(b) A proposed economic development project shall be related to 1 of the following:

(i) An immediate, nonspeculative opportunity for permanent job creation or retention and an increase in the tax base of the local area if the project is applied for by a local unit of government.

(ii) Projects that contribute to the economic development and redevelopment of areas having experienced or having significant potential to experience job loss. The commission shall adopt criteria for applications and evaluations of projects applied for under this subparagraph within 90 days after the effective date of the amendatory act that added this subparagraph.

(c) Negotiations between an appropriate public agency and a developer or business regarding a location or retention decision shall be in process at the time of application.

(d) The applicant shall indicate that nontransportation infrastructure and support services to support the project are underway or committed.

(e) The applicant shall attach a copy of a resolution of support from the appropriate local unit of government.

(f) The project shall relate to 1 or more of the categories described in section 9.

History: 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993

247.908 Initial review of application; criteria; recommendation; consultation; informing appropriations committees; hearings as condition to committing funds.

Sec. 8. (1) Each application shall be submitted for initial review to the administrator who may call upon other personnel of the department to assist in processing, reviewing, and evaluating project applications.

(2) The office of economic development shall review each application based on the criteria approved by the commission and make its recommendation for projects to be funded. The commission and the office of economic development may consult with officers of local units of government, developers, or other experts in the subject matter area of the project in the area in which the project is to be located.

(3) The commission shall inform the chairpersons of the house and senate appropriations committees and the chairpersons of the house and senate committees that consider transportation matters of each project selected for funding not less than 30 days before the awarding of funding pursuant to section 18k of Act No. 51 of the Public Acts of 1951, being section 247.668k of the Michigan Compiled Laws. Funds shall not be committed to any project until the hearings requirement set forth in section 3(1) has been satisfied.

History: 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993

247.909 Project categories; requirements; criteria.

Sec. 9. (1) A project shall relate to 1 or more of the following categories:

(a) Economic development road projects in any of the following targeted industries:

(i) Agriculture or food processing.

(ii) Tourism.

(iii) Forestry.

(iv) High technology research.

(v) Manufacturing.

(vi) Mining.

(vii) Office centers of not less than 50,000 square feet.

(c) Projects for reducing congestion on county primary and city major streets within urban counties including advanced traffic management systems.

(d) Development projects for the improvement of rural primary roads in rural counties and major streets in cities and villages with a population of 5,000 or less.

(e) Projects for development within rural counties on county rural primary roads or major streets within incorporated villages and cities with a population of less than 5,000.

(2) The minimum requirements specified in section 7 for projects identified in subsection (1)(a) shall ensure that those projects satisfy the following requirements:

(a) Meet a particular transportation need that is shown to exist.

(b) Have an immediate positive impact on local employment and the economy.

(c) Exclude speculative projects with little or no return on investment. Projects that contribute to the economic development and redevelopment of areas having experienced or having significant potential to experience job loss which

meet the criteria for funding under section 7(3)(b)(ii) shall not be considered speculative for the purposes of this subdivision.

(d) Provide cooperation and support between developers and state and local government.

(e) Were evaluated on the basis of impact on the local community.

(3) A project that is within 1 or more of the categories in subsection (1) shall also meet the criteria developed for that category.

History: 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1991, Act 188, Imd. Eff. Dec. 27, 1991 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993

247.910 Cost of project; matching funds; evaluation criteria.

Sec. 10. (1) The costs of a project that are eligible to be funded under section 11(3)(a) and (c) shall be developed by the administrator in accordance with the adopted policies of the commission and shall include at a minimum those costs normally associated with highway construction projects such as project planning, design, right-of-way acquisition, and construction, but excluding routine maintenance.

(2) The costs of a project that are eligible to be funded under section 11(3)(d) shall be developed by the administrator in accordance with the adopted policies of the commission and shall exclude right-of-way acquisition, design, engineering, and routine maintenance.

(3) Matching funds of not less than 20% of the total eligible costs of a project shall be required for those projects described in section 9(1)(a), (c), and (d). This requirement may be set aside in the case of extreme economic hardship for projects described in section 9(1)(a), (c), and (d) in the local unit in which the project is located. Evaluation criteria for projects described in section 9(1)(a) shall include whether there is a contribution of more than the required 20% matching funds as part of the determination of which projects are to be funded.

History: 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993

247.911 Bonds; categories and amounts in which projects to be funded; percentages on which funding based; obligation authority for federal funds; distribution.

Sec. 11. (1) Bonds may be issued as authorized by the commission for the purpose of funding projects under this act in the manner provided in sections 18b and 18k of 1951 PA 51, MCL 247.668b and 247.668k, and in accordance with the adopted policies of the commission. Bonds shall not be committed for any project under this act until the requirements set forth under section 3(1) have been satisfied.

(2) Projects shall be funded in the following categories in the following amounts:

(a) The first $5,000,000.00 of the fund shall be distributed each fiscal year to each qualified county in a percentage amount equal to the same percentage amount that the number of acres of commercial forest, national park, and national lakeshore land in each qualified county bears to the total number of acres of commercial forest, national park, and national lakeshore land in all qualified counties in this state. Revenue distributed under this subdivision shall be used for the construction or reconstruction of roads.

(b) The next $2,500,000.00 of the fund shall be distributed each fiscal year for improvements to roads and streets that are eligible for federal aid in cities and villages having a population of 5,000 or greater within rural counties.

(3) Of the balance remaining after funding projects pursuant to subsection (2), projects shall be funded in the categories described in section 9 based on the following percentages:

(a) Except as otherwise provided in this subdivision, 50% for economic development road projects in any of the targeted industries. For the period beginning October 1, 2007 and continuing through September 30, 2008, allocations made to targeted industries under this subdivision shall be reduced by $13,000,000.00.

(b) 25% for projects to reduce congestion on county primary and city major streets within urban counties including advanced traffic management systems. The funds shall be distributed to counties with populations in excess of 400,000 in accordance with the following formula:

Population	Percentage of Funds
1,750,000 or more	16%
1,000,000 to 1,750,000	40%
600,000 to 1,000,000	20%
400,000 to 600,000	24%

When 2 or more counties occupy the same category, the funds shall be divided equally.

Projects funded under this category shall be used for the widening of county primary roads or city major streets or for advanced traffic management systems in eligible counties.

(c) 25% for development projects within rural counties. These revenues shall be distributed for the improvement of rural primary roads in rural counties and major streets in cities and villages with a population of 5,000 or less. Funds distributed under this subdivision shall be allocated by the commission to the regional rural task force areas defined in section 12a in the same proportion that the rural primary mileage of the regional rural task force area bears to the total rural primary mileage of all counties. Each rural county shall be credited with an allocation in the proportion that the county's rural primary mileage is to the total rural primary mileage of those rural counties within the same regional rural task force area. Projects funded under this subdivision shall be limited to upgrading rural primary roads and major streets to create an all-season road network.

(4) The obligation authority for any federal funds allocated under section 10 of 1951 PA 51, MCL 247.660, shall be distributed equally among urban task forces and regional rural task forces according to the distribution formula outlined in subsection (3)(c) and (d). An additional 1.5% of the obligation authority for federal funds identified in section 10 of 1951 PA 51, MCL 247.660, shall be distributed among the regional rural task forces according to the distribution formula outlined in subsection (3)(d). These funds shall be obligated and used consistent with section 10 of 1951 PA 51, MCL 247.660.

History: 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1991, Act 188, Imd. Eff. Dec. 27, 1991 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993 ;-- Am. 2007, Act 168, Imd. Eff. Dec. 21, 2007 ;-- Am. 2008, Act 364, Imd. Eff. Dec. 23, 2008

247.912 Widening projects; designation and selection by task forces; failure to submit qualified projects; proposing project result evaluation criteria; annual report; administration of projects.

Sec. 12. (1) The urban task force which represents the majority of the communities in the urban area of each county shall select and designate for eligibility projects for funding under section 11(3)(c) within their respective allocations. One nonvoting member of each task force shall be a designee of and represent the administrator. In the case of widening projects only, the task forces shall designate projects for eligibility as follows:

(a) Projects shall be eligible for federal aid.

(b) Projects shall consist of adding travel lanes, left turn lanes, and intersectional improvements to roads with 2 travel lanes carrying more than 10,000 vehicles per day or roads with more than 2 travel lanes carrying more than 25,000 vehicles per day in accordance with traffic counts done on or before April 1, 1993.

(2) Projects funded under section 11(4) shall be consistent with the provisions of section 10 of Act No. 51 of the Public Acts of 1951, being section 247.660 of the Michigan Compiled Laws.

(3) If any task force fails to submit sufficient qualified projects to obligate its allocation by July 1 of any fiscal year, those funds shall be made available to the remaining urban task forces in the same proportion as the original allocation.

(4) The individual urban task forces shall propose project result evaluation criteria for all projects to the administrator and the commission for review and comment.

(5) The urban task forces shall report to the administrator on an annual basis the status of all projects selected for funding.

(6) The programs and projects authorized in section 11(3)(c) shall be administered in a similar manner as current federal aid projects and in accordance with the adopted policies of the commission.

History: 1987, Act 231, Imd. Eff. Dec. 28, 1987 ;-- Am. 1989, Act 218, Imd. Eff. Dec. 1, 1989 ;-- Am. 1991, Act 188, Imd. Eff. Dec. 27, 1991 ;-- Am. 1993, Act 149, Imd. Eff. Aug. 19, 1993

247.912a Recommendations of regional rural task force for funding projects; failure to submit qualified projects; composition of task force; basis for funding projects; administration of programs and projects.
Sec. 12a. (1) The regional rural task force shall make recommendations to the commission and the administrator for funding projects under section 11(3)(d) within their respective regions. If any represented county fails to submit sufficient qualified projects to obligate its allocation after 3 consecutive years, those funds shall be reallocated to the remaining counties in the same regional rural task force area. The regional rural task force areas shall coincide with the boundaries of the 14 state planning and development regions as configured on January 1, 1990. In a regional rural task force area that is composed of 5 or more counties, subtask forces of 2 or more of the counties may be formed with the approval of the task force.

(2) The regional rural task force shall be composed of a representative of each county road commission within the regional area plus an equal number of representatives from incorporated cities and villages with a population of 5,000 or less within the regional area, and a representative selected by the administrator. Projects submitted to the administrator for funding under section 11(3)(d) shall be based on the following:

(a) Only projects eligible for federal aid shall be funded unless otherwise approved by the regional rural task force.

(b) Projects shall be on existing hard surface roads unless otherwise waived by the regional rural task force.

(c) Construction shall be to all-season standards.

(d) These funds shall be used for physical construction only and shall not include costs of right-of-way acquisition and engineering.

(3) Projects funded under section 11(4) shall be consistent with the provisions of section 10 of Act No. 51 of the Public Acts of 1951, being section 247.660 of the Michigan Compiled Laws.

(4) The programs and projects authorized in section 11(3)(d) shall be administered in a similar manner as the current local federal aid projects and in accordance with the adopted policies of the commission.

History: Add. 1993, Act 149, Imd. Eff. Aug. 19, 1993

247.913 Annual report to governor and legislature.

Sec. 13. By December 31 each year the commission shall report to the governor, the house and senate appropriations committees, and the house and senate fiscal agencies the following information regarding this act:

(a) The projects funded during the previous fiscal year.

(b) The status of projects funded in the immediately preceding fiscal year.

(c) The number of jobs created and retained and any other economic benefits of the projects funded and listed under subdivision (a).

(d) The degree to which the projects funded have achieved the objectives of this act.

(e) Any other information considered necessary by the commission for the legislature to evaluate the effectiveness of this act.

History: 1987, Act 231, Imd. Eff. Dec. 28, 1987

247.914 Repealed. 1993, Act 149, Imd. Eff. Aug. 19, 1993.

Compiler's Notes: The repealed section pertained to the conditional effective date.

MICHIGAN ECONOMIC AND SOCIAL OPPORTUNITY ACT OF 1981
Act 230 of 1981

AN ACT to create a bureau of community services and a commission on economic and social opportunity within a state department to reduce the causes, conditions, and effects of poverty and promote social and economic opportunities that foster self-sufficiency for low income persons; to provide for the designation of community action agencies; and to prescribe the powers and duties of the department, the bureau, the commission, and the community action agencies.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982 ;-- Am. 2003, Act 123, Imd. Eff. July 29, 2003

The People of the State of Michigan enact:

400.1101 Short title.
Sec. 1. This act shall be known and may be cited as the "Michigan economic and social opportunity act of 1981".

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982
Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities established under the Michigan economic and social opportunity act and transferred by Executive Order 1993-4 from the department of labor to the Michigan jobs commission and continued by Executive Order 1994-26 within the Michigan jobs commission to the department of social services, see E.R.O. No. 1995-1, compiled at MCL 408.49 of the Michigan Compiled Laws.

400.1102 Meanings of words and phrases.
Sec. 2. For purposes of this act, the words and phrases defined in sections 3 and 4 have the meanings ascribed to them in those sections.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982

400.1103 Definitions; B to D.
Sec. 3. (1) "Bureau" means the bureau of community action and economic opportunity created in section 5.

(2) "Chief elected official" means a chairperson of a county board of commissioners, a county executive, a city mayor, a township supervisor, a village president, or his or her designee.

(3) "Commission" means the commission on community action and economic opportunity created in section 6.

(4) "Community action agency" means an agency designated pursuant to section 8.

(5) "Community social and economic programs" means those programs provided under section 675 of the community services block grant act, subtitle B or title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9904.

(6) "Department" means the family independence agency or another department or agency designated by the governor to receive and distribute community services block grant funds under the community services block grant act, subtitle B of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9901 to 9924.

(7) “Director” means the director of the department.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982 ;-- Am. 2003, Act 123, Imd. Eff. July 29, 2003

400.1104 Definitions; E to S.
Sec. 4. (1) “Executive director” means the chief administrator of the bureau.

(2) “Low income person” means a person who is a member of a household that has a gross annual income that is equal to or less than the poverty standard for the same size household.

(3) “Poverty standard” means the federal poverty guidelines published annually in the federal register by the United States department of health and human services under its authority to revise the poverty line under section 673(2) of subtitle B of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9902.

(4) “Service area” means the geographical area served by a community action agency.

(5) “State program budget” means state funds, federal block grants, and federal categorical grants that the legislature appropriates annually for community social and economic programs.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982 ;-- Am. 2003, Act 123, Imd. Eff. July 29, 2003

400.1105 Bureau of community action; creation; appointment of executive director; powers and duties of bureau.
Sec. 5. The bureau of community action and economic opportunity is created within the department. The director shall appoint an executive director who is a member of the state classified service or the state career executive service, as established and approved by the civil service commission. Under the supervision of the department, the bureau shall serve as a statewide advocate for social and economic opportunities for low income persons and shall do all of the following:

(a) Coordinate state activities designed to reduce poverty and implement community social and economic programs.

(b) Cooperate with agencies of the state and federal government and other public agencies, nonprofit private agencies, and nonprofit organizations in reducing poverty and implementing community social and economic programs.

(c) Receive and expend funds for any purpose authorized by this act.

(d) Provide assistance to units of local government for the purpose of establishing and operating a community action agency.

(e) Designate community action agencies pursuant to section 8.

(f) Provide technical assistance to community action agencies to improve program planning, program development, administration, and the mobilization of public and private resources. In implementing this subdivision, the department shall contract, when warranted by geographical and other factors or when warranted to meet the requirements of section 15, with public agencies, nonprofit private agencies, or nonprofit organizations.

(g) Enter into necessary contracts with community action agencies for the purpose of coordinating community social and economic programs and other programs and services designated by the bureau and for which funding is appropriated by the legislature.

(h) Contract with public agencies, nonprofit private agencies, or nonprofit organizations for demonstration programs and other services necessary to implement this act.

(i) Conduct performance assessments of the activities and programs of community action agencies.

(j) Establish, in cooperation with community action agencies, an educational and public information program designed to increase public awareness regarding the nature and extent of poverty in this state and regarding existing community social and economic programs.

(k) Evaluate state statutes and programs relevant to the reduction of poverty and recommend appropriate changes to the governor and the legislature.

(l) Submit reports to the governor, the legislature, the state congressional delegation, and other appropriate federal officials regarding the needs,

problems, opportunities, and contributions of low income persons; the effectiveness of existing state or federal policies and programs; and recommended actions to improve economic and social opportunities for low income persons.

(m) Administer the weatherization assistance program created pursuant to 10 C.F.R. part 440. The bureau shall administer the weatherization assistance program in a manner that provides that public agencies, nonprofit private agencies, and nonprofit organizations are eligible and shall have the opportunity for funding for each portion of a program that a community action agency may undertake.

(n) Serve as an advocate within the executive branch to remove administrative barriers to self-sufficiency services and to seek additional resources for antipoverty strategies.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982 ;-- Am. 2003, Act 123, Imd. Eff. July 29, 2003

400.1106 Commission on community action and economic opportunity; creation; appointment, qualifications, and terms of members; chairperson; executive secretary; vacancies; per diem compensation; reimbursement of expenses; quorum; commission action; meetings.

Sec. 6. (1) A commission on community action and economic opportunity is created within the department. The commission shall provide an opportunity for low income persons to actively participate in the development of policies and programs to reduce poverty.

(2) The commission shall consist of 6 to 15 members appointed by the governor by and with the advice and consent of the senate. The commission shall be comprised of equal numbers of elected public officials, private sector members, and low income individuals or as nearly equal in number as possible. At least 1/3 of the commission members shall be community action agency representatives as either staff or board members. The governor shall designate the chairperson of the commission. The chairperson shall serve at the will of the governor. The executive director or designee of the commission shall serve as executive secretary to the commission.

(3) The term of office of each member shall be 3 years. Vacancies on the commission shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

(4) A member of the commission may receive per diem compensation and reimbursement of actual and necessary expenses while acting as an official representative of the commission. The per diem compensation of the commission and the schedule for reimbursement of expenses shall be established annually by the legislature.

(5) A majority of the commission constitutes a quorum. Except as otherwise provided by rule, action may be taken by the commission by vote of a majority of the members present at a meeting. The commission shall meet not less than 4 times a year. A meeting of the commission may be held anywhere within this state.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982 ;-- Am. 2003, Act 123, Imd. Eff. July 29, 2003

400.1107 Duties of commission.

Sec. 7. The commission shall serve as a statewide forum concerning state policies and programs to reduce poverty and to address the needs and concerns of low income people in this state. The commission shall do all of the following:

(a) Convene a state forum every 2 years that includes representatives from the public, private, nonprofit, and low income sectors to analyze poverty trends and make recommendations to reduce poverty.

(b) Convene public meetings to provide low income and other persons the opportunity to comment upon public policies and programs to reduce poverty.

(c) Advise the executive director concerning the designation or recision of a designation of a community action agency.

(d) Review and comment upon the annual program budget request before its submittal to the governor and the legislature pursuant to section 10.

(e) Advise the governor, the legislature, the state congressional delegation, and other appropriate federal officials of the nature and extent of poverty in the state and make recommendations concerning needed changes in state and federal policies and programs.

(f) Advise the director and the governor at least annually concerning the performance of the bureau in fulfilling its requirements as prescribed by this act.

(g) Participate with the bureau to implement a public education program designated to increase public awareness regarding the nature and extent of poverty in this state.

(h) Receive reports from the bureau on strategies to reduce poverty and make recommendations based on those reports to the governor.

(i) In coordination with community action agencies and the commission, establish an education and public information program designed to increase public awareness regarding the nature and extent of poverty in this state and regarding existing community social and economic programs.

(j) Evaluate state statutes and programs relevant to the reduction of poverty and recommend appropriate changes to the governor and the legislature.

(k) Submit reports to the governor, the legislature, the congressional delegation, and other appropriate federal officials regarding the needs, problems, opportunities, and contributions of low income persons and the effectiveness of existing state and federal policies and programs, and recommend actions to improve economic and social opportunities for low income persons.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982 ;-- Am. 2003, Act 123, Imd. Eff. July 29, 2003

400.1108 Designating or rescinding designation of community action agency; procedures; continuation of community action agency designated by community services administration; rescission of designation.
Sec. 8. (1) Except as required to meet the requirements of section 15, the executive director shall designate community action agencies to fulfill the requirements of this act in the service areas governed by 1 or more units of local government. A community action agency designated by the executive director may be 1 of the following:

(a) A public office or agency of a unit of local government that is designated as a community action agency by the chief elected official of that unit of government.

(b) A public office or agency that is designated as a community action agency by the chief elected officials of a combination of 2 or more units of local government.

(c) A nonprofit private agency serving 1 or more units of local government approved by the chief elected official of the unit of local government that includes the service area, or if more than 1 unit of local government is included in the service area, by the chief elected officials of the county or counties in which the local governments are located and of at least 2/3 of the cities, villages, and townships in the service area that have a population of not less than 100,000.

(d) A public or private nonprofit agency designated by 1 or more native American tribal governments that have been established pursuant to state or federal law.

(2) Before designating or rescinding the designation of a community action agency, the executive director shall do all of the following:

(a) Consult with the director.

(b) Consult with the chief elected official of each county and of each city, village, or township with a population of not less than 100,000 within the existing or proposed service area.

(c) Hold at least 1 public meeting in the service area to provide low income and other citizens living within the service area the opportunity to review and comment upon the strengths and weaknesses of the existing or proposed community action agency.

(d) Consult with and obtain the advice of the commission on the proposed action.

(3) Notwithstanding subsections (1) and (2), each community action agency that has been designated by the community services administration pursuant to the economic opportunity act of 1964, Public Law 88-452, 78 Stat. 508, and that is in operation on the effective date of the 2003 amendatory act that amended this section shall continue as a community action agency.

(4) The executive director may rescind the designation of a community action agency for cause. In implementing this subsection, the executive director shall follow the procedures set forth in subsection (2) and the procedures set forth in the community services block grant act, subtitle B of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9901 to 9924.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982 ;-- Am. 2003, Act 123, Imd. Eff. July 29, 2003

400.1109 Community action agency; duties; permissible activities.
Sec. 9. A community action agency shall serve as a primary advocate for the reduction of the causes, conditions, and effects of poverty and shall provide social and economic opportunities that foster self-sufficiency for low income persons. A community action agency may engage in activities necessary to fulfill the intent of this act, including, but not limited to, the following:

(a) Informing this state, units of local government, private agencies and organizations, and citizens of the nature and extent of poverty within the service area.

(b) Developing, administering, and operating community social and economic programs to reduce poverty within the service area.

(c) Providing a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or in the service areas of the community.

(d) Providing activities designed to assist low income participants, including the elderly poor, to secure and retain meaningful employment; to attain an adequate education; to make better use of available income; to obtain and maintain adequate housing and a suitable living environment; to obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance; to remove obstacles and solve problems which block the achievement of self-sufficiency; to achieve greater participation in the affairs of the community; and to make more effective use of other programs related to the purposes of this section.

(e) Providing on an emergency basis for the provision of supplies and services, nutritious food items, and related services necessary to counteract conditions of starvation and malnutrition among the poor.

(f) Providing and establishing linkages between governmental and other social services programs to assure the effective delivery of services to low income individuals.

(g) To encourage the use of entities in the private sector of the community in efforts to reduce poverty.

(h) Conducting pilot and demonstration projects with innovative approaches to reduce poverty, improve services, and utilize resources.

(i) Providing and advocating for training and technical assistance to public and private agencies, community groups, and units of local government to better define human problems, to improve services, and to facilitate citizen participation, including that of low income persons.

(j) Increasing interagency coordination and cooperation in serving low income persons. If possible, community action agencies shall enter into partnership and collaboration with other organizations to meet economic self-sufficiency goals.

(k) Entering into contracts with federal, state, and local public and private agencies and organizations as necessary to carry out the purposes of this act.

(l) Mobilizing federal, state, and local public and private financial resources and material and volunteer resources to reduce poverty and increase social and economic opportunities.

(m) Mobilizing community involvement from private and nonprofit sectors, including, but not limited to, businesses, economic and job development organizations, nonprofit faith-based communities, technical colleges and institutions of higher education, and the public sector, including, but not limited to, townships, cities, counties, and this state to address issues of poverty. Community action agencies shall coordinate with welfare-to-work strategies and implement strategies that increase household income and assets that lead to long-term economic self-sufficiency.

(n) Serving populations with barriers to self-sufficiency such as individuals and families with low incomes, senior citizens, young children, homeless persons, physically and developmentally disabled persons, low wage workers, and adults without literacy skills or basic education or adequate skills needed for the workplace.

(o) Engaging in any other activity necessary to fulfill the intent of this act.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982 ;-- Am. 2003, Act 123, Imd. Eff. July 29, 2003

400.1110 Distribution of funds.
Sec. 10. Distribution of funds to community action agencies shall meet federal requirements.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982 ;-- Am. 2003, Act 123, Imd. Eff. July 29, 2003

400.1111 Community action agency; establishment of governing board of directors; membership; term limits.
Sec. 11. (1) A community action agency shall establish a governing board of directors that consists of the following:

(a) One-third are elected public officials. An elected public official may act through his or her representative.

(b) One-third of the members are low income, elderly, or consumers with disabilities.

(c) One-third of the members represent the private sector, including representatives of business and industry, agriculture, labor, and religious and civic organizations.

(2) A community action agency may establish term limits for members of its board of directors in the community action agency's bylaws. An administrative rule that purports to establish term limits for a member of a community action agency board of directors is void.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982 ;-- Am. 1998, Act 76, Imd. Eff. May 4, 1998 ;-- Am. 2003, Act 123, Imd. Eff. July 29, 2003 ;-- Am. 2006, Act 80, Imd. Eff. Mar. 24, 2006

400.1112 Repealed. 2003, Act 123, Imd. Eff. July 29, 2003.

Compiler's Notes: The repealed section pertained to establishment of board of directors for community action agency.

400.1113 Interagency agreements; purpose; renewal.
Sec. 13. The bureau shall develop interagency agreements with agencies of other departments providing services to low income persons. The agreements

shall specify methods of interagency planning and coordination of services. The agreements shall be renewed annually.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982

400.1114 Conducting business at public meeting; notice; availability of writings to public.
Sec. 14. (1) The business which the commission, a community action agency board of directors, or a community action agency advisory board may perform shall be conducted at a public meeting held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

(2) A writing prepared, owned, used, in the possession of, or retained by the commission, the bureau, the department, or a community action agency created pursuant to this act in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982

400.1115 Existing agencies and organizations performing services described in act; eligibility to receive funds; continuation of services.
Sec. 15. A public agency, nonprofit private agency, or nonprofit organization in existence and performing 1 or more of the services described in this act for which federal or state funds were expended, if eligible to receive the funds, shall receive those funds to enable the public agency, nonprofit private agency, or nonprofit organization to continue to perform those services.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982

400.1116 Rules.
Sec. 16. The department shall promulgate rules to implement this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. The department shall consult with and receive the advice of the commission before promulgating a rule under this act.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982

400.1117 Effectiveness report.

Sec. 17. Before January 1, 1986, the department shall submit to the senate and house committees that have the responsibility for labor matters a report covering the effectiveness of the bureau, the commission, and the community action agencies in reducing poverty and promoting social and economic opportunities for low income persons under this act.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982

400.1118 Appropriation of funds from general fund not required; condition.

Sec. 18. The legislature shall not be required to appropriate funds from the general fund for the continued performance of the provisions of this act, if federal funding for coordinating community social and economic programs and other programs and services as designated by the bureau and funded by the community development block grant is eliminated.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982

400.1119 Proposed use and distribution of funds provided under omnibus budget reconciliation act of 1981; public hearings; approval or disapproval of bureau plan.

Sec. 19. The legislature shall conduct public hearings on the proposed use and distribution of funds to be provided pursuant to section 675 of the omnibus budget reconciliation act of 1981, 42 U.S.C. 9902, and shall approve or disapprove by concurrent resolution adopted by a majority of the members elected and serving in each house the bureau's plan for distribution of funds.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982

400.1120 Repealed. 2003, Act 123, Imd. Eff. July 29, 2003.

Compiler's Notes: The repealed section pertained to effective date of act.

MICHIGAN EXPORT DEVELOPMENT ACT
Act 157 of 1986

AN ACT to help stimulate the expansion of international export markets of state products and services; to provide for the creation of the Michigan export

development authority and to establish its board of directors; to prescribe the powers and duties of the authority and of the board; to provide for the issuance of, and certain terms and conditions of, bonds; to exempt bonds from certain taxes; to prescribe the powers and duties of certain state officers; and to provide for the creation of certain funds and for the funding of the creation and operation of the authority.

History: 1986, Act 157, Imd. Eff. July 7, 1986
Compiler's Notes: For transfer of the Michigan Export Development Authority from the Department of Agriculture to the Department of Commerce with rulemaking, licensing, and registration functions to be exercised by the Authority independent of the Director of the Department of Commerce, see E.R.O. No. 1991-11, compiled at MCL 447.211 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

447.151 Short title.
Sec. 1. This act shall be known and may be cited as the "Michigan export development act".

History: 1986, Act 157, Imd. Eff. July 7, 1986
Compiler's Notes: For transfer of the Michigan Export Development Authority from the Department of Agriculture to the Department of Commerce with rulemaking, licensing, and registration functions to be exercised by the Authority independent of the Director of the Department of Commerce, see E.R.O. No. 1991-11, compiled at MCL 447.211 of the Michigan Compiled Laws.For naming of the Michigan export development authority as the Michigan international trade authority, see E.R.O. No. 1994-3, compiled at MCL 447.212 of the Michigan Compiled Laws.

447.152 Definitions.
Sec. 2. As used in this act:

(a) "Authority" means the Michigan export development authority created by section 3.

(b) "Board" means the board of directors of the authority established by section 4.

(c) "Eligible export loan" means a loan by a participating financial institution located within this state the proceeds of which are restricted to the financing of eligible export transactions.

(d) “Eligible export transaction” means the sale of goods or services, or the development of goods or services for sale, outside of the United States by a person doing business in this state, which goods or services, in the judgment of the authority, have a substantial portion of their value created within this state and which sale or development, in the judgment of the authority, creates or maintains employment in this state.

(e) “Export insurance” means insurance made available by the authority to protect an exporter against a foreign buyer's failure to pay for goods or services for political or commercial reasons. The amount of the loss covered for each transaction and particular risks shall be determined by the authority.

(f) “Grant” means an amount of money provided by the authority to a nonprofit organization.

(g) “Guarantee” means a guarantee against loss, in whole or in part, of principal of and interest on an eligible export loan. The guarantee may include, without limitation, insurance against loss up to the guarantee amount. A single guarantee may encompass several individual eligible export loans or eligible export transactions.

(h) “Guarantee amount” means the maximum amount payable under a guarantee which amount shall be specifically set forth in writing at the time the guarantee is entered into by the authority.

(i) “Participating financial institution” means a bank as defined by the banking code of 1999, 1999 PA 276, MCL 487.11101 to 487.15105, an agency or branch of a foreign banking corporation licensed by the commissioner of the financial institutions bureau, or a national bank, state or federal savings and loan association, or savings bank or federal credit union located within this state that has been approved by the board to participate in guaranteed funding for eligible export loans and transactions within the purposes of this act.

History: 1986, Act 157, Imd. Eff. July 7, 1986 ;-- Am. 1990, Act 304, Imd. Eff. Dec. 14, 1990 ;-- Am. 2000, Act 444, Imd. Eff. Jan. 9, 2001

447.153 Michigan export development authority; creation; budgeting, procurement, and related functions; purpose of authority.

Sec. 3. (1) The Michigan export development authority is created as a body politic and corporate within, but not as a part of, the department of agriculture.

The authority shall exercise the authority's prescribed statutory powers, duties, and functions independently of the director of the department of agriculture and independently of the commission of agriculture. The budgeting, procurement, and related functions of the authority shall be performed under the direction and supervision of the director of the department of agriculture.

(2) The purpose of the authority is:

(a) To assist, promote, encourage, develop, and advance economic prosperity and employment throughout this state by fostering the expansion of exports of goods and services to foreign purchasers.

(b) To cooperate and act in conjunction with other organizations, public and private, the objects of which are the promotion and advancement of export trade activities in this state.

(c) To provide guarantees and grants and to locate sources and export insurance to support export development not otherwise available.

(d) To provide information and referrals to, and to act as a clearinghouse for, potential and existing exporters.

History: 1986, Act 157, Imd. Eff. July 7, 1986 ;-- Am. 1990, Act 304, Imd. Eff. Dec. 14, 1990
Compiler's Notes: For naming of the Michigan export development authority as the Michigan international trade authority, see E.R.O. No. 1994-3, compiled at MCL 447.212 of the Michigan Compiled Laws.

447.154 Board of directors; appointment, qualifications, and terms of members; vacancy; oath or affirmation; reimbursement for expenses; election of chairperson, vice-chairperson, secretary, and other officers; quorum; majority vote sufficient for action; vote necessary for bonds.
Sec. 4. (1) The governing and administrative powers of the authority are vested in a board of directors consisting of 12 members. Three members shall be the director of the department of commerce, the director of the department of agriculture, and the state treasurer. The director of commerce, the director of the department of agriculture, and the state treasurer shall serve as full voting members of the board and may appoint a representative to serve as a voting member in their absence. Nine members shall be appointed by the governor with the advice and consent of the senate.

(2) At least 6 of the members shall be from the private sector. An appointed member of the authority shall be a resident of this state. An appointment to fill a vacancy of an appointed member shall be made in the same manner as the original appointment. Of the 9 members appointed by the governor for a fixed term, 1 shall be appointed from 1 or more nominees of the speaker of the house of representatives and 1 shall be appointed from 1 or more nominees of the senate majority leader.

(3) At least 1 of the appointed members of the board shall be a person of recognized ability and experience in each of the following areas:

(a) Finance.

(b) International trade.

(c) Business management.

(d) Economics.

(e) Agriculture.

(4) Of the original 9 appointed members, 3 members shall be appointed for terms expiring on the third Monday in June, 1986; 3 members shall be appointed for terms expiring on the third Monday in June, 1987; and 3 members shall be appointed for terms expiring on the third Monday in June, 1988. Their respective successors shall be appointed for terms of 3 years from the third Monday in June of the year of appointment. A member shall serve until his or her successor is appointed and qualified.

(5) Before beginning his or her duties, a member of the board shall take and subscribe the constitutional oath of office. A record of each oath or affirmation shall be filed in the office of the secretary of state.

(6) A member of the board is not entitled to compensation for services as a member, but may be reimbursed for all actual and necessary expenses incurred in connection with the performance of duties as a member.

(7) The board annually shall elect 1 of its members as chairperson, 1 of its members as vice-chairperson, and 1 member as secretary. The board may elect other officers as it considers proper. Six members of the board constitute a

quorum, and the affirmative vote of the majority of members present at a meeting of the board is necessary and sufficient for an action taken by the board. The affirmative votes of not less than 6 members are necessary for the approval of a resolution authorizing the issuance of bonds under this act.

History: 1986, Act 157, Imd. Eff. July 7, 1986 ;-- Am. 1990, Act 304, Imd. Eff. Dec. 14, 1990

447.155 Effect of vacancy in membership of board; authorization and effective date of action by board; delegation of powers and duties; liability or accountability on contract, commitment, or agreement; liability for damage or injury; indemnification of board members and staff officers; appointment of employees to unclassified positions; terms.

Sec. 5. (1) A vacancy in the membership of the board shall not impair the right of a quorum to exercise all rights and perform all the duties of the board. An action taken by the board may be authorized by resolution at a regular or special meeting and shall take effect upon the date the resolution is approved by the board unless some other date is provided in the resolution.

(2) The board may delegate to 1 or more of its members or to an official, agent, or employee of the authority the powers and duties as the board considers proper.

(3) A member of the board or a person acting on behalf of the authority executing a contract, commitment, or agreement issued under this act shall not be personally liable or accountable on the contract, commitment, or agreement.

(4) A member of the board or a person acting on behalf of the authority shall not be liable personally for damage or injury resulting from the performance of his or her duties arising under this act. The authority shall indemnify and procure insurance indemnifying the members of the board and staff officers appointed by a resolution of the board from personal loss or accountability from liability asserted by a person on the bonds or notes of the fund or from any personal liability or accountability by reason of the issuance of the bonds, notes, insurance, or guarantees; or by reason of any other action taken or the failure to act by the authority.

(5) The board may appoint up to 2 employees to unclassified positions not included in the state civil service to serve for terms at the pleasure of the board.

History: 1986, Act 157, Imd. Eff. July 7, 1986 ;-- Am. 1990, Act 304, Imd. Eff. Dec. 14, 1990

447.156 Conducting business at public meeting; notice; availability of writings to public; confidentiality.
Sec. 6. (1) The business which the authority may perform shall be conducted at a public meeting of the authority held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) Except as provided in subsection (3), all writing prepared, owned, used, in the possession of, or retained by the authority in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(3) Information submitted to or compiled by the authority in connection with the authority's responsibilities with respect to the identity, background, finance, marketing plans, trade secrets, or any other commercially sensitive information of persons, firms, associations, partnerships, agencies, corporations, or other entities is confidential, except to the extent that the person or entity which provided the information consents to disclosure.

History: 1986, Act 157, Imd. Eff. July 7, 1986

447.157 Powers of authority generally.
Sec. 7. The authority shall possess all the powers of a body politic and corporate necessary and convenient to accomplish the purposes of this act including, but not limited to, all of the following powers:

(a) To borrow money and otherwise incur indebtedness for any of its purposes including the issuance of bonds, debentures, notes, or other evidence of indebtedness, whether secured or unsecured.

(b) To purchase, discount, sell, or negotiate, with or without guaranty notes, other evidences of indebtedness, and to sell and guarantee securities.

(c) To lend money to a financial institution in the form of an eligible export loan which is used to finance eligible export transactions.

(d) To procure or locate sources of export insurance. To provide guarantees to guarantee, insure, coinsure, or reinsure against risk of loss, and other insurance or guarantees as the authority may consider necessary.

(e) To provide financial counseling services to businesses of this state.

(f) To procure insurance to secure the payment of principal and interest on bonds, notes, or other obligations of the authority.

(g) To accept gifts, grants, or loans from, and enter into contracts or other transactions with, a federal or state agency, a municipality, a private organization, or any other source. To charge and collect fees for its services. To enter into contracts or other agreements with the export-import bank of the United States, the foreign credit insurance association, or other federal agencies or instrumentalities.

(h) To adopt, and from time to time to amend or rescind a bylaw or rule of the authority as may be necessary or convenient for the performance of its functions, powers, and duties under this act.

(i) To sue and be sued.

(j) To purchase; receive; take by grant, gift, devise, bequest, or otherwise; lease; or acquire, own, hold, improve, employ, use, or deal in and with real or personal property, or any interest in real or personal property, wherever situated.

(k) To sell, convey, lease, exchange, transfer, or otherwise dispose of property or an interest in property, wherever situated.

(l) To promulgate rules necessary to carry out the purposes of this act and to exercise the powers expressly granted in this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(m) To lead, participate in, support, or otherwise cooperate in trade missions, trade shows, and related efforts to encourage the export of Michigan goods and services.

(n) To sponsor or foster a foreign sales corporation as defined in section 922 of the internal revenue code of 1986, 26 U.S.C. 922. To establish, participate, and secure federal approval for an export trading company under the export trading company act of 1982, Public Law 97-290, 96 Stat. 1233, or equivalent entities under similar federal legislation. The authority may in connection with any entities created under this subdivision acquire and transfer title to goods and corporate or partnership ownership interest, and may enter into joint ventures with other export trading companies.

(o) To exercise all other powers and functions necessary or appropriate to carry out the duties and purposes set forth in this act.

History: 1986, Act 157, Imd. Eff. July 7, 1986 ;-- Am. 1990, Act 304, Imd. Eff. Dec. 14, 1990

447.158 Guarantee or export insurance for eligible export transaction; requirements; fees; determinations; condition to provision of guarantee or export insurance.

Sec. 8. (1) The authority may provide a guarantee or export insurance for an eligible export transaction. Any guarantee or export insurance entered into by the authority under this act shall not constitute a general obligation of this state. Guarantees or export insurance provided by the authority under this act shall not be terminated, canceled, or otherwise revoked except in accordance with the terms of the guarantee or export insurance; shall be conclusive evidence that the guarantee or export insurance complies fully with the provisions of this act; and shall be valid and incontestable in the hands of a holder in due course of a guaranteed eligible export loan.

(2) The authority may charge reasonable fees for providing guarantee or export insurance pursuant to this section to a participating financial institution.

(3) Before providing financing for an eligible export transaction, a participating financial institution shall determine the exporter's viability, the economic benefits to be derived from the eligible export transaction, the prospects for repayment, and any other facts that it considers necessary in order to determine that the guarantee or export insurance is consistent with the purposes of this act.

(4) The authority shall provide the guarantee only if, and to the extent that, the authority determines in its sole discretion that at least 1 of the following is true:

(a) The guarantee is reasonably necessary in order to stimulate or facilitate the making of an eligible export transaction including, without limitation, the making of the eligible export transaction upon terms that will enable the transaction to be reasonably competitive with transactions in other states or in foreign countries.

(b) The guarantee is reasonably necessary in order to stimulate or facilitate the resale of an eligible export loan to a holder in due course that otherwise would not purchase the eligible export loan and documentation is provided by the financial institution indicating refusal to provide a loan sufficient for the eligible export transaction.

(5) The authority may condition the provision of guarantee or export insurance under this section upon such other terms and conditions as the authority considers desirable to carry out the purposes of this act.

History: 1986, Act 157, Imd. Eff. July 7, 1986 ;-- Am. 1990, Act 304, Imd. Eff. Dec. 14, 1990

447.158a Grant to non-profit organization; purposes.
Sec. 8a. The authority may provide a grant to a non-profit organization for 1 or more of the following purposes:

(a) To encourage establishment or expansion of business operations related to exports which will create or maintain employment in this state.

(b) To research industrial and commercial innovations which are likely to increase exports from this state.

(c) To conduct market research to determine the potential for increasing goods and services from this state.

History: Add. 1990, Act 304, Imd. Eff. Dec. 14, 1990

447.159 Bonds generally.
Sec. 9. The authority may issue, sell, and provide for the retirement of bonds in the amount of $50,000,000.00 to provide funds for the creation and operation of the authority. These bonds shall be limited obligations of the authority, the principal of and interest on which shall be payable solely out of the revenues derived by the authority. Bonds issued under this act shall not constitute an indebtedness of the state or the uthority within the meaning of any state

constitutional provision or statutory limitation, but the bonds shall be indebtedness payable solely from bond revenues and fees, interest on the revenues and fees, and funds established for the payment of the bonds, and shall not constitute nor give rise to a pecuniary liability of the state or the authority, to a charge against the general credit of the authority or the state, or to a charge against the taxing powers of the state, and that fact shall be plainly stated on the face of each bond.

History: 1986, Act 157, Imd. Eff. July 7, 1986

447.160 Bonds and notes generally.

Sec. 10. (1) Bonds issued under this act may be executed and delivered at any time, may be issued as a single issue or from time to time as several issues, may be in the form and denominations, may be in coupon or registered form, may be payable in installments and at such time or times not exceeding 30 years from their date, may be subject to the terms of redemption, may be payable at such place or places, may bear interest at the rate or rates as may be set, reset, or calculated from time to time, or may bear no interest and may contain provisions not inconsistent with this act, all of which shall be provided in the resolution of the authority authorizing the bonds.

(2) Bonds issued under the authority of this act may be sold at public or private sale at the price and in the manner and from time to time as may be determined by the authority to be most advantageous. The authority may pay all expenses, premiums, insurance premiums, and commissions that the authority considers necessary or advantageous in connection with the authorization, sale, and issuance of the bonds from proceeds of the bonds.

(3) Bonds or notes issued by the authority are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The bonds issued by the authority are not required to be registered. A filing of a bond of the authority is not required under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818.

History: 1986, Act 157, Imd. Eff. July 7, 1986 ;-- Am. 1990, Act 304, Imd. Eff. Dec. 14, 1990 ;-- Am. 2002, Act 302, Imd. Eff. May 9, 2002

447.161 Bonds or security agreement; resolution; trustee or depository.

Sec. 11. (1) The resolution under which the bonds are authorized to be issued or any security agreement, including an indenture or trust indenture to be entered into in connection with the bonds, may contain any agreements and provisions

customarily contained in instruments securing bonds including, without limiting the generality of the foregoing, provisions respecting the fixing and collection of obligations, the creation and maintenance of special funds, and the rights and remedies available, in the event of default, to the bondholders or to the trustee under the security agreement, all as the authority considers advisable and as is not in conflict with this act. However, in making an agreement or provisions, the authority may not obligate itself, except with respect to eligible export loans and transactions, and may not incur a pecuniary liability or a charge upon the general credit of the authority or of the state, or against the taxing powers of the state.

(2) The resolution of the authority authorizing bonds under this act and security agreement securing the bonds may provide that, in the event of default in payment of the principal of or the interest on the bonds or in the performance of an agreement contained in the proceedings or security agreement, the payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect any obligations and to apply any revenues pledged in accordance with the proceedings or the provisions of the security agreement. A security agreement also may provide that, in the event of default in payment or the violation of an agreement contained in the security agreement, the agreement may be foreclosed by proceedings at law or in equity, and may provide that a trustee under the security agreement or the holder of any of the bonds secured by the security agreement may become the purchaser at any foreclosure sale, if he or she is the highest bidder. A breach of any such agreement shall not impose pecuniary liability upon this state or the authority or a charge upon the general credit of the authority or of the state or against the taxing power of the state.

(3) A trustee under a security agreement, or a depository specified by a security agreement, may be a person or corporation the authority designates, notwithstanding that the person or corporation may be a nonresident of the state or incorporated under the laws of the United States or any state of the United States.

History: 1986, Act 157, Imd. Eff. July 7, 1986

447.162 Bonds; refunding.

Sec. 12. (1) Bonds issued under this act and at any time outstanding, at any time and from time to time, may be refunded by the authority by the issuance of its refunding bonds in an amount as the authority considers necessary, but not

exceeding an amount sufficient to refund the principal of the bonds to be refunded, together with any unpaid interest on the bonds and any premiums, expenses, and commissions necessary to be paid in connection with the bonds. Refunding may be effected whether the bonds to be refunded have matured or will mature in the future, either by sale of the refunding bonds to be refunded or by exchange of the refunding bonds for the bonds to be refunded by the refunding bonds.

(2) The holders of any bonds to be refunded shall not be compelled without their consent to surrender their bonds for payment or exchange before the date on which the bonds are payable, or, if the bonds are called for redemption, before the date on which the bonds are by their terms subject to redemption. All refunding bonds issued under the authority of this section shall be payable in the same manner and under the same terms and conditions as are provided in this act for the issuance of bonds.

History: 1986, Act 157, Imd. Eff. July 7, 1986

447.163 Proceeds from sale of bonds; application; export development bond fund as separate fund; investments and earnings.

Sec. 13. (1) The proceeds from the sale of any bonds issued under this act shall be applied only for the purpose for which the bonds were issued. However, any premium or secured interest received in a sale shall be applied to the payment of the principal of or the interest on the bonds sold. If for any reason a portion of the proceeds shall not be needed for the purpose for which the bonds were issued, the unneeded portion of the proceeds shall be applied to the payment of the principal of or the interest on the bonds.

(2) The proceeds of bonds issued under this act shall be kept in a separate fund to be known as the export development bond fund, which separate fund is created in the state treasury. All other money received by the authority also shall be deposited in this fund. With the approval of the board, the state treasurer may invest and reinvest all money in the fund from time to time in such obligations of the United States or of such other governmental or corporate issuers as the state treasurer, with the approval of the board, considers appropriate. All earnings upon the investments shall be added to the fund.

History: 1986, Act 157, Imd. Eff. July 7, 1986

447.164 Tax exemptions generally.
Sec. 14. The bonds, interest on the bonds, and the transfer of the bonds authorized under this act shall be exempt from all taxation by this state or any of its political subdivisions, except for inheritance, estate, or gift taxes.

History: 1986, Act 157, Imd. Eff. July 7, 1986 ;-- Am. 1990, Act 304, Imd. Eff. Dec. 14, 1990

447.165 Additional tax exemptions.
Sec. 15. The property of the authority and its income and operation are exempt from all taxation by this state or its political subdivisions. This section shall not be construed to provide an exemption from any taxes for a person receiving assistance from the authority under this act.

History: 1986, Act 157, Imd. Eff. July 7, 1986 ;-- Am. 1990, Act 304, Imd. Eff. Dec. 14, 1990

447.166 Insurance fund; insurance pledged as security.
Sec. 16. (1) The authority may create an insurance fund consisting solely of funds from the export development bond fund. The insurance fund shall be held in the custody of 1 or more financial institutions having a principal place of business in this state. The insurance fund shall be held as security for the holders of bonds issued under this act.

(2) An insurance fund authorized by this section shall be governed by a trust agreement entered into by the authority with the trustees. The trust agreement may contain such provisions and limitations as to the investment and disbursement of money in the insurance fund; the payment of expenses of the insurance fund; the appointment, resignation, and discharge of trustees; the delegation of enforcement and collection powers under the insurance agreements to the trustee; the duties of the trustees; amendments of the trust agreement; and such other lawful provisions and limitations as the authority considers appropriate. The trust agreement may pledge premiums and other money that may be deposited in the insurance fund. The pledge shall be valid and binding from the time when the pledge is made. The premiums and other money so pledged and thereafter received by the insurance fund or by the trustees in its behalf immediately shall be subject to the lien of the pledge and shall be valid and binding as against all parties having claims of any kind against the insurance fund, irrespective of whether the parties have notice of the lien.

(3) The authority also may use export development bond funds to purchase insurance that shall be pledged for the security of the holders of any bonds issued under this act. In any case in which insurance is pledged as security, whether obtained through the insurance funds authorized to be created under this section or purchased with export development bond funds, any description of the insurance shall expressly indicate the limitation of the liability of the authority and that neither the credit nor taxing power of this state or of any political subdivision of this state shall be available to satisfy any obligations with respect to the insurance.

History: 1986, Act 157, Imd. Eff. July 7, 1986

447.167 Bonds, debentures, notes, or other evidence of indebtedness as securities; investment; deposit.

Sec. 17. (1) The bonds, debentures, notes, or other evidence of indebtedness of the authority are made securities in which all public officers and bodies of this state and all municipal subdivisions of this state; all insurance companies and associations and other persons carrying on an insurance business; all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other persons carrying on a banking business; all administrators, guardians, executors, trustees, and other fiduciaries; and all other persons whatsoever who are now or who later may be authorized to invest in bonds or other obligations of this state may ly and legally invest funds, including capital, in their control or belonging to them.

(2) The bonds, debentures, notes, or other evidence of indebtedness of the authority also are made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipal subdivisions of this state for any purpose for which the deposit of bonds or other obligations of this state are now or later may be authorized.

History: 1986, Act 157, Imd. Eff. July 7, 1986

447.168 Annual report; contents; examination; audit.

Sec. 18. (1) On January 1 of each year the authority shall report on its operations for the preceding fiscal year to the governor and the legislature. The report shall include a summary of the activities of the authority and a complete operating and financial statement. The report shall include, but not be limited to, information on the number, value, type of product, and destination of export transactions assisted, the type of assistance rendered for each by the authority,

grants made pursuant to section 8a and the results of those activities, trade shows attended, trade missions led, and any other information considered necessary for a competent evaluation or the authority's effectiveness.

(2) The authority shall be subject to examination by the state treasurer. The accounts of the authority shall be audited by the state auditor general or a certified public accountant appointed by the auditor general.

History: 1986, Act 157, Imd. Eff. July 7, 1986 ;-- Am. 1990, Act 304, Imd. Eff. Dec. 14, 1990
Compiler's Notes: In the last sentence of subsection (1), the phrase “evaluation or the authority's effectiveness” evidently should read “evaluation of the authority's

MICHIGAN BIDCO ACT (EXCERPT)
Act 89 of 1986

487.1216 Publication and distribution of information on impact of act.
Sec. 216. (1) The commissioner shall publish annually and provide to the house committee on economic development and energy and senate committee on economic development, trade and tourism information on the impact of this act in promoting economic development in this state. At the minimum, the information shall include aggregate statistics on each of the following:

(a) The number and dollar amount of provisions of financing assistance made by licensees to business firms.

(b) The number and dollar amount of provisions of financing assistance made by licensees to business firms classified in broad categories of industry such as divisions of the standard industrial classification manual.

(c) The number and dollar amount of provisions of financing assistance made by licensees to minority owned business firms and to woman owned business firms.

(d) Estimates of the number of jobs created or retained.

History: 1986, Act 89, Imd. Eff. May 1, 1986

II. REGIONAL AND COUNTY ECONOMIC DEVELOPMENT PLANNING

OPTIONAL UNIFIED FORM OF COUNTY GOVERNMENT (EXCERPT) Act 139 of 1973

45.563 Departments; establishment; directors; functions.
Sec. 13. An optional unified form of county government shall have all functions, except when otherwise allocated by this act, performed by 1 or more departments of the county or by the remaining boards, commissions, or authorities. Each department shall be headed by a director. Subject to the authority of the county manager or elected county executive the following departments and their respective directors may be established and designated to be responsible for performance of the functions enumerated:

(a) The department of administrative services shall perform general administrative and service functions for the county government; carry on public relations and information activities and deal with citizen complaints; plan for, assign, manage, and maintain all county building space; and manage a central motor pool.

(b) The department of finance shall supervise the execution of the annual county budget and maintain expenditure control; perform all central accounting functions; collect moneys owing the county not particularly within the jurisdiction of the county treasurer; purchase supplies and equipment required by county departments; and perform all investment, borrowing, and debt management functions except as done by the county treasurer.

(c) The department of planning and development shall prepare comprehensive plans for the overall development of the county; coordinate the preparation of county capital improvement programs; supervise economic development functions; and represent the county in joint planning activities with other jurisdictions.

(d) The department of medical examiners shall coordinate and supervise medical investigative activities.

(e) The department of corporation counsel if adopted shall perform as provided by law all civil law functions and provide property acquisition services for the county as provided by law.

(f) The department of parks and recreation shall develop, maintain, and operate all county park and recreation facilities and supervise all recreation programs except where the same is under a board of county road commissioners, or a parks and recreation commission.

(g) The department of personnel and employee relations shall perform all personnel and labor relations functions for the county.

(h) The department of health and environmental protection shall perform all public health services for the county and carry on environmental upgrading programs.

(i) The department of libraries shall operate a general library program for the county if no library board or commission exists and may operate libraries for other governmental and semi-governmental entities.

(j) The department of public works shall construct, maintain, and operate all county storm and sanitary sewer, sewage disposal, general drainage, and flood control facilities except as the same are performed by the county drain commissioner; may perform general engineering, construction, and maintenance functions for all county departments and, upon approval of the board, for other governmental and semigovernmental entities; may operate the county airport except where the airport is operated by a board of county road commissioners; may construct, maintain, and operate county solid waste systems including resource recovery and distribution; and may construct, maintain, and operate water processing and distribution systems.

(k) The department of institutional and human services shall supervise county human service programs including hospitals and child care institutions.

History: 1973, Act 139, Eff. Mar. 29, 1974 ;-- Am. 1982, Act 420, Eff. Mar. 30, 1983

METROPOLITAN COUNCILS ACT
Act 292 of 1989

AN ACT to authorize certain local governmental units to create certain councils under certain circumstances; to prescribe the powers and duties of councils established under this act; and to authorize certain councils established under this act to levy a property tax.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 166, Eff. Mar. 23, 1999 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

The People of the State of Michigan enact:

124.651 Short title. Sec. 1. This act shall be known and may be cited as the "metropolitan councils act".

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.653 Definitions.
Sec. 3. As used in sections 5 through 35:

(a) "Articles" means a metropolitan area council's articles of incorporation provided for in section 5.

(b) "Council area" means the combined territory of the cities, villages, and townships participating in a metropolitan area council.

(c) "Largest" means, if used in reference to a county, the county having the greatest population residing in participating cities, villages, and townships. "Largest", if used in reference to a participating local governmental unit, means the participating local governmental unit having the greatest population.

(d) "Local governmental unit" means a county, township, city, or village.

(e) "Metropolitan area" means a metropolitan statistical area, as defined as of the effective date of this act, by the United States department of commerce or a successor agency, with a population of less than 1,500,000 people.

(f) "Participating", if used in reference to a local governmental unit, means 1 of the following:

(i) After formation of a metropolitan area council, a local governmental unit that has joined in the formation of the council or been added to the council pursuant to section 11 and that has not withdrawn pursuant to section 33.

(ii) Before formation of a metropolitan area council, a local governmental unit named in the articles of incorporation as a participating local governmental unit.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.655 Metropolitan area council; formation; council as public corporate body and authority; powers generally.
Sec. 5. (1) A combination of 2 or more local governmental units in a metropolitan area may form a metropolitan area council by adopting articles of incorporation pursuant to the requirements of sections 7 and 9.

(2) A council is a public corporate body with power to sue and be sued in any court of the state.

(3) A council is an authority under section 6 of article IX of the state constitution of 1963.

(4) A council possesses all the powers necessary for carrying out the purposes of its formation. The enumeration of specific powers in this act shall not be construed as a limitation on the general powers of a council, consistent with its articles.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.657 Metropolitan council; articles of incorporation generally.
Sec. 7. (1) The articles of a council established under this act shall state the name of the council; the names of the participating local governmental units; the purposes for which the council is formed; the powers, duties, and limitations of the council and its officers; the qualifications, method of selection and terms of office of delegates sitting on the council and of council officers; the manner in which participating local governmental units shall take part in the governance of the council; the general method of amending the articles; the method of amending the articles to reflect the addition of a local governmental unit, which shall require the adoption of a resolution by a vote of not less than

2/3 of the delegates serving on the council; and any other matters that the participating local governmental units consider advisable.

(2) The articles may require each participating local governmental unit to annually pay to the council an amount not to exceed 0.2 mills multiplied by the taxable value of all the taxable real and personal property within that local governmental unit.

(3) Subject to subsection (4), the articles may authorize the council to levy on all the taxable real and personal property within the council area an ad valorem tax of not to exceed 0.5 mills of the taxable value of the taxable property. The levy of a tax under this subsection is subject to the requirements of sections 25 and 27.

(4) The articles of a metropolitan area council shall not authorize a tax levy under subsection (3) unless each delegate serving on the council holds an elected office in the local governmental unit that he or she represents on the council.

(5) As used in this section, "taxable value" means that value calculated under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.659 Articles of incorporation; adoption; amendment; publication; endorsement; filing.

Sec. 9. (1) The articles of a metropolitan area council shall be adopted and may be amended by an affirmative vote of a majority of the members elected to and serving on the legislative body of each participating local governmental unit.

(2) Before the articles or amendments are adopted by any participating local governmental unit, the articles or amendments shall be published by the clerk of the largest participating local governmental unit at least once in a newspaper generally circulated within the participating cities, villages, and townships.

(3) The adoption of articles or amendments by the legislative body of a local governmental unit shall be evidenced by an endorsement on the articles or amendments by the clerk of the local governmental unit in a form substantially as follows:

These articles of incorporation (or amendments) were adopted by an affirmative vote of a majority of the members serving on the legislative body of _____, _____ at a meeting duly held on the _____ day of _____, A.D., ____.

(4) Upon adoption of the articles or amendments, a printed copy of the articles or the amended articles shall be filed by the clerk of the largest participating local governmental unit with the secretary of state, the clerk of each county in which is located all or part of a participating city, village, or township, and the clerk of each participating city, village, or township.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.661 Addition of local governmental unit; requirements; filing amended articles.

Sec. 11. (1) A local governmental unit may be added to the metropolitan area council after the council's incorporation upon satisfaction of all of the following requirements:

(a) A majority of the members elected to and serving on the legislative body of the local governmental unit vote to adopt a resolution stating that the local governmental unit desires to be added to the metropolitan area council and that it accepts the requirements of the articles as amended to reflect the addition of the local governmental unit.

(b) If there is a tax levied by the metropolitan area council under section 7 and the local governmental unit is a city, village, or township, the tax is authorized by a majority of the electors of that city, village, or township voting on the proposal.

(c) The articles are amended to reflect the addition of the local governmental unit.

(2) Upon addition of a local governmental unit to a metropolitan area council, a printed copy of the amended articles shall be filed as required by section 9 by the clerk of the local governmental unit added to the council.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.663 Referendum.
Sec. 13. (1) Upon petition by not less than 5% of the registered electors residing in a nonparticipating local governmental unit requesting a referendum on the question of becoming a local governmental unit participating in a metropolitan area council, the clerk of the local governmental unit, upon verifying the required number of signatures on the petitions, shall submit the question of whether the local governmental unit should become a participant in a metropolitan area council to the vote of the electors of the local governmental unit at the next general election or special election called for that purpose, and conducted in accordance with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(2) The clerk of the local governmental unit shall prepare the question for the ballot to be used at the election, subject to the Michigan election law, 1954 PA 116, 168.1 to 168.992, substantially as follows:

"Should the _____ of _____ become part of a metropolitan area council?

Yes ( ) No ( )"

(3) If a majority of the electors voting on the question vote "yes", the local governmental unit shall proceed to become a participating local governmental unit in the manner provided in section 9 or 11, as applicable. If a majority of the electors voting on the question vote "no", the local governmental unit shall not become a participating local governmental unit in a metropolitan area council for a period of not less than 1 year following the date of the vote.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.663a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.
Sec. 13a. A petition under section 13, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 166, Eff. Mar. 23, 1999

124.665 Election of chairperson and other officers; chairperson as principal executive officer; meetings; powers and duties; appointments to other agencies.

Sec. 15. (1) A metropolitan area council shall have a chairperson. The chairperson shall act as principal executive officer and shall preside at the meetings of the council. Meeting times and places shall be fixed by the council and special meetings may be called by a majority of the delegates on the council or by the chairperson. The chairperson shall have such powers and duties as provided in the articles.

(2) In addition to the chairperson, a metropolitan area council shall have other officers as may be provided in the articles. The chairperson and other officers shall be elected by the council and shall be council delegates. However, a secretary and treasurer need not be council delegates.

(3) If provided in the articles, a metropolitan area council may appoint an executive director to serve at the council's pleasure as the principal administrator for the council. The director shall not be a delegate, shall be selected on the basis of training and experience, and shall have the powers and duties as provided in the council bylaws adopted pursuant to section 21.

(4) If specifically authorized by law, a metropolitan area council may make appointments to other governmental agencies.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.667 Per diem compensation; reimbursement for expenses.

Sec. 17. (1) A metropolitan area council may pay each council delegate a per diem compensation for each council meeting attended and for other designated services performed by the council delegate. A metropolitan area council may reimburse each council delegate for reasonable expenses incurred in attending council meetings and performing services designated by the council.

(2) The budget of a metropolitan area council prepared pursuant to section 21 shall provide as a separate account anticipated expenditures for per diem compensation and expense reimbursement for the chairperson and other council delegates. Compensation or reimbursement shall be paid to the chairperson and other council delegates only if budgeted.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.669 Regulation of land and water; public improvements and services; operation; establishment of divisions, bureaus, and committees; expenses; data collection and storage; feasibility studies; applicability of other laws. Sec. 19. (1) The articles may authorize a metropolitan area council to propose standards, criteria, and suggested model ordinances to regulate the use and development of land and water within the council area.

(2) To the extent authorized in the articles, a metropolitan area council may plan, promote, finance, issue bonds for, acquire, improve, enlarge, extend, own, construct, replace, or contract for public improvements and services including, but not limited to, the following:

(a) Water and sewer public improvements and services.

(b) Solid waste collection, recycling, and disposal.

(c) Parks, museums, zoos, wildlife sanctuaries, and recreational facilities.

(d) Special use facilities.

(e) Ground and air transportation and facilities, including airports.

(f) Economic development and planning for the metropolitan area council area.

(g) Higher education public improvements and services.

(h) Community foundations as that term is defined in section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261.

(3) A council established under this act shall not contract for the operation by another person of a public improvement or service acquired by the council pursuant to this act.

(4) A metropolitan area council may establish divisions, bureaus, and committees, including advisory committees. Members of advisory committees shall serve without compensation but may be reimbursed for their reasonable expenses as determined by the council.

(5) A metropolitan area council in cooperation with other agencies and departments of the state and the state universities may develop a center for data collection and storage to be used by the council and other governmental users and may furnish information on subjects such as population, land use, and governmental finances.

(6) A metropolitan area council may study the feasibility of programs relating but not limited to water supply, refuse disposal, surface water drainage, communication, transportation, and other subjects of concern to the participating local governmental units and may institute demonstration projects in connection with the studies.

(7) Revenue bonds issued under this act are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(8) Bonds, other than revenue bonds described in subsection (7), issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998 ;-- Am. 2002, Act 411, Imd. Eff. June 3, 2002

124.671 Powers and duties of metropolitan area council.
Sec. 21. (1) A metropolitan area council may do 1 or more of the following:

(a) Adopt bylaws for the administration of the council.

(b) Acquire and hold, by purchase, lease, grant, gift, devise, land contract, installment purchase contract, bequest, condemnation, or other legal means, real and personal property within or without the participating cities, villages, and townships. The property may include franchises, easements, or rights of way on, under, or above any property. The council may pay for the property from, or pledge for the payment of the property, revenue of the council. A metropolitan area council shall not condemn public property.

(c) Apply for and accept grants, loans, or contributions from the federal government or any of its agencies, this state, or other public or private agencies to be used for any of the purposes of this act.

(d) Sell or lease property acquired for the purposes of this act but not needed for those purposes.

(e) Contract with a participating local governmental unit for the provision of a service listed in section 19(2) in the participating local governmental unit for a period not exceeding 30 years. The service may be established or funded in conjunction with a service of a local governmental unit, and the provision of a service of a local governmental unit may be delegated to a council. A charge specified in a contract is subject to increase by the council, if necessary to provide funds to meet its obligations. A metropolitan area council may also enter into a contract with a nonparticipating local governmental unit for a period not exceeding 30 years, except that a charge for a service under a contract with a nonparticipating local governmental unit may be greater than a charge to a participating local governmental unit, and is subject to change from time to time without notice. A metropolitan area council's powers under this subdivision are subject to section 19(3).

(f) Hire employees, attorneys, accountants, and consultants.

(2) A council shall do all of the following:

(a) Prepare budgets and appropriations acts in the manner required of local units under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(b) If ending a fiscal year with a deficit, file a financial plan to correct the deficit in the same manner as provided in section 21 of the state revenue sharing act of 1971, 1971 PA 140, MCL 141.921.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.673 Employee rights; collective bargaining; labor agreements; pension or retirement system.

Sec. 23. (1) A public employee whose duties are transferred to a council established under this act shall be given a position of a comparable description with the council, and shall retain the seniority status and benefit rights of the public employment position held before the transfer. An employee of a council is a “public employee” as defined in section 1 of 1947 PA 336, MCL 423.201.

(2) A council described in this act may bargain collectively and enter into agreements with labor organizations pursuant to 1947 PA 336, MCL 423.201 to 423.217. When powers or duties of a local governmental unit are transferred to a council, the council shall immediately assume and be bound by an existing labor agreement applicable to those powers or duties for the remainder of the term of the labor agreement. The members and beneficiaries of a pension or retirement system or other benefits established by a local governmental unit, the powers or duties of which are transferred to a council, shall have the same rights, privileges, benefits, obligations, and status with respect to the council. A representative of the employees or a group of employees in a local governmental unit who represents or is entitled to represent the employees or a group of employees of the local governmental unit, pursuant to 1947 PA 336, MCL 423.201 to 423.217, shall continue to represent the employee or group of employees after the employees are transferred to a council. This subsection does not limit the rights of employees, pursuant to applicable law, to assert that a bargaining representative protected by this subsection is no longer their representative.

(3) An employee who left the employ of a local governmental unit to enter the military service of the United States shall have the same employment rights as to a council established under this act as that employee would have had with the local governmental unit pursuant to 1951 PA 263, MCL 35.351 to 35.356.

(4) An employee of a council established under this act who performs a service in the jurisdiction of a local governmental unit that withdraws from the council pursuant to section 33 shall be protected in relation to the local governmental unit to the same extent as an employee of a participating local governmental unit is protected in relation to a council under this section.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.675 Tax; manner of levy and collection.

Sec. 25. (1) A tax authorized to be levied by a council under this act shall be levied and collected at the same time and in the same manner as provided by the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(2) A council shall not levy a tax except upon the approval of a majority of the qualified and registered electors residing in the council area and voting collectively on the question.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.677 Tax election generally.

Sec. 27. (1) A proposal for a tax authorized to be levied by a council under this act shall not be placed on the ballot unless the proposal is adopted by a resolution of the council and certified by the council not later than 70 days before the election to the county clerk of each county in which all or part of a participating city, village, or township is located for inclusion on the ballot. The proposal shall state the amount and duration of the millage and shall be certified for inclusion on the ballot at the next general election, the state primary immediately preceding the general election, or a special election at a proposed date not within 45 days of a state primary or a general election, as specified by the council's resolution. A proposed special election date shall be scheduled in compliance with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(2) The county election commission shall provide ballots for an election for a tax proposal for each city, village, or township or part of a city, village, or township located within the county that is participating in a council under this act.

(3) Except as otherwise provided in subsections (4) and (5), an election for a tax shall be conducted by the city and township clerks and election officials of the cities and townships participating in a council under this act.

(4) If an election on a proposal for a tax is to be held in conjunction with a general election or state primary election and if a village participating in a council under this act is located within a nonparticipating township, the township clerk and election officials shall conduct the election. On the forty-fifth day preceding the election, the village clerk or other official maintaining a file of qualified and registered electors of the village shall provide to the township clerk a list containing the name, address, and birth date of each qualified and registered elector of the village. By the fifteenth day preceding the election, the village clerk or other official providing the list shall provide to the township clerk information updating the list as of the close of registration. Persons appearing on the list as updated are eligible to vote in the election by special ballot.

(5) If a tax is to be voted on at a special election not held in conjunction with a general election or state primary election and if a village participating in a

council under this act is located within a nonparticipating township, the village clerk and election officials shall conduct the election.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998 ;-- Am. 2003, Act 301, Eff. Jan. 1, 2005

124.679 Tax election; notices; canvass; certification of results; limitations.
Sec. 29. (1) If an election for a tax is to be held in conjunction with a general election or a state primary election immediately preceding a general election, the notices of close of registration and election shall be published as provided for by the state election laws. Otherwise, the county clerk of the largest county shall publish the notices of close of registration and election. The notice of close of registration shall include the ballot language of the proposal.

(2) The results of an election for a tax shall be canvassed by the board of county canvassers of each county in which all or part of a city, village, or township participating in a council under this act is located. If the county is not the largest county, the board of county canvassers shall certify the results of the election to the board of county canvassers of the largest county. The board of county canvassers of the largest county shall make the final canvass of an election for a tax based on the returns of the election inspectors of the participating cities, villages, and townships in that county and the certified results of the board of county canvassers of every other county in which a city, village, or township participating in the council is located. The board of county canvassers of the largest county shall certify the results of the election to the council and issue certificates of election. If a majority of the votes cast on the question of a tax is in favor of the proposal, the tax levy is authorized. No more than 2 elections shall be held in a calendar year on the question of a tax.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.681 Tax election; reimbursement of costs.
Sec. 31. (1) A county clerk shall charge the council and the council shall reimburse the county for the actual costs the county incurs in an election for a tax proposal of a council established under this act.

(2) If a township, city, or village participating in a council under this act conducts an election for a tax, the clerk of that local governmental unit shall charge the council and the council shall reimburse the local governmental unit for the actual costs the local governmental unit incurs in conducting the election

if the election is not held in conjunction with a regularly scheduled election in that local governmental unit.

(3) In addition to costs reimbursed pursuant to subsections (1) and (2), a local governmental unit shall charge the council and the council shall reimburse the local governmental unit for actual costs that the local governmental unit incurs and that are attributable to an election for a tax proposal.

(4) The actual costs that a county, township, city, or village incurs shall be based on the number of hours of work done in conducting the election, the rates of compensation of the workers, and the cost of materials supplied in the election.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.683 Withdrawal from membership in council; conditions; unpaid obligations; evidence of withdrawal.

Sec. 33. (1) Except as otherwise provided in subsection (2), a local governmental unit participating in a council under this act may withdraw from membership in the council if all of the following conditions are met:

(a) Adoption of a resolution by a majority of the members elected to and serving on the legislative body of the local governmental unit requesting withdrawal from membership.

(b) Payment or the provision for payment is made regarding any obligations of the local governmental unit to the council or its creditors.

(2) If, upon withdrawal of a local governmental unit, the local governmental unit has unpaid obligations to the council, a tax levied by the council under this act before withdrawal of the local governmental unit shall continue to be levied in the local governmental unit, to the extent and in an amount needed to satisfy the unpaid obligations, until the obligations are paid or the tax expires, whichever happens first. A local governmental unit that withdraws from a council shall continue to receive services from the council until the local governmental unit is no longer required to pay a tax levied by the council.

(3) Withdrawal of a local governmental unit from a council shall be evidenced by an amendment to the articles executed by the secretary or, if the council has

no secretary, by the chairperson of the council and filed and published in the same manner as the original articles.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.685 Conducting business at public meeting; availability of writings to public.
Sec. 35. (1) The business that a council established under this act performs shall be conducted at a public meeting of the council held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) A writing prepared, owned, used, in the possession of, or retained by a council in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 1989, Act 292, Imd. Eff. Jan. 3, 1990 ;-- Am. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.693 Definitions; MCL 124.693 to 124.713.
Sec. 43. As used in sections 43 through 63:

(a) “Articles” means a council's articles of incorporation provided for in section 45.

(b) “Council” means a metropolitan region council established pursuant to this act.

(c) “Council area” means the actual territory of the counties participating in the metropolitan region.

(d) “Largest” means, if used in reference to a county, the county having the greatest population.

(e) “Obscene” means material that meets the following criteria:

(i) When examined in its totality, the material appeals to a prurient interest.

(ii) The material depicts or describes, in a patently offensive way, sexual conduct specifically defined by state law.

(iii) When examined in its totality, the material lacks serious literary, artistic, political, or scientific value.

(f) “Participating”, if used in reference to a qualified county, means 1 of the following:

(i) After formation of a metropolitan region council, a qualified county that has joined in the formation of the council or been added to the council pursuant to section 51 and that has not withdrawn pursuant to section 63.

(ii) Before formation of a metropolitan region council, a qualified county named in the articles of incorporation as a participating qualified county.

(g) “Qualified city” means a city that meets all of the following conditions:

(i) The city is located in a participating qualified county.

(ii) The city owns 2 or more regional cultural institutions.

(iii) The city has a population of not less than 700,000 persons according to the most recent federal decennial census.

(h) “Qualified county” means a county that meets the following requirements:

(i) The county has a population of not less than 780,000 according to the most recent federal decennial census.

(ii) The county has a qualified city within its geographic boundaries, or is contiguous to a county with a qualified city.

(i) “Regional cultural institution” means a structure, fixture, or activity provided by a tax exempt entity that has been in existence for at least 18 consecutive months before becoming eligible for funding under this chapter. “Regional cultural institution” may include a zoological institute; a science center, whether or not it is affiliated with a private educational institution; a public broadcast station as defined by section 397 of subpart E of part IV of title III of the communications act of 1934, 47 U.S.C. 397, whether or not the public broadcast station is affiliated with an institution of higher education; a museum, whether or not it is affiliated with a private educational institution; a

historical center; a performing arts center; a visual or performance art instruction center affiliated with an independent institution of higher education in the arts; an orchestra; a chorus; a chorale; or an opera theater. “Regional cultural institution” does not include a professional sports arena or stadium; a labor organization; a political organization; a library; a public, private, or charter school; or an exhibition, performance, or presentation that is obscene.

(j) “Tax exempt entity” means any of the following:

(i) An organization exempt from taxation under section 501(c) of the internal revenue code of 1986.

(ii) An entity or division owned by an organization described in subparagraph (i).

(iii) An entity owned by a township, city, village, community college, state university, or any other public body that is not a public school, charter school, or public school academy.

History: Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998

124.695 Metropolitan region council; formation; adoption of articles of incorporation; conditions; establishment of metropolitan region council board; appointment of representatives; powers and duties.
Sec. 45. (1) Two or more qualified counties in combination with one another and with 1 or more qualified cities may form a metropolitan region council by adopting articles of incorporation in accordance with sections 47 and 49, if the county commission of each qualified county seeking to participate, and the city council of each qualified city seeking to participate, does the following:

(a) Adopts a resolution declaring an intent to participate in the formation of that authority.

(b) Adopts articles of incorporation in accordance with sections 47 and 49.

(2) Upon adoption of the resolutions described in subsection (1)(a), the participating qualified counties and qualified cities of a metropolitan region council shall establish a metropolitan region council board. The chief executive officer of each participating qualified county and qualified city shall appoint 3 representatives to the board, with the advice and consent of the legislative body

of the county or city. However, if a participating qualified county has a population greater than 2,000,000 persons, a representative shall be appointed by each of the 3 largest geographical conferences established in the county before January 1, 1999 under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(3) A metropolitan region council is a public corporate body with power to sue and be sued in any court of the state.

(4) A metropolitan region council is an authority under section 6 of article IX of the state constitution of 1963.

(5) A metropolitan region council possesses all the powers necessary for carrying out the purposes of its formation. The enumeration of specific powers in this act shall not be construed as a limitation on the general powers of a council, consistent with its articles.

History: Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998

124.697 Articles of metropolitan region council; provisions.
Sec. 47. (1) A metropolitan region council's articles shall state the name of the council; the names of the participating counties and cities; the purposes for which the council is formed; the powers, duties, and limitations of the council and its officers; the qualifications, method of selection, and terms of office of delegates sitting on the council and of council officers; the manner in which participating counties and cities shall take part in the governance of the council; the general method of amending the articles; any matter that the participating counties and cities consider advisable; and both of the following, which shall require the adoption of a resolution by a vote of not less than 2/3 of the delegates serving on the council, including at least 1 delegate from each participating qualified county and qualified city:

(a) The method of amending the articles to reflect the addition of a qualified county or qualified city.

(b) The method of amending the articles to reflect a change in the distribution of funds among regional cultural institutions.

(2) Subject to subsection (3) and the requirements of sections 25 and 27, the articles may authorize the metropolitan region council to act in accordance with section 7(3).

(3) The articles of a metropolitan region council shall specify that, as a condition of proceeding under subsection (2), the county commission of each qualified county participating in the council shall place on a countywide ballot the proposal described in section 27(1) at the regularly scheduled county primary or general election that follows the determination to proceed under section 27(3).

(4) The articles of a metropolitan region council shall specify the maximum amount or percentage of revenues received under this act that the council may authorize to be expended annually for administrative costs incurred under this act. The articles shall also specify that not more than 3% of annual revenues received under this act may be expended annually for those administrative costs. Additionally, the articles shall authorize the council to provide funding, supplemental to funding received from other sources, for regional cultural institutions located within the council area that the council serves. However, a council shall not expend money collected under this section unless the specific expenditure is included in the council's annual budget, expressly authorized in the council's articles, or unless the expenditure is approved by an affirmative vote of a majority of the council's delegates.

History: Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998

124.699 Participating qualified county; receipt of revenues; publication and adoption of articles or amendments.

Sec. 49. (1) Except as provided in subsection (2), the articles of a metropolitan region council shall authorize each participating qualified county to receive up to 1/3 of any net revenues collected within that participating qualified county under section 47. The amount of up to 1/3 of net revenues received shall be expended to fund those cultural and recreational programs and facilities that are not primarily designed or used for professional sports.

(2) A participating qualified county with a population of more than 2,000,000 persons according to the most recent federal decennial census shall not receive any net revenues collected within that county under section 47(2). Instead, 1/3 of the net revenues collected in each city, village, or portion of a township that is not incorporated as a city or village shall be retained by that city, village, or

portion of a township, and those net revenues shall be expended by the affected cities, villages, and portions of townships to fund only cultural and recreational programs and facilities that are not primarily designed or used for professional sports.

(3) Before the articles or amendments are adopted by any participating city, the articles or amendments shall be published by the clerk of the participating city at least once in a newspaper generally circulated within the participating city. Before the articles or amendments are adopted by participating qualified counties, the articles or amendments shall be published by the clerk of each participating qualified county at least once in a newspaper generally circulated within that county.

(4) The adoption of articles or amendments by the legislative body of a participating county or city shall be evidenced by an endorsement on the articles or amendments by the clerk of the participating county or city in a form substantially as follows:

These articles of incorporation (or amendments) were adopted by an affirmative vote of a majority of the members serving on the legislative body of _____, _____ at a meeting duly held on the _____ day of _____, A.D., ____.

(5) Upon adoption of the articles or amendments by a metropolitan region council, the clerk of each participating county shall file in that county and with the secretary of state a printed copy of the adopted or amended articles.

History: Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998

124.701 Addition of qualified county or city to metropolitan region council; filing amended articles.

Sec. 51. (1) A qualified county or qualified city may be added to the metropolitan region council after the council's incorporation upon satisfaction of all of the following requirements:

(a) A majority of the members elected to and serving on the legislative body of the qualified county or qualified city vote to adopt a resolution stating that the qualified county or qualified city desires to be added to the metropolitan region council and that it accepts the requirements of the articles as amended to reflect the addition of the qualified county or qualified city.

(b) If a qualified city is proposing to be added to a metropolitan region council that is exercising its authority under section 47(2), that exercise of authority is authorized by a majority of the electors of the city voting on the proposal at the regularly scheduled county primary or general election that follows adoption of the resolution described in subdivision (a). If a qualified county is proposing to be added to a metropolitan region council that is exercising its authority under section 47(2), that exercise of authority is authorized by a majority of the electors of the qualified county voting on the proposal at the regularly scheduled county primary or general election that follows adoption of the resolution described in subdivision (a).

(c) The articles are amended to reflect the addition of the qualified county or qualified city.

(2) Upon addition of a qualified county or qualified city to a metropolitan region council, a printed copy of the amended articles shall be filed as required by section 9 by the clerk of the qualified county or qualified city added to the council.

History: Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998

124.709 Regional cultural institutions and local recreation and cultural facilities; development or enhancement.
Sec. 59. A metropolitan region council may be established solely to develop or enhance regional cultural institutions and local recreation and cultural facilities, other than facilities that are primarily designed or used for professional sports, within the geographic boundaries of qualified counties participating in the council.

History: Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998

124.711 Metropolitan region council; powers and duties.
Sec. 61. (1) A metropolitan region council may do 1 or more of the following:

(a) Adopt bylaws for the administration of the council.

(b) Acquire and hold, by purchase, lease, grant, gift, devise, land contract, installment purchase contract, bequest, condemnation, or other legal means, real and personal property within or without the participating qualified counties and qualified cities. The property may include franchises, easements, or rights-of-

way on, under, or above any property. The metropolitan region council may pay for the property from, or pledge for the payment of the property, revenue of the council. A council shall not condemn public property.

(c) Apply for and accept grants, loans, or contributions from the federal government or any of its agencies, this state, or other public or private agencies to be used for any of the purposes of this act.

(d) Sell or lease property acquired for the purposes of this act but not needed for those purposes.

(e) Hire employees, attorneys, accountants, and consultants.

(2) A metropolitan region council shall do all of the following:

(a) Prepare budgets and appropriations acts in the manner required of local units under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(b) If ending a fiscal year with a deficit, file a financial plan to correct the deficit in the same manner as provided in section 21 of the state revenue sharing act of 1971, 1971 PA 140, MCL 141.921.

History: Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998

124.713 Withdrawal of participating qualified county or city; conditions; unpaid obligations; evidence.
Sec. 63. (1) Except as otherwise provided in subsection (2), a participating qualified county or qualified city may withdraw from membership in the metropolitan region council if all of the following conditions are met:

(a) Adoption of a resolution by a majority of the members elected to and serving on the legislative body of the qualified county or qualified city requesting withdrawal from membership.

(b) Payment or the provision for payment is made regarding any obligations of the qualified county or qualified city to the metropolitan region council or its creditors.

(2) If, upon withdrawal, a qualified county or qualified city has unpaid obligations to the metropolitan region council that arose under section 47(2) before withdrawal of the qualified county or qualified city, the obligations shall continue to be imposed in the qualified county or qualified city, to the extent and in an amount needed to satisfy the unpaid obligations, until the obligations are paid or expire, whichever happens first. A qualified county or qualified city that withdraws from a metropolitan region council shall continue to receive services from the council until that qualified county or qualified city is no longer required to satisfy an obligation imposed by the council under section 47(2).

(3) Withdrawal of a qualified county or qualified city from a metropolitan region council shall be evidenced by an amendment to the articles executed by the secretary or, if the council has no secretary, by the chairperson of the council and filed and published in the same manner as the original articles.

History: Add. 1998, Act 375, Imd. Eff. Oct. 20, 1998

124.715 Definitions; MCL 124.717 to 124.729.
Sec. 65. As used in sections 67 through 79:

(a) “Articles” means a metropolitan arts council's articles of incorporation provided for in section 69.

(b) “Council” means a metropolitan arts council established under section 67.

(c) “Council area” means the actual territory of a metropolitan arts council.

(d) “Facilities and programs” means structures, fixtures, and activities provided by a tax exempt entity that has been in existence for at least 18 consecutive months before becoming eligible for funding under sections 67 through 79. Facilities and programs may include a public broadcast station as defined by section 397 of subpart E of part IV of title III of the communications act of 1934, 47 U.S.C. 397, whether or not the public broadcast station is affiliated with an institution of higher education; a museum or historical center; a performing arts center; an orchestra; chorus; chorale; opera theater; and a ballet, dance, or theater company. Facilities and programs do not include professional sports arenas or stadiums, labor organizations, political organizations, libraries, or public, private, or charter schools.

(e) “Metropolitan district” means either of the following:

(i) A county with not less than 2 state public universities.

(ii) A county with a population of not more than 100,000 individuals and a boundary contiguous to a county with not less than 2 state public universities.

(f) “Tax exempt entity” means any of the following:

(i) An organization exempt from taxation under section 501(c) of the internal revenue code of 1986.

(ii) An entity or division owned by an organization described in subparagraph (i).

(iii) An entity owned by a township, city, village, community college, state university, or any other public body that is not a public school, charter school, or public school academy.

History: Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.717 Metropolitan district; formation of metropolitan arts council; conditions; establishment of metropolitan arts council board; powers and duties.

Sec. 67. (1) A metropolitan district may form a metropolitan arts council if the district's county commission does the following:

(a) Adopts a resolution declaring an intent to participate in the formation of that council.

(b) Adopts articles of incorporation in accordance with sections 69 and 71.

(2) Upon adoption of the resolutions described in subsection (1), the metropolitan district shall establish a metropolitan arts council board. The board shall consist of not more than 12 members, each of whom is from a county commission district different from the county commission district of all other members.

(3) A metropolitan arts council is a public corporate body with power to sue and be sued in any court of the state.

(4) A metropolitan arts council is an authority under section 6 of article IX of the state constitution of 1963.

(5) A metropolitan arts council possesses all the powers necessary for carrying out the purposes of its formation. The enumeration of specific powers in this act shall not be construed as a limitation on the general powers of a metropolitan arts council, consistent with its articles.

History: Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.719 Metropolitan arts council; establishment; purpose; articles.
Sec. 69. (1) A metropolitan arts council may be established solely to develop or enhance cultural institutions and facilities within the geographic boundaries of the council. A metropolitan arts council's articles shall state the name of the council; the purposes for which the council is formed; the powers, duties, and limitations of the council and its officers; the qualifications, method of selection and terms of office of delegates sitting on the council and of council officers; and the general method of amending the articles.

(2) The articles may authorize the metropolitan arts council to act in accordance with section 7(3).

History: Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.721 Metropolitan arts council; adoption or amendment of articles.
Sec. 71. (1) The articles of a metropolitan arts council shall be adopted and may be amended by an affirmative vote of a majority of the county commissioners.

(2) Before the articles or amendments are adopted by the county commission, the articles or amendments shall be published by the county clerk. The clerk shall publish the articles or amendments at least once in a newspaper generally circulated within the county.

(3) The adoption of articles or amendments by the county commission shall be evidenced by an endorsement on the articles or amendments by the county clerk in a form substantially as follows:

These articles of incorporation (or amendments) were adopted by an affirmative vote of a majority of the members serving on the county commission of

_____, _____ at a meeting duly held on the _____ day of _____, A.D., ____.

(4) Upon adoption of the articles or amendments, a printed copy of the articles or the amended articles shall be filed by the clerk of the county and with the secretary of state.

History: Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.723 Metropolitan arts council; chairperson; officers; administrator; other appointments.
Sec. 73. (1) A metropolitan arts council shall have a chairperson. The chairperson shall act as principal executive officer and shall preside at the meetings of the council. Meeting times and places shall be fixed by the council and special meetings may be called by a majority of the delegates on the council or by the chairperson. The chairperson shall have such powers and duties as provided in the articles.

(2) In addition to the chairperson, a metropolitan arts council shall have other officers as may be provided in the articles. The chairperson and other officers shall be elected by the council and shall be council delegates. However, a secretary and treasurer need not be council delegates.

(3) If provided in the articles, a metropolitan arts council may appoint an executive director to serve at the council's pleasure as the principal administrator for the council. The director shall not be a delegate, shall be selected on the basis of training and experience, and shall have the powers and duties as provided in the council bylaws adopted pursuant to section 79.

(4) If specifically authorized by law, a council for a metropolitan region may make appointments to other governmental agencies.

History: Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.725 Membership; compensation; expenses; annual budget.
Sec. 75. (1) Metropolitan arts council members shall serve without compensation but upon approval of a majority of delegates serving may be reimbursed for actual and necessary expenses incurred in the performance of the council's official duties.

(2) A metropolitan arts council shall prepare annually a budget that provides as a separate account anticipated expenditures for per diem compensation and expense reimbursement for the chairperson and other council delegates. Compensation or reimbursement shall be paid to the chairperson and other council delegates only if budgeted.

History: Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.727 Annual expenditure for administrative costs; establishment of divisions, bureaus, and committees.

Sec. 77. (1) A metropolitan arts council's articles shall specify the maximum amount or percentage of revenues received under this act that the council may authorize to be expended annually for administrative costs incurred under this act. The articles may authorize a local arts council within the metropolitan council area to administer this act or portions of this act. Additionally, the articles shall authorize that council to provide funding, supplemental to funding received from other sources, for cultural facilities and programs located within the metropolitan district that the council serves. However, a metropolitan arts council shall not expend money collected under section 69 unless the specific expenditure is included in the council's annual budget, expressly authorized in the council's articles, or unless the expenditure is approved by an affirmative vote of a majority of the council's delegates.

(2) A metropolitan arts council may establish divisions, bureaus, and committees, including advisory committees. Members of advisory committees shall serve without compensation but may be reimbursed for their reasonable expenses as determined by the council.

History: Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998

124.729 Bylaws.

Sec. 79. A metropolitan arts council may adopt bylaws for the administration of the council.

History: Add. 1998, Act 373, Imd. Eff. Oct. 20, 1998

REGIONAL PLANNING
Act 281 of 1945

AN ACT to provide for regional planning; the creation, organization, powers and duties of regional planning commissions; the provision of funds for the use of regional planning commissions; and the supervision of the activities of regional planning commissions under the provisions of this act.

History: 1945, Act 281, Eff. Sept. 6, 1945 ;-- Am. 1952, Act 194, Eff. Sept. 18, 1952

The People of the State of Michigan enact:

125.11 Regional planning; definitions.
Sec. 1. For the purpose of this act certain terms are defined as provided in this section. Wherever appropriate the singular includes the plural and the plural includes the singular. The terms “local governmental units” or “local units” shall include cities, villages, other incorporated political subdivisions, counties, school districts, special authorities, townships, or any legally constituted governing body responsible for the exercise of governmental functions within a political subdivision of the state.

History: 1945, Act 281, Eff. Sept. 6, 1945 ;-- CL 1948, 125.11

125.12 Regional planning commission; creation; service by members of county board of commissioners.
Sec. 2. Regional planning commissions may be created by resolution by 2 or more legislative bodies of any local governmental units desiring to create a regional planning commission. Members of county boards of commissioners shall not be prohibited from serving on a commission created hereby.

History: 1945, Act 281, Eff. Sept. 6, 1945 ;-- CL 1948, 125.12 ;-- Am. 1952, Act 194, Eff. Sept. 18, 1952 ;-- Am. 1976, Act 427, Imd. Eff. Jan. 11, 1977

125.13 Regional planning commissions; limit of jurisdiction.
Sec. 3. The boundaries of the area which are to define the limit of jurisdiction of the regional planning commission shall be established by the resolutions of the participating legislative bodies. The boundaries of this area need not be coincident with the boundaries of any single governmental subdivision or group of subdivisions which are to be included in the area, but may include all or such portions of any governmental subdivision.

History: 1945, Act 281, Eff. Sept. 6, 1945 ;-- CL 1948, 125.13 ;-- Am. 1952, Act 194, Eff. Sept. 18, 1952

125.14 Regional planning commission; per diem allowance and mileage; reimbursement for actual expenses.

Sec. 4. A member of the regional planning commission may receive a per diem allowance and mileage as is established and paid by the regional commission or, if a per diem allowance or mileage is not established and paid by the regional commission, as is established and paid by the local unit appointing that member for each meeting attended and may be reimbursed for not more than actual expenses incurred as a member of the commission in carrying out the work of the commission. The mileage and reimbursement for not more than actual expenses established under this section shall not exceed the standardized travel regulations of the department of management and budget.

History: 1945, Act 281, Eff. Sept. 6, 1945 ;-- CL 1948, 125.14 ;-- Am. 1952, Act 194, Eff. Sept. 18, 1952 ;-- Am. 1976, Act 427, Imd. Eff. Jan. 11, 1977 ;-- Am. 1989, Act 129, Imd. Eff. June 28, 1989

125.15 Regional planning commissions; chairman; rules of procedure; records.

Sec. 5. Each regional planning commission shall elect its own chairman and establish its own rules of procedure, and may create and fill such other offices as it may determine necessary. It shall keep a record of its resolutions, transactions, findings and determinations, which records shall be a public record.

History: 1945, Act 281, Eff. Sept. 6, 1945 ;-- CL 1948, 125.15 ;-- Am. 1952, Act 194, Eff. Sept. 18, 1952

125.16 Regional planning commissions; director and employees.

Sec. 6. The regional planning commission may appoint a director and such employees as it may deem necessary for its work and may hire such experts and consultants for part time or full time service as may be necessary for the prosecution of its responsibilities.

History: 1945, Act 281, Eff. Sept. 6, 1945 ;-- CL 1948, 125.16

125.17 Aid from governmental agencies.

Sec. 7. Aid for the purpose of accomplishing the objectives of the regional planning commission may be accepted from all governmental agencies whether

local, state or federal, if the conditions under which such aid is furnished are not incompatible with the other provisions of this act.

History: 1945, Act 281, Eff. Sept. 6, 1945 ;-- CL 1948, 125.17

125.18 Appointment of advisory committees or councils.
Sec. 8. The regional planning commission may appoint advisory committees or councils whose membership may consist of individuals whose experience, training or interest in the program may qualify them to lend valuable assistance to the regional planning commission by acting in an advisory capacity in consulting with the regional planning commission on technical and special phases of the program. Members of such advisory bodies shall receive no compensation for their services but may be reimbursed for actual expenses incurred in the performance of their duties.

History: 1945, Act 281, Eff. Sept. 6, 1945 ;-- CL 1948, 125.18

125.19 Regional planning commission; powers; annual report; service charge to local governmental unit.
Sec. 9. (1) A regional planning commission may conduct all types of research studies, collect and analyze data, prepare maps, charts, and tables, and conduct all necessary studies for the accomplishment of its other duties; may make and coordinate the development of plans for the physical, social, and economic development of the region, and may adopt, by resolution of its governing body, a plan or the portion of a plan so prepared or any objective consistent with a plan as its official recommendation for the development of the region; may publicize and advertise its purposes, objectives, and findings, and may distribute reports on its purposes, objectives, and findings; may, by resolution of its governing body and with the consent of the affected governmental units, or other public or private bodies, provide services to participating local governmental units, the state, and to other public and private bodies and citizens in matters relative to its functions, plans, and objectives provided those services are not available through the private sector at a competitive cost; may charge the recipients of its services a reasonable fee for those services; and may act as a coordinating agency for programs and activities of public and private bodies and citizens as they relate to its objectives. A regional planning commission shall make an annual report of its activities to the legislative bodies of the participating local governmental units.

(2) Notwithstanding subsection (1), a local governmental unit may not be charged for a service provided by a regional planning commission pursuant to

subsection (1) unless the charge is accepted by a vote of the legislative body of that governmental unit.

History: 1945, Act 281, Eff. Sept. 6, 1945 ;-- CL 1948, 125.19 ;-- Am. 1952, Act 194, Eff. Sept. 18, 1952 ;-- Am. 1982, Act 156, Imd. Eff. May 18, 1982

125.20 Access to records and information.

Sec. 10. The regional planning commission shall be given access to all studies, reports, surveys, records, and all other information and material in the possession of such governmental agencies as shall be required by the regional planning commission for the accomplishment of its objectives.

History: 1945, Act 281, Eff. Sept. 6, 1945 ;-- CL 1948, 125.20

125.21 Local subdivisions; adoption of plans of regional commission.

Sec. 11. Local governmental subdivisions, whether active participants in the work of the regional planning commission or not, may adopt all or any portion of the plans prepared and adopted by the regional planning commission by following those procedures specified by act of the legislature or by local charter for the adoption of an official master plan.

History: 1945, Act 281, Eff. Sept. 6, 1945 ;-- CL 1948, 125.21

125.22 Local subdivisions; allocation of funds.

Sec. 12. For the purpose of providing funds to meet the expenses of a regional planning commission any local governmental unit participating in the formation, functioning and support of the regional planning commission or any other local governmental unit wishing to contribute thereto may allocate funds for the purpose by official act of its legislative body. The proportion of the total amount of funds to be so provided by each participating local governmental unit may be suggested by the regional planning investigating committee or prepared as a proposed budget by the regional planning commission and submitted to the legislative bodies of the participating local governmental units. Each legislative body of the participating governmental units may appropriate its share of the funds to be allocated for the use of the regional planning commission by the adoption of a legislative act which is identical with a similar act or acts as adopted by the other participating local governmental units. The services of personnel, the use of equipment and office space, and the provision of special services, may be accepted from any participating local governmental unit and may be considered a part of the financial support of that governmental unit.

History: 1945, Act 281, Eff. Sept. 6, 1945 ;-- CL 1948, 125.22 ;-- Am. 1952, Act 194, Eff. Sept. 18, 1952

125.23 Regional planning commission; acceptance of gifts and grants; disposition of funds received from governmental agencies; restrictions.
Sec. 13. (1) A regional planning commission may accept gifts and grants from public or private individuals or agencies if the conditions under which the grants are made are in accordance with the accomplishment of the objectives of the regional planning commission.

(2) A regional planning commission may lend, grant, transfer, or convey funds received from all federal, state, or local governmental agencies, as permitted by law, subject to applicable restrictions affecting the use of those funds.

History: 1945, Act 281, Eff. Sept. 6, 1945 ;-- CL 1948, 125.23 ;-- Am. 1952, Act 194, Eff. Sept. 18, 1952 ;-- Am. 1982, Act 156, Imd. Eff. May 18, 1982

125.24 Transfer of functions to regional council of government; vote required; grants-in-aid.
Sec. 14. The regional planning commission as constituted under this act may transfer by interlocal agreement or contract its activities, functions, programs, staff, moneys, properties, and any other liabilities or assets to a regional council of government hereinafter created. This transfer must be authorized by a majority vote of the governing body of the regional planning commission and submitted to each local governmental unit participating as a member of the regional planning commission. The local legislative body of each local governmental unit participating as a member of the regional planning commission must authorize and concur in the transfer by majority vote.

In the event of such transfer, the council shall be entitled to receive and disburse all grants-in-aid and other revenues that would otherwise be available to the regional planning commission.

History: Add. 1967, Act 87, Eff. Nov. 2, 1967
Compiler's Notes: Former MCL 125.24, a severability provision, was repealed by Act 129 of 1947.

125.25 Research studies and plans; review by office of planning coordination.
Sec. 15. Research studies and plans for the physical, social and economic development of the region which are prepared by the regional planning

commissions pursuant to section 9 shall be forwarded as soon as is practical and prior to adoption in whole or in part to the office of planning coordination of the executive office of the governor for review and comment.

History: Add. 1967, Act 87, Eff. Nov. 2, 1967

COUNTY OR REGIONAL ECONOMIC DEVELOPMENT COMMISSION
Act 46 of 1966

AN ACT to create a county or regional economic development commission; and to prescribe the powers and duties thereof.

History: 1966, Act 46, Imd. Eff. June 2, 1966

The People of the State of Michigan enact:

125.1231 County economic development commission; creation, membership.

Sec. 1. The board of supervisors of any county may create a county economic development commission, as a separate agency or by designation of an existing county board, commission, department or agency, as the county economic development commission. The boards of supervisors of 2 or more contiguous counties may create a regional economic development commission. Economic development commissions created under this act shall consist of not less than 3 nor more than 35 members with such powers and duties as are herein prescribed. Membership of a regional commission shall be apportioned according to the population of the respective member counties. County economic development commissions heretofore established by county boards of supervisors are validated as commissions established under this act.

History: 1966, Act 46, Imd. Eff. June 2, 1966 ;-- Am. 1969, Act 102, Imd. Eff. July 24, 1969

125.1232 County economic development commission; rules and regulations; compensation.

Sec. 2. The commission shall be deemed to be an agency of the county or region. The board or boards of supervisors may make such rules and regulations in respect to the commission as it deems advisable. The commissioners, in administering the activities of the commission, may adopt such further rules and regulations as they deem advisable. The compensation of

the commissioners for carrying out the duties and responsibilities imposed hereunder, shall be fixed by the board or boards of supervisors.

History: 1966, Act 46, Imd. Eff. June 2, 1966

125.1233 County economic development commission; appointment of employees.
Sec. 3. The commission shall appoint such employees as they deem necessary to carry out the provisions hereof, subject to civil service regulations in counties having adopted a civil service system.

History: 1966, Act 46, Imd. Eff. June 2, 1966

125.1234 County economic development commission; expenses; provision by board of supervisors.
Sec. 4. The board or boards of supervisors shall provide each year in its annual budget for the expenses of the commission.

History: 1966, Act 46, Imd. Eff. June 2, 1966

125.1235 Economic development and expansion program; activities.
Sec. 5. The commission shall plan and direct the carrying out of an economic development and expansion program for the county or region. The program shall include, but not be restricted to, the following activities:

(a) Investigation and study of conditions affecting the economy of the area, technical studies and statistical research and surveys necessary or useful for the expansion of the economy, and the collection and dissemination of such information.

(b) Recommendations to the board or boards of supervisors for the study and elimination of restrictions, barriers and burdens imposed by law or otherwise, which may adversely affect or retard the development and expansion of area industry, commerce or agriculture.

(c) Study and advise the board or boards of supervisors, industry and interested organizations and associations as to means and methods of providing financing for economic expansion in the county or region.

(d) Promotion and encouragement of the expansion and development of markets for products of the county or region.

(e) Publicizing of the material, economic and cultural advantages of the county or region.

(f) Conduct research and make recommendations to the board or boards of supervisors for the general purpose of guiding and accomplishing a coordinated and efficient development of the county or region in accordance with present and future needs and to best utilize the county's or region's resources.

History: 1966, Act 46, Imd. Eff. June 2, 1966

125.1236 County economic development commission; additional powers and duties.

Sec. 6. The commission, in addition to its other powers and duties, may:

(a) Accept, with the approval of the board or boards of supervisors, grants of funds made by the state, the United States, or any department or agency thereof, or other public or private agency or individual.

(b) Enter into contracts with boards, commissions and agencies, both public and private, and with individuals to carry out the purposes of this act.

(c) Act as the county's or region's official liaison agency with state and federal agencies concerned with economic development programs.

History: 1966, Act 46, Imd. Eff. June 2, 1966

125.1237 Applications for state or federal grants; acceptance, expenditures.

Sec. 7. Upon the request of the governing body of any city, village or township located within the county or region, the commission may apply for and accept grants from the state or the federal government for assistance for the local units of government, which includes but is not limited to surveys, land use studies, urban renewal plans and technical services. County costs shall be reimbursed to the county or counties by the local units of government. The commission may accept and expend grants from the state and the federal government and other public or private sources, contract with reference thereto, and enter into other

contracts and exercise all other powers necessary to carry out the purpose of this act.

History: 1966, Act 46, Imd. Eff. June 2, 1966

MICHIGAN PLANNING ENABLING ACT (EXCERPT)
Act 33 of 2008

125.3837 Metropolitan county planning commission; designation; powers. Sec. 37. (1) A county board of commissioners may designate the county planning commission as the metropolitan county planning commission. A county planning commission so designated shall perform metropolitan and regional planning whenever necessary or desirable. The metropolitan county planning commission may engage in comprehensive planning, including, but not limited to, the following:

(a) Preparation, as a guide for long-range development, of general physical plans with respect to the pattern and intensity of land use and the provision of public facilities, together with long-range fiscal plans for such development.

(b) Programming of capital improvements based on relative urgency, together with definitive financing plans for the improvements to be constructed in the earlier years of the program.

(c) Coordination of all related plans of local governmental agencies within the metropolitan area or region.

(d) Intergovernmental coordination of all related planning activities among the state and local governmental agencies within the metropolitan area or region.

(2) In addition to the powers conferred by other provisions of this act, a metropolitan county planning commission may apply for, receive, and accept grants from any local, regional, state, or federal governmental agency and agree to and comply with the terms and conditions of such grants. A metropolitan county planning commission may do any and all things necessary or desirable to secure the financial aid or cooperation of a regional, state, or federal governmental agency in carrying out its functions, when approved by a 2/3 vote of the county board of commissioners.

History: 2008, Act 33, Eff. Sept. 1, 2008

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III. LOCAL DISTRICTS & AUTHORITIES

A. ECONOMIC DEVELOPMENT, LOCAL FUNDS & FINANCING

THE HOME RULE CITY ACT (EXCERPT)
Act 279 of 1909

117.4a Borrowing money and issuing bonds; net indebtedness; limitation; computation; borrowing in case of fire, flood, or other calamity; incurring obligation for construction, renovation, or modernization of hospital; bonds as obligation of special assessment district and city; validation of bonds issued and obligations incurred before July 31, 1973.

Sec. 4a. (1) Each city in its charter may provide for the borrowing of money on the credit of the city and issuing bonds for the borrowing of money, for any purpose within the scope of the powers of the city.

(2) Notwithstanding a charter provision to the contrary, the net indebtedness incurred for all public purposes shall not exceed the greater of the following:

(a) Ten percent of the assessed value of all the real and personal property in the city.

(b) Fifteen percent of the assessed value of all the real and personal property in the city if that portion of the total amount of indebtedness incurred which exceeds 10% is or has been used solely for the construction or renovation of hospital facilities.

(3) In case of fire, flood, or other calamity, the legislative body may borrow for the relief of the inhabitants of the city and for the preservation of municipal property, a sum not to exceed 3/8 of 1% of the assessed value of all the real and personal property in the city, due in not more than 5 years, even if the loan would cause the indebtedness of the city to exceed the limit established by this section.

(4) In computing the net indebtedness, all of the following shall be excluded:

(a) Bonds issued in anticipation of the payment of special assessments, even though they are also a general obligation of the city.

(b) Mortgage bonds that are secured only by a mortgage on the property or franchise of a public utility.

(c) Bonds issued to refund money advanced or paid on special assessments for water main extensions.

(d) Motor vehicle highway fund bonds, even though they are also a general obligation of the city.

(e) Revenue bonds.

(f) Bonds issued or contract or assessment obligations incurred to comply with an order of the water resources commission or a court of competent jurisdiction.

(g) Obligations incurred before January 9, 1973 for water supply, sewage, drainage, or refuse disposal, or resource recovery projects, or incurred after January 8, 1973 for projects necessary to protect the public health by abating pollution. A certification by the county, district, or state health department shall be sufficient proof that the project is necessary to protect the public health by abating pollution.

(h) Bonds issued to acquire housing for which rent subsidies will be received by the city or an agency of the city under a contract with the United States government and used by the city to operate and maintain the housing and pay principal and interest on the bonds.

(i) Obligations entered into under an intergovernmental self-insurance contract section 5 of 1951 PA 35, MCL 124.5, or issued to pay premiums or to establish funds to self-insure for losses under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(j) Bonds issued or assessments or contract obligations incurred for the construction, improvement, or replacement of a combined sewer overflow abatement facility. As used in this subdivision:

(i) “Combined sewer overflow” means a discharge from a combined sewer system that occurs when the flow capacity of the combined sewer system is exceeded.

(ii) “Combined sewer overflow abatement facility” means any works, instrumentalities, or equipment necessary or appropriate to abate combined sewer overflows.

(iii) “Combined sewer system” means a sewer designed and used to convey both storm water runoff and sanitary sewage, and which contains lawfully installed regulators and control devices that allow for delivery of sanitary flow to treatment during dry weather periods and divert storm water and sanitary sewage to surface waters during storm flow periods.

(iv) “Construction” means any action taken in the designing or building of a combined sewer overflow abatement facility. This term includes, but is not limited to, all of the following:

(A) Engineering services.

(B) Legal services.

(C) Financial services.

(D) Design of plans and specifications.

(E) Acquisition of land or structural components, or both.

(F) Building, erection, alteration, remodeling, or extension of a combined sewer overflow abatement facility.

(G) City supervision of the project activities described in sub-subparagraphs (A) to (F).

(v) “Improvement” means any action taken to expand, rehabilitate, or restore a combined sewer overflow abatement facility.

(vi) “Replacement” means any action taken to obtain and install equipment, accessories, or appurtenances during the useful life of a combined sewer

overflow abatement facility necessary to maintain the capacity and performance for which the equipment, accessories, or appurtenances are designed and constructed.

(5) The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the indebtedness.

(6) An obligation for the construction, renovation, or modernization of a hospital under subsection (2)(b) shall not be incurred after July 1, 1978 unless the construction, renovation, or modernization has been approved in accordance with any applicable act or unless the obligation is to refinance a previous obligation.

(7) Each city may provide in its charter for the borrowing of money and issuing bonds for the borrowing of money in anticipation of the payment of special assessments, which bonds may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the city.

(8) Bonds issued and obligations incurred before July 31, 1973 are validated.

(9) In computing the net indebtedness for the purposes of subsection (2), there may be added to the assessed value of real and personal property in a city for a fiscal year an amount equal to the assessed value equivalent of certain city revenues as determined under this subsection. The assessed value equivalent shall be calculated by dividing the sum of the following amounts by the city's millage rate for the fiscal year:

(a) The amount paid or the estimated amount required to be paid by the state to the city during the city's fiscal year for the city's use under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. The department of treasury shall certify the amount upon request.

(b) The amount levied by the city for its own use during the city's fiscal year from the specific tax levied under 1974 PA 198, MCL 207.551 to 207.572.

(c) The amount levied by the city for its own use during the city's fiscal year from the specific tax levied under the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668.

History: Add. 1921, Act 353, Eff. Aug. 18, 1921 ;-- Am. 1927, Act 351, Eff. Sept. 5, 1927 ;-- Am. 1929, Act 126, Eff. Aug. 28, 1929 ;-- CL 1929, 2231 ;-- Am. 1932, 1st Ex. Sess., Act 14, Imd. Eff. Apr. 29, 1932 ;-- CL 1948, 117.4a ;-- Am. 1972, Act 374, Imd. Eff. Jan. 9, 1973 ;-- Am. 1973, Act 81, Imd. Eff. July 31, 1973 ;-- Am. 1977, Act 263, Imd. Eff. Dec. 8, 1977 ;-- Am. 1978, Act 634, Imd. Eff. Jan. 8, 1979 ;-- Am. 1988, Act 268, Imd. Eff. July 15, 1988 ;-- Am. 1992, Act 256, Imd. Eff. Dec. 7, 1992 ;-- Am. 1994, Act 324, Imd. Eff. Oct. 12, 1994 ;-- Am. 2002, Act 201, Imd. Eff. Apr. 29, 2002

117.5f Energy conservation improvements; resolution; payment; scope of improvements; acquisition of improvements by contracts or notes; reports; forms.

Sec. 5f. (1) The legislative body of a city may provide by resolution for energy conservation improvements to be made to city facilities and may pay for the improvements from the general fund of the city or from the savings that result from the energy conservation improvements. Energy conservation improvements may include, but are not limited to, heating system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating or air conditioning controls, and entrance or exit way closures.

(2) The legislative body of a city may acquire 1 or more of the energy conservation improvements described in subsection (1) by installment contract or may borrow money and issue notes for the purpose of securing funds for the improvements or may enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result from the energy conservation improvements. These contractual agreements may provide that the cost of the energy conservation improvements are paid only if the energy savings are sufficient to cover their cost. An installment contract or notes issued pursuant to this subsection shall extend for a period of time not to exceed 10 years. Notes issued pursuant to this subsection shall be full faith and credit, tax limited obligations of the city, payable from tax levies and the general fund as pledged by the legislative body of the city. The notes shall be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. This subsection does not limit in any manner the borrowing or bonding authority of a city as provided by law.

(3) If energy conservation improvements are made as provided in this section, the legislative body of a city shall report the following information to the Michigan public service commission within 60 days of the completion of the improvements:

(a) Name of each facility to which an improvement is made and a description of the conservation improvement.

(b) Actual energy consumption during the 12-month period before completion of the improvement.

(c) Project costs and expenditures.

(d) Estimated annual energy savings.

(4) If energy conservation improvements are made as provided in this section, the legislative body of a city shall report to the Michigan public service commission, by July 1 of each of the 5 years after the improvements are completed, only the actual annual energy consumption of each facility to which improvements are made. The forms for the reports required by this section shall be furnished by the Michigan public service commission.

History: Add. 1984, Act 401, Imd. Eff. Dec. 28, 1984 ;-- Am. 1990, Act 231, Imd. Eff. Oct. 8, 1990 ;-- Am. 2002, Act 201, Imd. Eff. Apr. 29, 2002
Compiler's Notes: For transfer of functions relating to energy policy from the Energy Administration, Department of Commerce, to the Public Service Commission, Department of Commerce, see E.R.O. No. 1986-4, compiled at MCL 460.901 of the Michigan Compiled Laws.For transfer of powers and duties of the public service commission pertaining to energy conservation improvement reports from the public service commission to the state treasurer, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

INTERGOVERNMENTAL CONDITIONAL TRANSFER OF PROPERTY BY CONTRACT
Act 425 of 1984

AN ACT to permit the conditional transfer of property by contract between certain local units of government; to provide for permissive and mandatory provisions in the contract; to provide for certain conditions upon termination, expiration, or nonrenewal of the contract; and to prescribe penalties and provide remedies.

History: 1984, Act 425, Eff. Mar. 29, 1985 ;-- Am. 1998, Act 192, Eff. Mar. 23, 1999

The People of the State of Michigan enact:

124.21 Definitions.
Sec. 1. As used in this act:

(a) “Economic development project” means land and existing or planned improvements suitable for use by an industrial or commercial enterprise, or housing development, or the protection of the environment, including, but not limited to, groundwater or surface water. Economic development project includes necessary buildings, improvements, or structures suitable for and intended for or incidental to use as an industrial or commercial enterprise or housing development; and includes industrial park or industrial site improvements and port improvements or housing development incidental to an industrial or commercial enterprise; and includes the machinery, furnishings, and equipment necessary, suitable, intended for, or incidental to a commercial, industrial, or residential use in connection with the buildings or structures.

(b) “Local unit” means a city, township, or village.

History: 1984, Act 425, Eff. Mar. 29, 1985 ;-- Am. 1990, Act 22, Imd. Eff. Mar. 6, 1990

124.22 Conditional transfer of property; period; written contract; renewal.
Sec. 2. (1) Two or more local units may conditionally transfer property for a period of not more than 50 years for the purpose of an economic development project. A conditional transfer of property shall be controlled by a written contract agreed to by the affected local units.

(2) A contract under this act may be renewed for additional periods of not to exceed 50 years upon approval of each legislative body of the affected local units.

History: 1984, Act 425, Eff. Mar. 29, 1985

124.23 Formulation of contract; factors.
Sec. 3. When formulating a contract under this act, the local units shall consider the following factors:

(a) Composition of the population; population density; land area and land uses; assessed valuation; topography, natural boundaries, and drainage basins; and the past and probable future growth, including population increase and business, commercial, and industrial development in the area to be transferred. Comparative data for the transferring local unit and the portion of the local unit remaining after transfer of the property shall be considered.

(b) The need for organized community services; the present cost and adequacy of governmental services in the area to be transferred; the probable future needs for services; the practicability of supplying such services in the area to be transferred; the probable effect of the proposed transfer and of alternative courses of action on the cost and adequacy of services in the area to be transferred and on the remaining portion of the local unit from which the area will be transferred; the probable change in taxes and tax rates in the area to be transferred in relation to the benefits expected to accrue from the transfer; and the financial ability of the local unit responsible for services in the area to provide and maintain those services.

(c) The general effect upon the local units of the proposed action; and the relationship of the proposed action to any established city, village, township, county, or regional land use plan.

History: 1984, Act 425, Eff. Mar. 29, 1985

124.24 Public hearing; notice; majority vote required.
Sec. 4. (1) The legislative body of each local unit affected by a proposed transfer of property under this act shall hold at least 1 public hearing before entering into a contract under this act. Notice of the hearing shall be given in the manner provided by the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(2) A decision to enter into a contract under this act shall be made by a majority vote of those members elected and serving on the legislative body of each affected local unit.

History: 1984, Act 425, Eff. Mar. 29, 1985

124.25 Compliance as condition to entering into contract; resolution; referendum; approval by majority of electors; petition; effect of not filing petition or adopting resolution.
Sec. 5. (1) A contract shall not be entered into under this act except in compliance with this section.

(2) If the governing body of a local unit involved in a transfer of property under this act adopts a resolution calling for a referendum on the transfer, the local unit may enter into the contract only if the transfer is approved by a majority of the electors voting on the transfer.

(3) If, within 30 days after a public hearing is held under section 4, a petition signed by 20% or more of the registered electors residing within the property to be transferred is filed with the clerk of the local unit in which the property is located, a referendum on the transfer shall be held in that local unit. If a majority of the electors voting on the transfer approve the transfer, the local unit may enter into the contract.

(4) If no registered electors reside within the property to be transferred and if, within 30 days after a public hearing is held under section 4, a petition signed by persons owning 50% or more of the property to be transferred is filed with the clerk of the local unit in which the property is located, a referendum on the transfer shall be held in that local unit. If a majority of the electors in the local unit voting on the transfer approve the transfer, the local unit may enter into the contract.

(5) If a petition is not filed or resolution is not adopted as provided in this section, the local unit may enter into the contract to transfer the property.

History: 1984, Act 425, Eff. Mar. 29, 1985

124.25a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 5a. Except as otherwise provided in this section, a petition under section 5, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A petition under section 5(4) that is signed by landowners because no registered electors reside within the property to be transferred is not subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 192, Eff. Mar. 23, 1999

124.26 Contract; provisions.

Sec. 6. (1) If applicable to the transfer, a contract under this act may provide for the following:

(a) Any method by which the contract may be rescinded or terminated by any participating local unit prior to the stated date of termination.

(b) The manner of employing, engaging, compensating, transferring, or discharging personnel required for the economic development project to be carried out under the contract, subject to the provisions of applicable civil service and merit systems. An employee who is transferred by a local unit due to a contract under this act shall not by reason of the transfer be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefits that he or she enjoyed before the transfer.

(c) The fixing and collecting of charges, rates, rents, or fees, where appropriate, and the adoption of ordinances and their enforcement by or with the assistance of the participating local units.

(d) The manner in which purchases shall be made and contracts entered into.

(e) The acceptance of gifts, grants, assistance funds, or bequests.

(f) The manner of responding for any liabilities that might be incurred through performance of the contract and insuring against any such liability.

(g) Any other necessary and proper matters agreed upon by the participating local units.

History: 1984, Act 425, Eff. Mar. 29, 1985

124.27 Contract; additional provisions.
Sec. 7. A contract under this act shall provide for the following:

(a) The length of the contract.

(b) Specific authorization for the sharing of taxes and any other revenues designated by the local units. The manner and extent to which the taxes and other revenues are shared shall be specifically provided for in the contract.

(c) Methods by which a participating local unit may enforce the contract including, but not limited to, return of the transferred area to the local unit from which the area was transferred before the expiration date of the contract.

(d) Which local unit has jurisdiction over the transferred area upon the expiration, termination, or nonrenewal of the contract.

History: 1984, Act 425, Eff. Mar. 29, 1985

124.28 Conditionally transferred property; jurisdiction.
Sec. 8. Unless the contract specifically provides otherwise, property which is conditionally transferred by a contract under this act is, for the term of the contract and for all purposes, under the jurisdiction of the local unit to which the property is transferred.

History: 1984, Act 425, Eff. Mar. 29, 1985

124.29 Other method of annexation or transfer prohibited.
Sec. 9. While a contract under this act is in effect, another method of annexation or transfer shall not take place for any portion of an area transferred under the contract.

History: 1984, Act 425, Eff. Mar. 29, 1985

124.30 Effect of filing contract; entering contract in book; contract as prima facie evidence of conditional transfer.
Sec. 10. The conditional transfer of property pursuant to a contract under this act takes place when the contract is filed in the manner required by this section. After the affected local units enter into a contract under this act, the clerk of the local unit to which the property is to be conditionally transferred shall file a duplicate original of the contract with the county clerk of the county in which that local unit, or the greater part of that local unit, is located and with the secretary of state. That county clerk and the secretary of state shall enter the contract in a book kept for that purpose. The contract or a copy of the contract certified by that county clerk or by the secretary of state is prima facie evidence of the conditional transfer.
History: Add. 1990, Act 22, Imd. Eff. Mar. 6, 1990

NEIGHBORHOOD ASSISTANCE AND PARTICIPATION ACT
Act 56 of 1980

AN ACT to create a neighborhood assistance program; to prescribe the powers and duties of the department of labor; to create a fund; to permit certain rebates to business firms participating in neighborhood projects; and to require certain reports.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980

The People of the State of Michigan enact:

125.801 Short title.
Sec. 1. This act shall be known and may be cited as the “neighborhood assistance and participation act”.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980

125.802 Meanings of words and phrases.
Sec. 2. For purposes of this act, the words and phrases used in sections 3 to 5 shall have the meanings ascribed to them in those sections.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980

125.803 Definitions; B, C.
Sec. 3. (1) "Bureau" means the bureau of community services in the department of labor.

(2) "Business firm" means a sole proprietorship, partnership, or corporation authorized to do business in this state and subject to tax under either the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(3) "Community development commission" means an advisory commission established pursuant to law within the department of labor.

(4) "Community services" means services, including counseling and advice, recreational programs, emergency assistance, medical care, or instructional services furnished to a person or a group in an eligible neighborhood.

(5) "Crime prevention" means activities which aid in the reduction of crime in an eligible neighborhood.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980 ;-- Am. 1983, Act 104, Imd. Eff. June 30, 1983 ;-- Am. 2007, Act 177, Imd. Eff. Dec. 21, 2007

125.804 Definitions; D to L.
Sec. 4. (1) “Department” means the department of labor.

(2) “Director” means the director of the department.

(3) “Eligible neighborhood” means an area located within a city, township, or village with boundaries clearly identified within the project application and certified by the department. The certification shall be made on the basis of federal census studies and current indices of local economic conditions.

(4) “Fund” means the neighborhood assistance and partnership fund created in section 6.

(5) “Job training” means instruction to a person that enables that person to acquire job readiness or vocational skills so that the person can become employable in a trade or profession of that person's choosing.

(6) “Local unit of government” means a city, township, or village in which a project will be located.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980

125.805 Definitions; N to R.

Sec. 5. (1) “Neighborhood assistance project” or “project” means any arrangement between a neighborhood organization and 1 or more business firms for the provision of financial assistance for projects offering job training, community services, crime prevention, or physical revitalization.

(2) “Neighborhood organization” means any nongovernmental organization serving an area with geographically definable boundaries, having elected officials, adopted bylaws, and a minimum membership of 50 households, or 10% of the households, within its boundaries.

(3) “Physical revitalization” means the replacement, rehabilitation, or restoration of existing neighborhood facilities or the creation of new neighborhood facilities. Neighborhood facilities may include streets, sidewalks, parks, recreational facilities, residential structures, and public facilities.

(4) “Rebate” means the payment by the department to a business firm as provided in the reimbursement form.

(5) “Reimbursement form” means the form submitted by a business firm to the department for the purpose of receiving a rebate.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980

125.806 Neighborhood assistance and partnership fund; creation; purpose; limitation on rebates; rules.
Sec. 6. (1) A neighborhood assistance and partnership fund is created within the bureau of community services of the department of labor.

(2) The purpose of the fund shall be to encourage neighborhood organizations and business firms to engage in neighborhood assistance projects.

(3) The total amount of rebates to business firms approved within any local unit of government shall not exceed 1/2 of the money appropriated to the fund in any fiscal year.

(4) The director shall promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, for the administration of the fund.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980
Admin Rule: R 125.601 et seq. of the Michigan Administrative Code.

125.807 Eligibility of neighborhood; rules; criteria.
Sec. 7. (1) The department shall promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, to determine the eligibility of neighborhoods to participate in this program.

(2) The criteria used to certify an eligible neighborhood shall be made on the basis of federal census studies and current indices of local economic and social conditions, which indicate blight or the threat of a deteriorating environment. Criteria used to determine eligibility for a project shall include at least 1 of the following:

(a) Real per capita income growth.

(b) Rate of unemployment.

(c) Declining state equalized valuation within the project area.

(d) Deterioration of the community's social environment.

(e) Number of minority group residents within the project area.

(3) The department periodically shall issue minimum levels for established criteria which applicants shall meet for eligibility.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980
Admin Rule: R 125.601 et seq. of the Michigan Administrative Code.

125.808 Project application; contents.
Sec. 8. (1) A neighborhood organization requesting project approval shall submit a project application to the director. The application shall include the following:

(a) Proof and certification that:

(i) The neighborhood meets the criteria established in section 7.

(ii) The organization meets the definition of neighborhood organization as provided in section 5.

(b) A detailed project work plan including:

(i) An assessment of the needs and objectives being addressed by the project.

(ii) A description of how the project will meet the stated objectives.

(iii) Letters of commitment from participating business firms, if any.

(iv) Other project details as required by the director.

(c) A detailed project budget including:

(i) Total project cost.

(ii) Project expenses by category of expense item.

(iii) Business contributions to the project cost.

(iv) Justification of administrative costs.

(v) Other budget details as required by the director.

(2) A project application may be for a project life of more than 1 year.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980

125.809 Project application; approval or disapproval; review and comments.

Sec. 9. (1) The department shall approve or disapprove a project application within 45 working days after the date of receipt of the application. The decision and the detailed reasons for the approval or disapproval of a proposal shall be in writing, and, if the proposal is approved, the amount of rebates to business firms authorized for use shall be stated.

(2) Upon receipt of the application, the department shall provide a copy of the project application to the local unit of government and the county in which the project will be located for review and comments. Any review and comments of the project shall be returned to the department within 30 working days after receipt of the application. Comments shall include:

(a) Whether the project conflicts with any applicable comprehensive plan.

(b) Verification of the neighborhood organization and business firm submitting the project application.

(c) Other comments as may be considered appropriate.

(3) The department may provide any other person, group, community action agency, or division of federal, state, or local unit of government a copy of the project for review and comment.

(4) The department may approve a project application after 35 working days from receipt of the project application, whether or not comments have been received from a local unit of government, or any person, group, or division of federal, state, or a local unit of government to whom copies of the project application have been provided.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980

125.810 Certification; entering into project; project representative; professional assistance.
Sec. 10. Upon certification by the department, a neighborhood organization may enter into a neighborhood assistance project with 1 or more business firms for the purpose of providing job training, community services, crime prevention, or physical revitalization through a project approved by the department. A business firm may appoint a person as a project representative to the neighborhood organization, or may provide professional assistance to the project upon request from the neighborhood organization.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980

125.811 Rebate; reimbursement form; amount; review and approval; eligibility; prohibitions.
Sec. 11. (1) A business firm shall receive from a neighborhood organization with which it has entered into a neighborhood assistance project a reimbursement form for a rebate. The reimbursement form shall be submitted to the department for an amount not to exceed 50% of the total amount contributed by the business firm to a project approved by the department. The department shall review the reimbursement form and approve the rebate within 30 days after receipt of the form.

(2) A contribution by a business firm shall be eligible for rebate the first year for that portion that exceeds the total contributions by the firm for the project in the previous year.

(3) A rebate shall not be issued to a business firm until after a contribution has been received for a project by the neighborhood organization implementing that project.

(4) A rebate for any specific business firm shall not exceed $50,000.00 for the first year of the neighborhood assistance project. The total amount of the rebate may be increased by not more than $50,000.00 each year for the succeeding 4 years so that in the fifth consecutive year, and each year thereafter, the rebate shall be a maximum of $250,000.00.

(5) A rebate shall not be granted to a bank, insurance company, trust company, building and loan or savings and loan association, or a credit union for activities that are considered a part of its normal course of business.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980

125.812 Annual report to department.
Sec. 12. A neighborhood organization with projects approved by the department shall submit to the department an annual report not later than 90 days after the close of the project year for each year in which the project is certified. The report shall contain:

(a) An assessment of how the project is attaining the project objectives.

(b) An independent audit of project expenditures.

(c) Any other items that the director requires.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980

125.813 Annual report to legislature.
Sec. 13. The department shall submit to the legislature an annual report not later than 90 days after the close of the fiscal year. The report shall contain:

(a) An assessment of the economic impacts of all projects approved.

(b) An assessment of the social impacts of all projects approved.

(c) A description of and status report on all projects approved.

(d) Total reimbursements authorized and paid.

(e) Any other information that the legislature requires.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980

125.814 Transfer of duties and obligations.
Sec. 14. The duties and obligations imposed by this act upon the director and the department, other than by section 13, shall be transferred to, and be vested in, the community development commission after October 1, 1981.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980

INDUSTRIAL DEVELOPMENT REVENUE BOND ACT OF 1963
Act 62 of 1963

AN ACT relating to industrial development; to authorize municipalities to acquire and dispose of industrial buildings and sites and industrial machinery and equipment, including water and air pollution control equipment, solid waste disposal facilities, and tourist and resort facilities and to lease the same to persons, firms, or corporations; to authorize municipalities to acquire and dispose of water and air pollution control equipment and solid waste disposal facilities and to lease or sell the same to persons, firms, corporations, or public utilities; to provide for the financing of such buildings, sites, machinery, and equipment or water and air pollution control equipment and solid waste disposal facilities by the issuance of revenue bonds and refunding bonds; to provide the terms and conditions of such bonds; to prescribe the powers and duties of the municipal finance commission; and to prescribe penalties and provide remedies.

History: 1963, Act 62, Imd. Eff. May 8, 1963 ;-- Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966 ;-- Am. 1970, Act 8, Imd. Eff. Mar. 24, 1970 ;-- Am. 1972, Act 75, Imd. Eff. Mar. 9, 1972 ;-- Am. 1973, Act 172, Imd. Eff. Dec. 21, 1973 ;-- Am. 1978, Act 229, Imd. Eff. June 14, 1978 ;-- Am. 1998, Act 164, Eff. Mar. 23, 1999

The People of the State of Michigan enact:

125.1251 Legislative determination; short title.

Sec. 1. (1) It is determined that there exists in this state the continuing need for programs to alleviate and prevent conditions of unemployment, to assist and retain local industries, including employee-owned corporations, to meet growing competition for new industries, and to strengthen and revitalize the economy in general. It is further determined that in order to achieve these purposes, industries, including employee-owned corporations, need flexible forms of financing, including the ability to refund outstanding bonds in advance of redemption or maturity. It is further determined that the authority and powers conferred by this act constitute such a necessary program and serve a valid public purpose.

(2) This act shall be known and may be cited as the “industrial development revenue bond act of 1963”.

History: 1963, Act 62, Imd. Eff. May 8, 1963 ;-- Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966 ;-- Am. 1978, Act 229, Imd. Eff. June 14, 1978 ;-- Am. 1985, Act 153, Imd. Eff. Nov. 12, 1985

125.1252 Definitions.
Sec. 2. As used in this act:

(a) “Industrial building” means a building or structure suitable for, and intended for or incidental to, use as a factory, mill, shop, processing plant, assembly plant, fabricating plant, warehouse, research and development facility, an engineering, architectural, or design facility, or a tourist and resort facility.

(b) “Municipality” means a county, city, incorporated village, township, or port district.

(c) “Governing body” means the board, by whatever name known, charged with governing the municipality.

(d) “Industrial machinery and equipment” means such machinery and equipment, including water and air pollution control equipment and solid waste disposal facilities, other than vehicular equipment, as shall be necessary, suitable, intended for, or incidental to the use to which the industrial building in or near which the machinery or equipment shall be situated is to be put.

(e) “Water and air pollution control equipment” means buildings, plants, structures, equipment, or facilities and their appurtenances, together with lands or interest in lands therefor or a portion thereof, for the purpose of controlling, eliminating, recovering, removing, reducing, dispersing, treating, or neutralizing atmospheric or water pollutants, including liquid, gaseous, or solid substances or discharges or radiation, or cooling the temperature of any of the foregoing, or any liquid, gas, or solid, resulting from any of the following: (i) Any process of industry, manufacture, trade, or business. (ii) The development, processing, or recovery of any natural resources. (iii) The operation of any public utility, any of which may pollute or may tend to pollute or affect the water or air of or adjacent to the state. “Water and air pollution control equipment” includes buildings, plants, structures, facilities, and equipment and their appurtenances, together with lands or interest in lands therefor or a portion thereof, used or to be used as a change in manufacturing, production, generation, transmission, or distribution process to prevent, reduce, recover, remove, disperse, neutralize, control, or eliminate air or water pollution. The term includes any and all buildings, plants, structures, equipment, or facilities and their appurtenances, together with lands or interest in lands therefor or a portion thereof, which qualify as air or water pollution control facilities under section 103(c)(4) of the federal internal revenue code.

(f) “Public utility” means a person, firm, or corporation engaged in the manufacture, production, generation, or distribution of electricity, steam heat, gas, or any combination thereof, for sale to the public.

(g) “Solid waste disposal facilities” means buildings, plants, structures, equipment, or facilities and their appurtenances, together with lands or interest in lands therefor or a portion thereof, for the purpose of treating, shredding, compression, high temperature incineration, pyrolization, separation, or any other technology for recovery, transporting, storing, or the final placement and disposal of solid wastes resulting from any of the following: (i) Any process of industry, manufacture, trade, or business. (ii) The development, processing, or recovery of any natural resources. (iii) The operation of any public utility. “Solid waste disposal facilities” includes any and all buildings, plants, structures, equipment, or facilities and their appurtenances, together with lands or interest in lands therefor or a portion thereof, which qualify as solid waste disposal facilities under section 103(c)(4) of the federal internal revenue code.

(h) “Pollution control facilities” means water and air pollution control equipment and solid waste disposal facilities or any of them.

(i) “Employee-owned corporation” means an employee-owned corporation as defined by the employee-owned corporation act.

History: 1963, Act 62, Imd. Eff. May 8, 1963 ;-- Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966 ;-- Am. 1968, Act 200, Imd. Eff. June 22, 1968 ;-- Am. 1970, Act 8, Imd. Eff. Mar. 24, 1970 ;-- Am. 1972, Act 75, Imd. Eff. Mar. 9, 1972 ;-- Am. 1973, Act 172, Imd. Eff. Dec. 21, 1973 ;-- Am. 1985, Act 153, Imd. Eff. Nov. 12, 1985

125.1253 Powers of municipality generally.
Sec. 3. A municipality may:

(a) Construct, acquire by gift or purchase, reconstruct, improve, maintain or repair industrial buildings within or without the municipality, acquire sites for those activities and enlarge or remodel industrial buildings.

(b) Acquire by gift or purchase industrial machinery and equipment, but only in conjunction with a project whereby the municipality will construct, acquire by gift or purchase, reconstruct, improve or remodel the industrial building in or near which the industrial machinery or equipment will be located.

(c) Issue revenue bonds to finance the costs of the acquisition, purchase, construction, reconstruction or remodeling of industrial buildings, the acquisition and improvement of sites, the acquisition of industrial machinery and equipment, and the refunding of bonds issued pursuant to this act.

(d) Enter into lease or lease purchase agreements with any person, firm or corporation for the use of the industrial building, the site therefor and industrial machinery and equipment. The agreement shall provide that the rents to be charged for the use shall be fixed and revised from time to time so as to produce income and revenues sufficient to pay promptly when due the interest upon and the principal of all bonds issued payable therefrom after provision has been made for the payment of operation and maintenance costs. Whenever such agreement shall relate to industrial machinery or equipment, it shall specify that the machinery or equipment shall remain in or near the industrial building until provision has been made for the retirement in full of all bonds issued therefor unless the industrial machinery and equipment is replaced without cost to the municipality with similar machinery and equipment of equivalent value and utility.

(e) Mortgage the industrial building, the site, and any industrial machinery and equipment in favor of the holders of the bonds issued therefor.

(f) Sell and convey the industrial building, the site, and any industrial machinery and equipment, including without limitation the sale and conveyance thereof subject to a mortgage, for a price and at a time which the governing body may determine, but a sale or conveyance shall not be made in a manner that would impair the rights or interests of the holders of bonds issued payable from the rentals of the building, site, machinery or equipment.

History: 1963, Act 62, Imd. Eff. May 8, 1963 ;-- Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966 ;-- Am. 1972, Act 75, Imd. Eff. Mar. 9, 1972 ;-- Am. 1978, Act 229, Imd. Eff. June 14, 1978

125.1253a Programs of water and air pollution control for industries and public utilities; water and air pollution control equipment; powers of municipality.

Sec. 3a. There exists in this state the continuing need for programs of water and air pollution control and solid waste disposal facilities for industries and public utilities in order to protect the public health, safety, and welfare of the residents of the state, and it is necessary to promote and encourage the acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving, repairing, operation, and maintenance of adequate and proper water and air

pollution control equipment and solid waste disposal facilities for industrial buildings and the facilities of public utilities now or hereafter located in this state. The authority and powers conferred by this act, including the powers conferred with respect to the acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving, repairing, operation, and maintenance of pollution control facilities and the financing thereof whether by purchase, sale, lease, or otherwise, including pollution control facilities heretofore acquired, under construction, placed in operation, or completed by any person, firm, corporation, or public utility, and the issuance of bonds for the purpose of refunding outstanding bonds, constitutes such a necessary program and serves a valid public purpose. A municipality may do any or all of the following:

(a) Construct, acquire by gift or purchase, reconstruct, improve, enlarge, maintain, remodel, repair, or operate and maintain any pollution control facilities or portion thereof within or without the municipality whether the pollution control facilities have been or are operating, are under construction, or are completed. The interest of the municipality in the pollution control facilities leased or sold to a public utility may be subject or may be made subject to a mortgage, lien, security interest, or encumbrance given or made by a public utility from which the municipality acquired its interest or which, under an agreement made pursuant to subdivision (c), has or may acquire an interest in the pollution control facilities.

(b) Issue revenue bonds under, subject to, and in accordance with this act to finance, in whole or in part, the costs of acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving, or repair of pollution control facilities referred to in subdivision (a), or to refund outstanding bonds, or partly to finance, in whole or in part, the costs of acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving or repair of pollution control facilities referred to in subdivision (a) and partly to refund outstanding bonds. The revenue bonds may be issued by a municipality to finance the costs of the acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving, or repair of pollution control facilities located or to be located in 1 or more places within or without the municipality issuing the revenue bonds. Revenue bonds issued pursuant to this section may be issued solely for the acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving, or repair of pollution control facilities referred to in subdivision (a), notwithstanding that the municipality does not own or propose to own the industrial buildings or public utility facilities, including lands or interests in

lands therefor in or near to which the pollution control facilities are or are to be located.

(c) Enter into a lease, lease-purchase agreement, or installment sales contract with any person, firm, corporation, or public utility for the use or sale of pollution control facilities referred to in subdivision (a). The agreement shall provide that the rents to be charged for the use or the sums to be paid under the installment sales contract shall be fixed so as to produce income and revenues therefrom sufficient to pay promptly when due the interest upon and the principal of all bonds issued payable therefrom after provision has been made for the payment of operation and maintenance costs, if the costs of operation and maintenance are required to be paid under the agreement by the municipality. An agreement may provide for conveyance of the pollution control facilities to the lessee or purchaser under the agreement after provision has been made for the retirement in full of all bonds issued therefor under terms and conditions provided in the agreement or, with respect to pollution control facilities leased or sold to a public utility, at any time where the obligation of the lessee or purchaser to make the payments prescribed by the preceding sentence of this subdivision shall remain fixed as therein provided notwithstanding the conveyance. The agreement shall specify that the pollution control facilities shall remain in or near the industrial building or plant or facility of the person, firm, corporation, or public utility until provision has been made for the retirement in full of all bonds issued therefor unless the pollution control facilities are conveyed by the municipality as authorized by this subdivision or are replaced without cost to the municipality with machinery and equipment of at least equivalent value or utility. Where the pollution control facilities are sold pursuant to an installment sales contract, the terms "lease,""leased,""lessee," or words of similar import used in this act shall be construed respectively to mean "installment sales contract,""sold,""purchaser," or words of similar import as the context may require, and the term "rent" or words of similar import as used in this act shall be construed to mean "purchase installments" or words of similar import as the context may require.

(d) Mortgage or create security interest in any pollution control facilities referred to in subdivision (a), or in any lease, lease-purchase agreement, or installment sales contract referred to in subdivision (c), or in the rents, revenues, or sums to be paid thereunder, in favor of the holders of the revenue bonds issued therefor. A mortgage or security interest in pollution control facilities leased or sold to a public utility may be subject, or may be made subject, to a mortgage, lien, security interest, or encumbrance to which the

interest of the municipality may be subject to pursuant to the provisions of subdivision (a) or to a future mortgage, lien, security interest, or other encumbrance which may be created in any pollution control facilities by the lessee or purchaser.

(e) Sell and convey the pollution control facilities referred to in subdivision (a) owned by the municipality, including without limitation the sale and conveyance thereof subject to a mortgage or security interest referred to in subdivision (d) for such price and at such time as the governing body may determine. A sale or conveyance shall not be made in any manner as to impair the rights or interests of the holders of any revenue bonds previously issued therefor or the rights or interests of any lessee or the purchaser thereof under any agreement with the municipality for the lease or purchase thereof.

History: Add. 1972, Act 75, Imd. Eff. Mar. 9, 1972 ;-- Am. 1973, Act 7, Imd. Eff. Apr. 4, 1973 ;-- Am. 1973, Act 172, Imd. Eff. Dec. 31, 1973 ;-- Am. 1978, Act 229, Imd. Eff. June 14, 1978

125.1254 Bonds; purpose; issuance; serial or term bonds; interest; form of bonds and coupons; execution; payment; tax exemption; debt limitation inapplicable; registration; applicability of other acts.

Sec. 4. (1) For the purpose of defraying the cost of the industrial building, the site for the building, and industrial machinery and equipment, a municipality may borrow money and issue its negotiable bonds for that purpose. The bonds shall be serial bonds or term bonds or a combination of these and if serial bonds they shall be payable either semiannually or annually with the first maturity date not more than 5 years from the date of issuance. The last maturity date of the bonds, whether term or serial, shall be not more than 40 years from the date of issuance. A maturity date shall not fall due after the estimated period of usefulness of the industrial building, or, if the industrial machinery and equipment represent more than 2/3 of the total cost of the project, after the average estimated period of usefulness of said industrial machinery and equipment. The bonds shall bear a rate of interest as specified therein not to exceed the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, payable semiannually, except that the first coupon may be for any number of months not exceeding 10. The bonds and coupons shall be substantially in the form provided in the authorizing resolution and shall be executed in the manner prescribed in this act, which as to coupons may be by facsimile signature. The bonds and coupons shall be payable in lawful money of the United States, and shall be exempt from taxation by this state or by any taxing authority within this state. The principal and interest of the bonds shall be payable from the net revenues derived from the industrial

building and site and industrial machinery and equipment, from the proceeds of the sale of bonds issued to refund outstanding bonds, from the investment earnings of the proceeds, or from any combination of these sources. A bond or coupon issued pursuant to this act shall not be a general obligation of the issuer nor constitute a debt of the issuer within the meaning of the constitutional or statutory limitation. Bonds may be made registerable as to principal or principal and interest under terms and conditions as may be determined by the governing body of the municipality.

(2) Bonds issued under this act are not subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(3) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

History: 1963, Act 62, Imd. Eff. May 8, 1963 ;-- Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966 ;-- Am. 1967, Act 48, Imd. Eff. June 14, 1967 ;-- Am. 1973, Act 64, Imd. Eff. July 23, 1973 ;-- Am. 1978, Act 229, Imd. Eff. June 14, 1978 ;-- Am. 2002, Act 297, Imd. Eff. May 9, 2002
Admin Rule: R 18.301 et seq. and R 125.1001 et seq. of the Michigan Administrative Code.

125.1255 Resolution authorizing issuance of bonds; contents.
Sec. 5. (1) Any resolution authorizing the issuance of bonds under this act may contain covenants as to

(a) The use and disposition of the rentals received under the agreement, including the creation and maintenance of reserves.

(b) The issuance of other or additional bonds payable from the income and revenues from the industrial building and site and any industrial machinery and equipment.

(c) The maintenance and repair costs of the industrial building and site and any industrial machinery and equipment, which costs may be assumed by the lessee, person, firm or corporation, in which event no provision need be made for rental payments to meet said costs.

(d) The insurance to be carried thereon and the use and disposition of insurance moneys.

(e) The terms and conditions upon which the holder of the bonds, or any portion thereof or any trustees therefor, shall be entitled to the appointment of a receiver by the circuit court, which court shall have jurisdiction in such proceedings, and which receiver may enter and take possession of the industrial building and site and any industrial machinery and equipment and lease and maintain it, prescribe rentals and collect, receive and apply all income and revenues thereafter arising therefrom in the same manner and to the same extent as the municipality might do.

(2) Any resolution authorizing the issuance of bonds under this act may provide that the principal of and interest on any bonds issued shall be secured by a mortgage or deed of trust covering the industrial building and site and any industrial machinery and equipment for which the bonds are issued and may include any additions, improvements or extensions thereafter made. The mortgage or deed of trust may contain such covenants and agreements to properly safeguard the bonds as may be provided for in the resolution authorizing the bonds but not inconsistent with this act and shall be executed in the manner provided in the resolution. The resolution may provide for the appointment of 1 or more trustees for bondholders, and any such trustee may be an individual or corporation domiciled or located within or without the state and may be given appropriate powers whether with or without the execution of a mortgage or deed of trust covering the industrial building or site or industrial machinery and equipment.

(3) The provisions of this act and any resolution and any mortgage or deed of trust shall continue in effect until the principal of and the interest on the bonds has been fully paid and the duties of the municipality and its governing body and officers under this act and any resolution and any mortgage or deed of trust shall be enforceable by any bondholder by mandamus, foreclosure of the mortgage or deed of trust or other appropriate action in any court of competent jurisdiction.

(4) The resolution authorizing the bond shall provide that the bonds shall contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(5) Any resolution authorizing the issuance of bonds under this act shall not be effective until publication once in a newspaper of general circulation within the municipality.

History: 1963, Act 62, Imd. Eff. May 8, 1963 ;-- Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966 ;-- Am. 1967, Act 48, Imd. Eff. June 14, 1967

125.1256 Redemption of bonds.

Sec. 6. The bonds may provide that they may be called for redemption prior to the maturity date, on interest payment dates not earlier than 1 year from the date of issuance of the bonds, at a price and under conditions fixed by the governing body before issuing the bonds.

History: 1963, Act 62, Imd. Eff. May 8, 1963 ;-- Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966

125.1257 Default; receiver.

Sec. 7. If there is any default in the payment of principal of or interest on any bond issued hereunder, any circuit court having jurisdiction of the action may appoint a receiver to administer the industrial building and site and any industrial machinery and equipment on behalf of the municipality, with power to charge and collect rents sufficient to provide for the payment of any bonds outstanding, and for the payment of operating expenses and to apply the income and revenue in conformity with this act and the resolution made hereunder.

History: 1963, Act 62, Imd. Eff. May 8, 1963 ;-- Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966

125.1258 Repealed. 1966, Act 340, Imd. Eff. Sept. 21, 1966.

Compiler's Notes: The repealed section pertained to industrial development, providing for transfer of surplus from operating and maintenance funds to depreciation account to be used for improvements or additions to building.

125.1259 Additional bonds; refunding bonds.

Sec. 9. (1) If the governing body finds that the bonds originally authorized will be insufficient to accomplish the purpose desired, additional bonds, only in the amount necessary to complete the project as originally approved, may be authorized and issued in the same manner as the original bonds. Additional bonds may be issued to defray the cost of 1 or more of the following:

(a) An item of cost contained in section 10.

(b) Interest that has accrued, may accrue, or has been paid during the construction period of the project and for 6 months after the construction period on money borrowed or that is estimated to be borrowed pursuant to this act.

(c) Interest on previously issued bonds.

(2) At the time of issuing additional bonds, the governing body may provide that the additional bonds for additions, extensions, and permanent improvements, be placed in escrow and negotiated from time to time as the proceeds for those purposes are necessary. When negotiated, bonds placed in escrow shall have equal standing with bonds of the same issue.

(3) The municipality may issue bonds at any time to refund, in whole or in part, outstanding bonds issued pursuant to this act, including the payment of interest accrued, or to accrue, to the earliest or any subsequent date of redemption, purchase, or maturity of the bonds, redemption premium, if any, and any commission, service fees, and other expenses necessary to be paid in connection therewith, whether the bonds to be refunded have matured or are redeemable or shall thereafter mature or become redeemable. If considered advisable by the municipality, the municipality may issue bonds partly to refund outstanding bonds and partly for any other purpose contemplated by this act. Bonds issued to refund outstanding bonds may be issued in a principal amount greater than, the same as, or lesser than the principal amount of the bonds to be refunded, and may bear interest rates that are higher than, the same as, or lower than the interest rates of the bonds to be refunded. The interest rates, however, shall not exceed the maximum rate of interest permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The principal, interest, and redemption premiums, if any, on bonds issued by a municipality pursuant to this section to refund outstanding bonds shall be payable from 1 or more of the following:

(a) The net revenues derived from the facilities constructed, acquired, reconstructed, remodeled, or repaired with the proceeds of the bonds to be refunded.

(b) The proceeds of the refunding bonds.

(c) Investment earnings on the proceeds of the refunding bonds.

History: 1963, Act 62, Imd. Eff. May 8, 1963 ;-- Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966 ;-- Am. 1978, Act 229, Imd. Eff. June 14, 1978 ;-- Am. 1980, Act 90, Imd. Eff. Apr. 16, 1980 ;-- Am. 2002, Act 297, Imd. Eff. May 9, 2002

125.1260 Cost of project.

Sec. 10. In determining the cost of the project, the governing body may include all cost and estimated cost of the issuance of the bonds, all engineering, inspection, fiscal and legal expenses and interest which it is estimated will accrue during the construction period and for 6 months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this act.

History: 1963, Act 62, Imd. Eff. May 8, 1963

125.1261 Taxation of lessee; liens; recovery.

Sec. 11. When any real or personal property acquired pursuant to this act is leased to a private person, firm or corporation, the lessee shall be subject to taxation in the same amount and to the same extent as though the lessee were the owner of the property. Taxes shall be assessed to the lessee of the real or personal property and collected in the same manner as taxes assessed to owners of real or personal property, except that the taxes shall not become a lien against the property. When due, the taxes shall constitute a debt due from the lessee to the taxing unit and shall be recoverable by direct action of assumpsit.

History: 1963, Act 62, Imd. Eff. May 8, 1963 ;-- Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966

125.1262 Referendum; intention to issue bonds.

Sec. 12. The governing body may issue bonds pursuant to this act without submitting the proposition to the electors of the municipality for approval unless within 45 days from the publication of a notice of intention to issue the bonds, which notice shall set forth the amount of the issue and the name of the person, firm or corporation who will lease the industrial building, the site therefor and the industrial machinery and equipment, a petition, signed by not less than 5% of the registered electors of the municipality is filed with the clerk of the municipality requesting a referendum upon the question of the issuance of the bonds, in which event the bonds shall not be issued until approved by a majority of the electors of the municipality voting thereon at a general or special election. The provisions of subdivision (g) of section 5 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.5 of the Compiled Laws of 1948, relative to notice of intention to issue bonds, shall not apply to the authorization of the issuance of any bonds under this act.

History: 1963, Act 62, Imd. Eff. May 8, 1963 ;-- Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966 ;-- Am. 1967, Act 48, Imd. Eff. June 14, 1967

125.1262a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 12a. A petition under section 12, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 164, Eff. Mar. 23, 1999

125.1263 Issuance of bonds; application; resolution and project cost estimate; approval by municipal finance commission or successor agency; exception; effect of order; prior approval requirement subject to MCL 133.10 and 133.11; department of treasury order providing or denying exception from prior approval.

Sec. 13. (1) Unless an exception from prior approval is available pursuant to subsection (3), before any bonds are issued under this act, the issuing municipality shall make a sworn application to the municipal finance commission or its successor agency, on forms furnished by the commission, for permission to issue the bonds. The municipality shall attach a certified copy of the resolution authorizing the bonds and, except in the case of refunding bonds, a certified copy of the estimate of the cost of the project. The commission or its successor agency may request the municipality to furnish such information as the commission or its successor agency deems necessary in order to pass on the application. Unless an exception from prior approval is available pursuant to subsection (3), bonds shall not be issued until the municipal finance commission or its successor agency approves the issuance. In determining whether a proposed issue of bonds shall be approved, the municipal finance commission or its successor agency shall take into consideration: (a) whether the bonds conform to the provisions of this act; (b) whether the probable revenues pledged to the payment of the bonds will be sufficient to pay the principal and interest when due; and (c) whether the amount of the proposed issue is sufficient or excessive for the purpose for which they are to be issued.

(2) No order of the municipal finance commission or its successor agency permitting the issuance of bonds under this act shall be deemed an approval of the legality thereof. The issuance of the commission's or its successor agency's

order granting permission to issue the bonds shall imply that the commission or its successor agency has made such determination of facts or circumstances, has given such approvals and has reached such opinions as are a necessary prerequisite to the issuance of the order.

(3) The requirement of subsection (1) for obtaining the prior approval of the municipal finance commission or its successor agency before issuing bonds under this act shall be subject to sections 10 and 11 of chapter III of Act No. 202 of the Public Acts of 1943, being sections 133.10 and 133.11 of the Michigan Compiled Laws, and the department of treasury shall have the same authority as provided by section 11 of chapter III of Act No. 202 of the Public Acts of 1943 to issue an order providing or denying an exception from the prior approval required by subsection (1) for bonds issued under this act.

History: 1963, Act 62, Imd. Eff. May 8, 1963 ;-- Am. 1983, Act 46, Imd. Eff. May 12, 1983

125.1264 Sale of bonds.
Sec. 14. Bonds issued under this act may be sold at private or public sale upon such terms as may be fixed by the governing body. Said bonds may be sold at a discount of not exceeding 10%: Provided, however, That said bonds shall not be sold at a price which would make the interest cost on the money borrowed after deducting any premium or adding any discount, exceed the maximum rate of interest permitted by Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Michigan Compiled Laws.

History: Add. 1966, Act 340, Imd. Eff. Sept. 21, 1966 ;-- Am. 1967, Act 48, Imd. Eff. June 14, 1967 ;-- Am. 1973, Act 172, Imd. Eff. Dec. 21, 1973

125.1265 Municipalities; powers as to industrial buildings and machinery.
Sec. 15. Nothing herein contained shall be interpreted to grant to any municipality the authority to operate an industrial building or any industrial machinery or equipment for its own use. The prohibition of this section shall not prevent a municipality from conserving and maintaining an industrial building and site and any industrial machinery and equipment acquired hereunder pending lease thereof to a private person, firm or corporation.

History: Add. 1966, Act 340, Imd. Eff. Sept. 21, 1966

125.1266 Construction of act; cumulative powers.
Sec. 16. This act shall be construed as granting cumulative authority for the exercise of the various powers herein conferred, and neither said powers nor

any bonds issued hereunder shall be affected or limited by any other statutory or charter provision now or hereafter in force, other than as may be provided herein, it being the purpose and intention of this act to create full, separate and complete additional powers. The various powers conferred herein may be exercised independently and notwithstanding that no bonds are issued hereunder.

History: Add. 1966, Act 340, Imd. Eff. Sept. 21, 1966

125.1267 Liberal construction of act.

Sec. 17. This act, being necessary for and to secure the public health, safety, convenience and welfare of the municipalities of the state of Michigan, shall be liberally construed to effect the public purposes hereof.

History: Add. 1966, Act 340, Imd. Eff. Sept. 21, 1966

MICHIGAN BUSINESS INCUBATION ACT
Act 198 of 1984

AN ACT to encourage and assist in the establishment and expansion of certain small businesses within this state through the creation of business incubation centers; to provide for community boards and to prescribe their powers and duties; to prescribe the duties of the department of commerce; to prescribe the duties of, and certain benefits provided to, lessees of business incubation centers; and to make an appropriation.

History: 1984, Act 198, Imd. Eff. July 3, 1984
Compiler's Notes: For transfer of powers and duties under the Michigan business incubation act from the department of commerce to the chief executive officer of the Michigan jobs commission, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

125.1571 Short title.

Sec. 1. This act shall be known and may be cited as the “Michigan business incubation act”.

History: 1984, Act 198, Imd. Eff. July 3, 1984
Compiler's Notes: For transfer of powers and duties under the Michigan business incubation act from the department of commerce to the chief executive officer of the Michigan jobs

commission, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

125.1572 Definitions.
Sec. 2. As used in this act:

(a) "Business incubation center" or "center" means a building described in section 3.

(b) "Community board" or "board" means a board created pursuant to section 4.

(c) "Department" means the department of commerce.

(d) "Educational institution" means a local school district, an intermediate school district, or a college, university, community college, or junior college within this state.

(e) "Local governmental unit" means a county, township, city, or village within this state.

History: 1984, Act 198, Imd. Eff. July 3, 1984

125.1573 Designation of business incubation centers; purpose; title to or lease of building; priority of proposals.
Sec. 3. (1) Upon receipt of a petition from a community board pursuant to section 5, the department shall designate, in whole or in part, not more than 10 vacant or nearly vacant buildings as business incubation centers for the purpose of encouraging and assisting, as described in this act, the establishment and expansion of small businesses within this state. A community board described in section 4, a local governmental unit, or an educational institution may hold title to the building or may lease the building from the title holder.

(2) In designating business incubation centers, priority shall be given to those proposals that the department determines conform with all of the following:

(a) Will generate a significant number of jobs.

(b) Are supported by 2 or more proximate local governmental units, or 1 local governmental unit and at least 1 educational unit, each of which agrees to contribute monetarily or in kind to the center.

(c) Are supported by local representatives of business, labor, and education.

(d) Have financial commitment of at least 50% of the projected unreimbursed costs of the establishment and maintenance of the center for a 3-year period. As used in this subdivision:

(i) "Costs of the establishment" includes the fair market rental value of the center.

(ii) "Unreimbursed costs" means total costs less rental receipts.

History: 1984, Act 198, Imd. Eff. July 3, 1984

125.1574 Community board; appointment or designation; membership; chairperson; compensation prohibited; terms; conducting business at public meeting; notice; availability of writings to public; disclosing matters of proprietary nature.

Sec. 4.(1) A local governmental unit or educational institution or other organization that desires to have a vacant or nearly vacant building designated, in whole or in part, as a business incubation center shall appoint, in conjunction with local governmental units or private organizations that agree to contribute monetarily or in kind to the center, a community board to perform the duties required of the board by this act. A local governmental unit or educational institution may designate an existing board of an economic development entity, such as an economic development corporation created pursuant to the economic development corporations act, Act No. 338 of the Public Acts of 1974, being sections 125.1601 to 125.1636 of the Michigan Compiled Laws, a downtown development authority created pursuant to Act No. 197 of the Public Acts of 1975, being sections 125.1651 to 125.1680 of the Michigan Compiled Laws, or other similar economic development entity, upon consent of that entity, as the community board.

(2) Except as provided in subsection (3), the board shall be of a size that the appointing bodies determine to be appropriate, but shall consist of not more than 15 persons. The members of the board shall consist of representatives from key segments of the community, including, but not limited to, political, financial, business, labor, and educational representatives. The board shall elect from its members a chairperson.

(3) An existing board of an economic development entity designated as a community board pursuant to subsection (1) need not meet the number requirements of subsection (2), but must meet the composition requirements of subsection (2).

(4) Board members shall serve without compensation and shall serve at the pleasure of the appointing bodies or until the board's task is completed, whichever occurs first.

(5) Except as provided in subsection (7), the business which the board may perform shall be conducted at a public meeting held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(6) Except as provided in subsection (7), a writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(7) The board shall not disclose, either orally or in writing, matters of a proprietary nature without the consent of the applicant or lessee submitting the information.

History: 1984, Act 198, Imd. Eff. July 3, 1984

125.1575 Community board; duties; petition for designation.
Sec. 5. (1) Upon appointment, the community board shall do all of the following:

(a) Identify the building or part of the building under consideration for designation as a business incubation center.

(b) Advertise the concept of a business incubation center in the surrounding area.

(c) Solicit the views of the community concerning the designation of the building or part of the building under consideration as a business incubation center.

(d) Identify possible tenants for the center.

(e) Obtain commitments from persons, organizations, businesses, local governmental units, or other sources amounting to at least 50% of those costs not covered by rental fees that the board estimates will be needed for the establishment and operation of the business incubation center for 3 years.

(2) If, after performing the duties required by subsection (1), the board determines that a designation of the building under consideration as a business incubation center is desirable and possible, the board shall petition the department for the designation.

History: 1984, Act 198, Imd. Eff. July 3, 1984

125.1576 Feasibility study; factors; notice of decision; reapplication or designation.

Sec. 6. (1) After filing a petition pursuant to section 5, the community board, in cooperation with the department, shall conduct and complete within 180 calendar days an in-depth center feasibility study. The study shall include, but not be limited to, all of the following factors:

(a) Necessary lease, purchase, renovation, or construction costs.

(b) Estimated rental costs for lessees of the center.

(c) Estimated utility costs.

(d) Estimated wage or salary rates of future employees of the center, including a building manager, receptionist, typist, and security guard.

(e) Estimated income for the center, including the estimated annual local subsidies and state appropriation, and, if necessary, the cost of financing.

(f) Prospects of attracting suitable businesses to the center.

(g) The ability of the community to provide necessary support for the center, including but not limited to, technical assistance and training, assistance in attracting employees, assistance in relocating a business, assistance in business start-up, and library facilities.

(2) Within 30 calendar days after completion of the feasibility study, the department, based upon the study and the criteria set forth in section 3, shall notify the board of its decision. If the department does not designate the building as a business incubation center, the department shall set forth the reasons for its decision in its notification letter to the board. A board receiving a negative response may reapply for designation of the building when circumstances which led to its initial rejection have been remedied.

History: 1984, Act 198, Imd. Eff. July 3, 1984

125.1577 Period of designation; return of building to previous state; notification; publicizing closing date.

Sec. 7. (1) Except as provided in subsection (2), a designation of a building as a business incubation center shall remain in effect for 15 years unless otherwise agreed to at any time during the period of designation by the department and a community board.

(2) A local governmental unit or educational institution that has a building designated as a business incubation center and that desires to have the building returned to its previous state before the expiration of 15 years shall notify the board 5 years before the time the building will be needed. Upon receipt of notification, the board shall forward a copy of the notification to the department and shall publicize the closing date of the center to the lessees of the center and to the community.

History: 1984, Act 198, Imd. Eff. July 3, 1984

125.1578 Application to start or expand small business in business incubation center; contents; waiver for existing business.

Sec. 8. (1) When a building is designated as a business incubation center by the department, its community board shall accept applications from persons desiring to start or expand a small business and to locate that business within a business incubation center. The application, developed by the department, shall elicit, at a minimum, all of the following information:

(a) The type of business that the applicant wishes to start or expand.

(b) An estimate of the number of employees the applicant will need in order to start or expand the business and a 2-year projection of future employment.

(c) The skill and educational level of the employees that the applicant plans to hire.

(d) The ability of the applicant to start or operate a successful business.

(e) A general statement as to why the applicant wishes to be accepted into the business incubation center.

(f) A signed statement by the applicant that he or she understands and accepts the obligations placed upon him or her under section 11 if accepted into the business incubation center.

(g) Information that the applicant considers to be of a proprietary nature and that he or she does not want to be made public.

(2) An existing business located within this state is not eligible to participate in the business incubation program unless a waiver is granted for that business by the department.

History: 1984, Act 198, Imd. Eff. July 3, 1984

125.1579 Evaluation of applicants; factors; notice of rejection; notice of favorable evaluation.

Sec. 9. (1) A community board shall evaluate applicants who want to start or expand a small business and to locate within the business incubation center based upon, but not limited to, all of the following factors:

(a) The likelihood that the business will be profitable.

(b) Whether the product that would be manufactured, or the service that would be rendered, would be new or improved to the state or the area.

(c) The potential marketability of the product or service.

(d) The likelihood that the business will generate a significant number of new jobs and not eliminate existing jobs.

(e) The likelihood that new jobs generated will be filled by persons who presently are unemployed or whose skills are not in great demand.

(f) The likelihood that the business will not be started if the applicant is not accepted into the business incubation center.

(2) A board shall forward to each applicant whose application it rejects notice of its rejection, together with the reasons for the rejection.

(3) A board shall forward to each local governmental unit that has agreed to contribute monetarily or in kind to the center and to each applicant it favorably evaluates notification of its decision and of whether or not space exists to accept the applicant.

History: 1984, Act 198, Imd. Eff. July 3, 1984

125.1580 Report; hiring management consultants or contracting with management consulting firm.

Sec. 10. (1) A community board shall report in writing at least annually to the department on the activities of the board and the center. The report shall include, at minimum, the name of each applicant whose application it rejects, together with the reasons for the rejection, and the name of each applicant whose application it favorably evaluates.

(2) A community board may hire 1 or more management consultants or contract with a management consulting firm that shall recommend possible tenants for the building and that shall provide the services described in section 12.

History: 1984, Act 198, Imd. Eff. July 3, 1984

125.1581 Lessee of business incubation center; duties.

Sec. 11. A lessee of a business incubation center shall do all of the following:

(a) Pay rent, which amount shall be determined by the board. The board may agree to have the rent for a predetermined number of months payable at a later date by which time the business is expected to have received committed starting capital.

(b) Pay utilities as determined by the board.

(c) Make every effort to relocate to a permanent location not later than 18 months after entering a business incubation center. A business may request extensions of this requirement for periods of not more than 12 months. The board may grant extensions of up to 12 months at a time upon a determination that a business still requires the services of the center. This subdivision does not apply to support services. As used in this subdivision, "support services" means those services provided to all lessees of the center to assist them in the operation of their business. Support services includes, but is not limited to, bookkeeping, secretarial services, duplicating, and delivery.

History: 1984, Act 198, Imd. Eff. July 3, 1984

125.1582 Lessee benefits.
Sec. 12. (1) In return for his or her monthly rent, a lessee of a business incubation center shall receive the following benefits:

(a) Physical space within the center.

(b) The services of a building management consultant or management consulting firm.

(c) Services or facilities available within the center that are agreed upon by the board and the lessees of the center. These services and facilities may include, but are not limited to, cleaning, building security, typing, and reception services; conference, laboratory, and library facilities; duplicating machines; and computers.

(2) In addition to the benefits described in subsection (1), the center shall make available certain professional services on a fee for use basis. These services, which the building management consultant of the management consulting firm shall arrange, may include, but are not limited to, information on government regulations, basic management skills, advertising and promotion, marketing, sales, control of inventory levels, recruitment of employees, labor relations, and financial counseling in areas such as venture capital, risk management, taxes, insurance, and qualifying for government small business loans.

History: 1984, Act 198, Imd. Eff. July 3, 1984

125.1583 Powers and duties of department generally.
Sec. 13. (1) The department shall work closely with business incubation centers, offering advice and assistance when possible, and shall promote, through advertising and other appropriate means, the concept and benefits of business incubation centers and their availability.

(2) The department shall cooperate with community boards, local governmental units, and educational institutions to effectuate the purposes of this act.

(3) The department, if it finds that a community board or center is not operating in compliance with the requirements of the act, may withdraw state funding from the center.

History: 1984, Act 198, Imd. Eff. July 3, 1984

125.1584 Administration of state funding.
Sec. 14. (1) The department shall administer state funding for the centers it designates.

(2) During the first 3 years of operation, the department shall provide funding for any designated center up to 50% of the costs of establishment and maintenance that are not covered by rental fees. The department shall not provide any state funding to a center after the center's first 3 years of operation. As used in this subsection, “costs of establishment” means the actual cost of leasing the center or the actual cost of acquisition of the center prorated over a period of not less than 15 years.

History: 1984, Act 198, Imd. Eff. July 3, 1984

125.1585 Annual appropriation.
Sec. 15. The legislature annually shall appropriate a sum sufficient to implement this act.

History: 1984, Act 198, Imd. Eff. July 3, 1984

125.1586 Reports.
Sec. 16. The department shall submit to the senate and house committees that have the responsibility for economic development matters 2 reports covering the effectiveness of this act, the number of applicants who were accepted into business incubation centers, and the number of such businesses in operation at

the time of the writing of each report. The first report shall be submitted before January 31, 1985, and the second report before January 31, 1990.

History: 1984, Act 198, Imd. Eff. July 3, 1984

ECONOMIC DEVELOPMENT CORPORATIONS ACT
Act 338 of 1974

AN ACT to provide for the creation of public economic development corporations; to prescribe their powers and duties; to provide for their dissolution; to provide for the issuance of notes and other evidence of indebtedness; to provide for the issuance of bonds; to validate bonds, notes, and other evidence of indebtedness; to provide for condemnation of property; to provide for the undertaking of projects relative to the economic development of municipalities; to provide for loans, grants, transfers, and conveyances of funds and property by municipalities, and disbursement of certain funds to public economic development corporations; to provide for the creation of subsidiary neighborhood development corporations by certain economic development corporations; to provide for the receipt by public economic development corporations of funds and property; to provide for industrial and commercial enterprises and for enterprises involved in housing or neighborhood improvement, and furnishings, equipment, and machinery for the industrial and commercial enterprises and housing; to validate the incorporation of de facto economic development corporations and all actions of the de facto corporations; and to provide savings provisions.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981

The People of the State of Michigan enact:

125.1601 Short title.
Sec. 1. This act shall be known and may be cited as the “economic development corporations act”.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974

125.1602 Legislative finding.
Sec. 2. There exists in this state the continuing need for programs to alleviate and prevent conditions of unemployment, and the legislature finds that it is accordingly necessary to assist and retain local industrial and commercial

enterprises, including employee-owned corporations, to strengthen and revitalize the economy of this state and its municipalities; that accordingly it is necessary to provide means and methods for the encouragement and assistance of industrial and commercial enterprises, including employee-owned corporations, in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping, and expanding in this state and in its municipalities; and that it is also necessary to encourage the location and expansion of industrial and commercial enterprises, including employee-owned corporations, to more conveniently provide needed services and facilities of the industrial and commercial enterprises to municipalities and the residents of the municipalities. It is also necessary to promote economic activity in the forestry and agricultural sectors by providing incentives to combat inflation, to reduce energy consumption, to retain the family farm unit, to reduce the rate at which urban sprawl has been devouring our productive farm lands, and to provide our farmers and foresters with a more favorable export market; all this to be accomplished by reducing costs of production. It is also necessary to encourage the development of facilities designed to produce energy from renewable resources. Therefore, the powers granted in this act constitute the performance of essential public purposes and functions for this state and its municipalities.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981 ;-- Am. 1985, Act 154, Imd. Eff. Nov. 12, 1985
Compiler's Notes: Section 2 of Act 501 of 1980 provides: “This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h).”Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: “Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h).”

125.1603 Definitions.

Sec. 3. As used in this act:

(a) “Corporation” means a corporation organized pursuant to this act.

(b) “Employee-owned corporation” means an employee-owned corporation as defined by the employee-owned corporation act.

(c) “Governing body” means the body in which the legislative powers of a municipality are vested.

(d) “Municipality” means a county, city, village, or township.

(e) “Local public agency” means the official body of a municipality authorized to plan and implement the development and redevelopment of the municipality.

(f) “Project” means land or an interest in land, existing or planned improvements, machinery, furnishings, or equipment suitable for use by any of the following:

(i) An industrial or commercial enterprise, including agricultural and forestry enterprises and enterprises designed to produce energy from renewable resources. Projects of such an enterprise may include any of the following:

(A) Necessary buildings, improvements, or structures suitable for and intended for or incidental to use as an industrial or commercial enterprise.

(B) Industrial park or industrial site improvements or port improvements.

(C) A replacement housing project incidental to an industrial or commercial enterprise.

(D) The machinery, furnishings, leasehold improvements, or equipment necessary, suitable, intended for or incidental to a commercial, industrial, or residential use in connection with the buildings, improvements, or structures.

(E) Machinery, furnishings, leasehold improvements, or equipment, including pollution control facilities, to be installed or used primarily within a project area.

(ii) An enterprise in relation to a housing and neighborhood improvement program, which program involves either the clearing of land or the rehabilitation or construction of housing for the immediate sale of single family or multi-family units at fair market value, or both. Housing and neighborhood

improvement programs identified by this subparagraph shall constitute a project for purposes of this subparagraph if the area in which these improvement programs are to be undertaken are located in, or are eligible to be included in, blighted or redevelopment areas identified pursuant to Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to 125.84 of the Michigan Compiled Laws; the urban redevelopment corporations law, Act No. 250 of the Public Acts of 1941, as amended, being sections 125.901 to 125.922 of the Michigan Compiled Laws; Act No. 197 of the Public Acts of 1975, as amended, being sections 125.1651 to 125.1680, of the Michigan Compiled Laws, or the tax increment finance authority act, Act No. 450 of the Public Acts of 1980, being sections 125.1801 to 125.1828 of the Michigan Compiled Laws.

(g) "Project area" means that land area or an interest in a land area within the municipality which will be acquired in the implementation of a project or which will be the permanent site of machinery, furnishings, or equipment constituting all or part of a project.

(h) "Project citizens district council" means a project citizens district council established pursuant to this act.

(i) "Project cost" or "costs" means the cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing a project. Project cost or costs includes any engineering, architectural, legal, accounting, financial, and other expenses incidental to the purchasing, acquiring, constructing, improving, enlarging, extending, or repairing of a project. Project cost or costs also includes the interest on the bonds and other obligations issued to pay project costs during the period of construction and after the period of construction until sufficient revenues have developed. Project cost or costs also includes a reserve or addition to a reserve for payment of principal and interest on the bonds and the amount required for operation and maintenance until sufficient revenues have developed.

(j) "Project district area" means that portion of a municipality and any area adjacent to a municipality, as determined by its governing body, which contains a project area and the surrounding territory that will be significantly affected by a project.

(k) "Project plan" means that information and those requirements for a project set forth in section 8.

(l) “Pollution control facilities” means water or air pollution control equipment or solid waste disposal facilities located within or without the limits of the municipality.

(m) “Solid waste disposal facilities” means buildings, plants, structures, equipment, or facilities and their appurtenances, together with land or an interest in land or a portion of land, for the purpose of treating, shredding, compression, high temperature incineration, pyrolization, separation, or any other technology for recovery, transporting, storing, or the final placement and disposal of solid wastes resulting from any process of industry, manufacture, trade, or business, from the development, processing, or recovery of any natural resources, or from the operation of any public utility. Solid waste disposal facilities includes buildings, plants, structures, equipment, or facilities and their appurtenances, together with land or an interest in land or a portion of land, which qualify as solid waste disposal facilities under section 103(b)(4) of the internal revenue code.

(n) “Water and air pollution control equipment” means buildings, plants, structures, equipment, or facilities and their appurtenances, together with land or an interest in land or a portion of land, for the purpose of controlling, eliminating, recovering, removing, reducing, dispersing, treating, or neutralizing atmospheric or water pollutants, including liquid, gaseous, or solid substances or discharges or radiation, or cooling the temperature of atmospheric or water pollutants, or any liquid, gas, or solid, resulting from any process of industry, manufacture, trade, or business; the development, processing, or recovery of any natural resources; or the operation of any public utility, any of which may pollute or may tend to pollute or affect the water or air of this state or adjacent to this state. Water and air pollution control equipment includes buildings, plants, structures, facilities, and equipment and their appurtenances, together with land or an interest in land or a portion of land, used or to be used as a change in a manufacturing, production, generation, transmission, or distribution process to prevent, reduce, recover, remove, disperse, neutralize, control, or eliminate air or water pollution. Water and air pollution control equipment includes buildings, plants, structures, equipment, or facilities and their appurtenances, together with land or an interest in land or a portion of land, which qualify as air or water pollution control facilities under section 103(b)(4) of the internal revenue code.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981 ;-- Am. 1985, Act 154, Imd. Eff. Nov. 12, 1985

Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1604 Economic development corporation; incorporation; application; notice; hearing; approval; board of directors; appointment, qualifications, terms, and compensation of directors; public meetings; directors as public officers; vacancy; removal; disclosure of interest; planning commission of certain municipalities serving as board of directors.

Sec. 4. (1) Application, in writing, may be made by a group of 3 or more persons to the governing body for permission to incorporate the economic development corporation for the municipality. Application shall include proposed articles of incorporation. The governing body shall give public notice of the application, and after public hearing, with notice of the hearing given in accordance with section 17(1), may approve the application. As a part of the approval, the governing body may make such amendments to the proposed articles of incorporation as it considers appropriate.

(2) The board of directors of the corporation shall consist of not less than 9 persons, not more than 3 of whom shall be an officer or employee of the municipality. The chief executive officer and any member of the governing body of the municipality may serve on the board of directors. These directors shall be appointed for terms of 6 years, except of the directors first appointed, 4 shall be appointed for 6 years, 1 for 5 years, 1 for 4 years, 1 for 3 years, 1 for 2 years, and 1 for 1 year. The corporation shall notify the chief executive officer of the municipality in writing upon the corporation's designation of the project area as provided in section 8(1), and there shall be appointed promptly after that notice 2 additional directors of the corporation who shall serve only in respect to that project and shall be representative of neighborhood residents and business interests likely to be affected by the project proposed by the corporation and who shall cease to serve when the project for which they are appointed is either abandoned or, if undertaken, is completed in accordance

with the project plan. Directors shall serve without salary, but may be reimbursed their actual expenses incurred in the performance of their official duties, and may receive a per diem of not more than $50.00. The meetings of the board of directors shall be public. Directors shall be public officers.

(3) The chief executive officer of a municipality, with the advice and consent of the governing body, or in the case of a county where there is not an elected chief executive officer, the chairperson of the county board of commissioners, with the advice and consent of the county board of commissioners, shall appoint the members of the board of directors.

(4) Subsequent directors shall be appointed in the same manner as original appointments at the expiration of each director's term of office.

(5) A director whose term of office has expired shall continue to hold office until the director's successor has been appointed with the advice and consent of the governing body. A director may be reappointed with the advice and consent of the governing body to serve additional terms. If a vacancy is created by death or resignation or removal by operation of law, a successor shall be appointed with the advice and consent of the governing body within 30 days to hold office for the remainder of the term of the vacated office.

(6) A director may be removed from office for cause by a majority vote of the governing body.

(7) A director who has a direct interest in any matter before the corporation shall disclose the director's interest before the corporation takes any action with respect to the matter, which disclosure shall become a part of the record of the corporation's official proceedings and the interested director shall further refrain from participation in the corporation's proceedings relating to the matter.

(8) By ordinance, the governing body of a municipality that has a population of less than 5,000 may have the municipality's planning commission created pursuant to Act No. 285 of the Public Acts of 1931, being sections 125.31 to 125.45 of the Michigan Compiled Laws, serve as the board of directors provided for in this section.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981 ;-- Am. 1987, Act 67, Imd. Eff. June 25, 1987

Compiler's Notes: Section 2 of Act 501 of 1980 provides: “This amendatory act shall not take

effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h).”Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: “Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h).”

125.1605 Approval of application to incorporate and articles of incorporation by resolution; incorporation pursuant to MCL 125.1628 to 125.1636.

Sec. 5. After the governing body approves the application to incorporate the economic development corporation and the articles of incorporation by resolution, and the resolution is in effect and is filed with the secretary of state, the clerk of the municipality shall incorporate the economic development corporation pursuant to sections 28 to 36.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981
Compiler's Notes: Section 2 of Act 501 of 1980 provides: “This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h).”Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: “Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h).”

125.1606 Organization of corporation at municipal and county levels; limitation.

Sec. 6. Not more than 1 corporation shall be organized under this act for a municipality, except for subsidiaries established pursuant to section 6a. If a corporation is organized at the county level, thereafter, a corporation may be organized for a municipality within that county, the effect of which shall be to

exclude that municipality from subsequent project jurisdiction of the county corporation, except on specific subsequent consent by the governing body of the municipality. The organization of a corporation at less than the county level does not preclude the organization of a corporation at the county level for the remainder of the county. More than 1 corporation may join or cooperate in a project or act together in coordinating more than 1 project.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981
Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1606a Subsidiary neighborhood development corporation; creation; powers; exemption from prevailing wage and fringe benefit rate requirements; disposition of surplus from sale of property; repayment of bonds or notes.

Sec. 6a. (1) In order to implement section 3(f)(ii), a corporation incorporated by a city with a population of greater than 750,000 persons may create subsidiary neighborhood development corporations within the city in which the parent corporation may operate. A subsidiary neighborhood development corporation created pursuant to this subsection shall have power to conduct business solely for the purpose of a project under section 3(f)(ii), but in respect to those projects the subsidiary shall have the same powers of a corporation formed under this act, except as may be limited by the parent corporation in the articles of incorporation or bylaws of the subsidiary.

(2) To the extent the project involves training for disadvantaged youths, a subsidiary created pursuant to this section shall be exempt from the requirement of the payment of prevailing wage and fringe benefit rates described in section 8(4)(h).

(3) Any surplus from the sale of property in the involved project area under section 3(f)(ii), after payment of principal and interest or other evidences of indebtedness, shall be deposited in a revolving fund of the corporation creating the subsidiary corporation, which fund shall be restricted to provide revenue for other projects authorized by section 3(f)(ii), within the city.

(4) When bonds or notes are sold to implement projects under section 3(f)(ii), provision shall be made for the immediate repayment of the bonds or notes at the time all property in the involved project area is sold.

History: Add. 1980, Act 501, Imd. Eff. Jan. 22, 1981 ;-- Am. 2002, Act 357, Imd. Eff. May 23, 2002

Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1607 Powers of corporation generally.

Sec. 7. (1) In order to accomplish the public purposes set forth in section 2 the corporation may:

(a) Construct, acquire by gift or purchase, reconstruct, improve, maintain, or repair projects and acquire the necessary land, or an interest in land or portions of the land, for the site of a project.

(b) Acquire by gift or purchase the necessary machinery, furnishings, and equipment for a project.

(c) Make secured or unsecured loans, participate in the making of secured or unsecured loans, undertake commitments to make secured or unsecured loans and mortgages, sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans and mortgages, foreclose on a mortgage, or

commence an action to protect or enforce a right conferred upon it by a law, mortgage, loan, contract, or other agreement.

(d) Borrow money and issue its revenue bonds or revenue notes to finance or refinance part or all of the project costs and the costs necessary or incidental to the borrowing of money and issuing of bonds or notes for that purpose, and may secure those bonds and notes by mortgage, assignment, or pledge of any of its money, revenues, income, and properties. Bonds and notes may be issued under this act to acquire and install projects, necessary lands, or an interest in the land or a portion of the land, for the site of the project, and the necessary machinery, furnishings, and equipment for a project notwithstanding that the corporation does not own or propose to own the projects, lands, or machinery, furnishings, and equipment. The corporation for a municipality that has a population of more than 1,000,000 persons may combine part or all of the project costs of more than 1 project for pollution control facilities in a single financing arrangement. However, the bonds and notes for each project for pollution control facilities shall be secured by a separate agreement and collateral for each project.

(e) Enter into leases, lease purchase agreements, installment sales contracts or loan agreements with any person, firm, or corporation for the use or sale of the project.

(f) Mortgage or create security interests in the project, a part of the project, a lease or loan, or the rents, revenues, or sums to be paid during the term of a lease or loan, in favor of holders of bonds or notes issued by the corporation.

(g) Sell and convey the project or any part of the project for a price and at a time as the corporation determines.

(h) Lend, grant, transfer, or convey funds, described in section 27, as permitted by law, but subject to applicable restrictions affecting the use of those funds.

(2) Bonds and notes issued under this act are not subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(3) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981 ;-- Am. 2002, Act 357, Imd. Eff. May 23, 2002
Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1607a Pledge by corporation; validity; lien; filing or recording instruments not required.

Sec. 7a. A pledge made by the corporation shall be valid and binding from the time the pledge is made. The money or property pledged and thereafter received by the corporation immediately shall be subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of such a pledge shall be valid and binding as against parties having claims of any kind in tort, contract, or otherwise, against the corporation, irrespective of whether the parties have notice. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created need be filed or recorded.

History: Add. 1980, Act 501, Imd. Eff. Jan. 22, 1981
Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1607b Board of directors serving as planning commission; agenda.
Sec. 7b. If the board of directors of a corporation created under this act serves as the planning commission under section 2 of Act No. 285 of the Public Acts of 1931, being section 125.32 of the Michigan Compiled Laws, the board of directors shall include planning commission business in its agenda.

History: Add. 1987, Act 67, Imd. Eff. June 25, 1987

125.1608 Designation of project area; certification of approval; preparation and approval of project plan; transfer of employment; contents of project plan; corporation as instrumentality of political subdivision; notice to vacate; corporation to operate project as lessor; issuance of obligations; project plans for agricultural and forestry enterprises.
Sec. 8. (1) The corporation shall designate the project area to the governing body of the municipality for which the corporation is incorporated. The governing body of the municipality for which the corporation is incorporated shall certify its approval of the designation of a project area by resolution.

(2) Before acquiring property, or an interest in land, or incurring obligations for a specific project, other than the acquisition of an option, the corporation shall prepare a project plan and secure the recommendation of the local public agency of the municipality for which the corporation is incorporated, except as provided in section 9(3), the approval of the governing body of each city, village, or township in which all or a part of the project is located, and the approval of the county, if the corporation is an economic development corporation for the county.

(3) The corporation shall certify to the governing body of the municipality for which the corporation is incorporated that at the time the project plan is approved by the corporation, the project shall not have the effect of transferring employment of more than 20 full-time persons from a municipality of this state to the municipality in which the project is to be located. This restriction shall not prevent the approval of a project if the governing body of each municipality from which employment is to be transferred consents by resolution to the transfer.

(4) The project plan shall contain the following, except that agricultural and forestry enterprise projects need only comply with subsection (9) with respect to project plans:

(a) The location and extent of existing streets and other public facilities within the project district area, and shall designate the location, character, and extent of the categories of public and private land uses then existing and proposed for the project area, including residential, recreational, commercial, industrial, educational, and other uses and shall include a legal description of the project area.

(b) A description of existing improvements in the project area to be demolished, repaired, or altered, a description of repairs and alterations, and an estimate of the time required for completion.

(c) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the project area and an estimate of the time required for completion.

(d) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(e) A description of the parts of the project area to be left as open space and the use contemplated for the space.

(f) A description of portions of the project area that the corporation desires to sell, donate, exchange, or lease to or from the municipality, and the proposed terms.

(g) A description of desired zoning changes and changes in streets, street levels, intersections, and utilities.

(h) A statement of the proposed method of financing the project, including, except as provided in section 6a, a statement by a person described in subparagraph (j) indicating the payment to all persons performing work on the construction project of the prevailing wage and fringe benefit rates for the same or similar work in the locality in which the work is to be performed, and a statement of the ability of the corporation to arrange the financing. The prevailing wage and fringe benefit rates shall be determined under 1965 PA 166, MCL 408.551 to 408.558. A corporation may conclusively rely upon the statement required under this subsection as to compliance with the payment of prevailing wage and fringe benefit rates and any contracts, bonds or notes of any corporation entered into or issued upon reliance on any statement shall not

be subsequently voided by reason of the failure to comply with the requirements of this subsection.

(i) A list of persons who will manage or be associated with the management of the project for a period of not less than 1 year from the date of approval of the project plan.

(j) Designation of the person or persons, natural or corporate, to whom the project is to be leased, sold, or conveyed and for whose benefit the project is being undertaken if that information is available to the corporation.

(k) If there is not an express or implied agreement between the corporation and persons, natural or corporate, that the project will be leased, sold, or conveyed to those persons, the procedures for bidding for the leasing, purchasing, or conveying of the project upon its completion.

(l) Estimates of the number of persons residing in the project area, and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the corporation, a project plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(m) A plan for establishing priority for the relocation of persons displaced by the project in new housing in the project area.

(n) Provision for the costs of relocating persons displaced by the project and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646, 84 Stat. 1894.

(o) A plan for compliance with 1972 PA 227, MCL 213.321 to 213.332.

(p) Other material as the corporation, local public agency, or governing body considers pertinent.

(5) The corporation shall be considered an instrumentality of a political subdivision for purposes of 1972 PA 227, MCL 213.321 to 213.332.

(6) A person shall be given not less than 90 days' written notice to vacate unless modified by court order for good cause.

(7) The corporation shall not operate a project or an enterprise in a project, other than as lessor.

(8) The governing body may utilize the corporation to issue obligations pursuant to section 7 to accomplish the public purposes of the municipality set forth in section 2, and for that purpose may by resolution direct the corporation to take appropriate action as set forth in subsections (1) and (2) with respect to a proposed project.

(9) In the case of project plans for agricultural and forestry enterprises, the following information shall be provided in lieu of the requirements of subsections (2) and (4):

(a) A statement of intention regarding the objectives of the project.

(b) A general description of the kinds of buildings, improvements, storage facilities, restorations, acquisition of machinery, equipment furnishings, leasehold improvements and incidental related costs to be financed.

(c) A statement regarding the length of the project and the maximum amount to be financed over the life of the project.

(d) A statement by the corporation that no zoning change or eminent domain proceedings will be necessary to implement the project.

(e) A description of the process to be followed in implementing the individual transactions that may comprise the project.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981 ;-- Am. 2002, Act 357, Imd. Eff. May 23, 2002

Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1609 Project plan; findings and recommendations of local public agency; determinations; publication of general standards for project plans; local public agency recommendations concerning project plan not required.

Sec. 9. (1) A local public agency shall submit its findings and recommendations concerning a project plan after the project citizens district council is consulted and advised as provided in section 14, if it determines the following from the application:

(a) The project plan has been submitted to the project citizens district council for its findings and recommendations, if a project citizens district council is required.

(b) The project plan meets all the requirements set forth in section 8.

(c) The land included within the project area to be acquired is reasonably necessary to carry out the purpose of the plan and of this act in an efficient and economically satisfactory manner.

(d) The project plan is in reasonable accord with the master plan of the municipality, if a master plan has been adopted.

(e) The project plan and size is practicable and in the public interest.

(f) Public services, such as fire and police protection and utilities, are or shall be adequate to service the project area.

(g) Changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

(2) A local public agency may publish general standards for project plans within the provisions of this section.

(3) If the implementation of the project plan does not require a zoning change or the taking of private property pursuant to section 22, the recommendations of the local public agency concerning the project plan shall not be required.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981
Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1610 Project plan; submission of findings and recommendations; determination of public purpose; considerations.

Sec. 10. (1) The local public agency, if required, shall submit its findings and recommendations for approval or rejection of the project plan, with any recommendations for modification, to the governing body of the municipality for which the corporation is incorporated.

(2) The governing body of the municipality for which the corporation is incorporated, after a public hearing on the project plan with notice of the hearing given in accordance with section 17 shall determine whether the project plan constitutes a public purpose. If it determines that the project plan constitutes a public purpose, it shall then approve or reject the plan, or approve it with modification, based on the following considerations:

(a) The findings and recommendations of the local public agency, if required.

(b) The findings and recommendations of the project citizens district council, if established.

(c) That the plan meets the requirements set forth in section 8.

(d) The persons who will be active in the management of the project for not less than 1 year after the approval of the project plan have sufficient ability and experience to manage the plan properly.

(e) The proposed method of financing the project is feasible and the corporation has the ability to arrange the financing.

(f) The project is reasonable and necessary to carry out the purposes of this act.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981
Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1611 Amendments to project plan; compliance with local ordinances and resolutions.

Sec. 11. The governing body of the municipality for which the corporation is incorporated after a public hearing with notice of the public hearing given in accordance with section 17 may consider and approve amendments, by resolution, to the project plan. The corporation shall comply with local ordinances and resolutions.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978

125.1612 Establishment of project district area boundaries; project citizens district council; establishment; appointment and qualifications of members; council as representative of project area.
Sec. 12. (1) The governing body of the municipality for which the corporation is incorporated shall, by resolution, do the following:

(a) Establish the project district area boundaries.

(b) Determine the necessity of establishing a project citizens district council.

(2) A project citizens district council may be established for a project district area promptly after the designation of the project area is approved by the governing body as provided in section 8(1). The project citizens district council shall be established by the governing body and shall consist of not less than 9 members. The members of the project citizens district council shall be appointed by the governing body. A member of a project citizens district council shall be at least 18 years of age.

(3) A project citizens district council shall be representative of the project area giving particular attention to those persons who reside, own real property, or maintain an establishment located in the project area.

(4) A majority of the members of a project citizens district council shall be persons residing in the project area, except if the persons of the age of majority in the project area number less than 20, or if, at the time a project citizens district council is established, the number of establishments located in the project area exceeds the number of occupied dwelling units in the project area.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978

125.1613 Project citizens district council as advisory body.
Sec. 13. A project citizens district council established pursuant to this act shall act as an advisory body to the corporation, the local public agency, and the governing body.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974

125.1614 Consultation between representative of corporation and project citizens district council.

Sec. 14. Periodically the representative of the corporation responsible for preparation of the project plan within the district area shall consult with and advise the project citizens district council regarding all aspects of the project plan, including the development of new housing for relocation purposes located either inside or outside of the development area. The consultation shall begin before any final decisions by the corporation, the local public agency, and the governing body regarding the project plan other than the designation of the project area and the project district area. The consultation shall continue throughout the preparation and implementation of the project plan.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974

125.1615 Project citizens district council; meetings; notice; right of person to be heard; record of meeting; information and technical assistance; conditions to adoption of project plan.

Sec. 15. (1) Meetings of the project citizens district council shall be open to the public. Notice of the time and place of the meetings shall be given by publication in a newspaper of general circulation not less than 3 days before the dates set for meetings of the project citizens district council. A person present at those meetings shall have reasonable opportunity to be heard.

(2) A record of the meetings of a project citizens district council, including information and data presented, shall be maintained by the council.

(3) A project citizens district council may request of and receive from the corporation and the local public agency information and technical assistance relevant to the preparation of a project plan for its district area.

(4) Failure of a project citizens district council to organize or to consult with and be advised by a corporation and the local public agency, or failure to advise the local public agency or the governing body, as provided herein, shall not preclude the adoption of a project plan by a municipality if the municipality complies with the other provisions of this act.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974

125.1616 Existing citizens district council as authorized projects citizens district council.

Sec. 16. In a project district area where there already exists a citizens district council established according to Act No. 344 of the Public Acts of 1945, as

amended, being sections 125.71 to 125.84 of the Michigan Compiled Laws, the governing body may designate it as the project citizens district council authorized by this act.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974

125.1617 Public hearing before adoption of resolution approving project plan; notice; record of public hearing; availability of record to public.
Sec. 17. (1) The governing body of the municipality for which the corporation is incorporated, before adoption of a resolution approving a project plan authorized by this act, shall hold a public hearing. This act shall not be construed to require any other municipality, other than the municipality for which the corporation is incorporated, to hold a public hearing. Notice of the time and place of the hearing shall be given by publication once in a newspaper of general circulation designated by the municipality, not less than 10 days before the date set for the hearing. In the case of an agricultural and forestry enterprise project undertaken by a county corporation, each unit of government within the county shall be notified by mail.

(2) Notice of the hearing shall be posted in at least 10 conspicuous and public places in the proposed project district area not less than 10 days before the hearing and shall be mailed not less than 10 days before the hearing to the last known owner of each parcel of real property in the proposed project district area at the last known address of the owner as shown by the tax assessment records of the municipality in which the project area is located. Agricultural and forestry enterprise projects shall not be required to comply with this subsection.

(3) Notice of the time, date, and place of hearing on a proposed project plan shall contain a description of the location of the project area in relation to highways, streets, streams, or otherwise. The notice shall contain a statement that maps, plats, and a description of the proposed project plan, including the method of relocating families and individuals who will be displaced from the area, are available for public inspection at a place designated in the notice and that all aspects of the proposed project plan will be open for discussion at the public hearing and shall contain other information the governing body considers appropriate. At the time set for hearing, the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the hearing. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the

proposed project plan. The governing body shall make and preserve a record of the public hearing, including all data presented at the public hearing. The record shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981
Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1618 Finding and recommendations of project citizens district council; notice.

Sec. 18. Promptly after the public hearing provided in section 10 (2), the project citizens district council shall notify the governing body, in writing, of its findings and recommendations concerning the proposed project plan.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976

125.1619 Revision of boundaries of project district area.

Sec. 19. The boundaries of a project district area may be revised by the inclusion of additional area or by exclusion of existing area by the governing body by resolution.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976

125.1620 Situations not requiring project citizens district council; dissolution of council.

Sec. 20. A project citizens district council shall not be required and, if formed, shall be dissolved in any of the following situations:

(a) On petition of not less than 20% of the adult resident population of the project district area by the last federal decennial or municipal census, a governing body, after public hearing with notice given in accordance with section 17, and by a 2/3 vote, may adopt a resolution for the project to eliminate the necessity of a project citizens district council.

(b) When there are less than 18 residents, real property owners, or representatives of establishments located in the project district area eligible to serve on the project citizens district council.

(c) When the governing body determines that the objectives of the project plan have been substantially achieved. The determination shall not become effective until 20 days after notice is given, in writing, to the project citizens district council advising the project citizens district council of the determination. If, within the 20-day period, the project citizens district council notifies the governing body, in writing, of its disapproval of the determination, the determination shall not become effective unless thereafter approved by a 2/3 majority of the governing body more than 30 days after receipt of the notice of disapproval. During that period, the governing body shall consult with the project citizens district council concerning the objections of the project citizens district council to the determination.

(d) Upon termination of a project by resolution of the governing body.

(e) When the project plan does not include a zoning change and the implementation of the project plan does not require the taking of private property pursuant to section 22.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981

Compiler's Notes: Section 2 of Act 501 of 1980 provides: “This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h).”Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: “Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the

project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1621 Injunction, mandamus, or other appropriate remedy at law; equitable relief.

Sec. 21. A municipality may commence an action for an injunction, or any other appropriate remedy at law, against a corporation which has not substantially complied with the time limits established in its approved project plan, reasonable delays caused by unforeseen difficulties excepted, or which has failed to substantially perform its obligations. The corporation may commence an action for an injunction, mandamus, or any other appropriate remedy at law, against a municipality for failure to render a final decision on a project plan within 6 months after the date on which the plan was first submitted to the governing body for approval. A citizen residing in the project or district area whose interest is substantially affected by the project plan may bring an action against the corporation or municipality for an appropriate remedy at law or for equitable relief.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974

125.1622 Condemnation.

Sec. 22. A municipality may take private property under Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Michigan Compiled Laws, for the purpose of transfer to the corporation, and may transfer the property to the corporation for use in an approved project, on terms and conditions it deems appropriate, and the taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974

125.1623 Borrowing money and issuing revenue bonds or revenue notes; issuing refunding bonds; bonds or notes and interest exempt from taxation; exceptions; liability of municipality on notes or bonds; statement; investment in bonds and notes; deposit of bonds and notes; report; inspection of records and reports; publication and distribution of statement of revenues and expenditures.

Sec. 23. (1) For the purpose of defraying all or part of its project costs, refunding or refunding in advance obligations authorized under this act or obligations authorized under the industrial development revenue bond act of 1963, 1963 PA 62, MCL 125.1251 to 125.1267, by a municipality

incorporating a corporation under this act, a corporation may borrow money and issue its revenue bonds or revenue notes. Refunding bonds may be issued by the corporation whether the bonds to be refunded have or have not matured, are or are not redeemable on the date of issuance of the refunding bonds, or are or are not subject to redemption before maturity, and may be issued to pay principal, interest, redemption premiums, or any combination thereof of the obligations to be refunded. The bonds may be issued partly to refund bonds and partly for any other purpose authorized by this act. The refunding bonds may be issued in a principal amount greater than the principal amount of the bonds to be refunded as may be necessary to effect the refunding pursuant to the plan of refunding. The bonds or notes shall be exempt from all taxation except inheritance and transfer taxes and the interest on the bonds or notes shall be exempt from all taxation in the state of Michigan, notwithstanding that the interest may be subject to federal income tax.

(2) The municipality shall not be liable on notes or bonds of the corporation and the notes and bonds shall not be a debt of the municipality. The notes and bonds shall contain on their face a statement to that effect.

(3) The bonds and notes of the corporation may be invested in by all public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by all public officers and the agencies and political subdivisions of this state for any purpose for which the deposit of bonds is authorized.

(4) The corporation shall report to the governing body of the municipality for which the corporation is incorporated and the Michigan economic development corporation not less than once per year, which report shall fully describe the activities of the corporation including a statement of all revenues and expenditures since the previous report.

(5) The financial records, accountings, audit reports, and other reports of public money under the control of the corporation shall be public records and open to inspection. The corporation shall publish in a newspaper of general circulation in the incorporating municipality not more than 120 days after the conclusion of the corporation's operating year a statement of all of its revenues and expenditures for the year and shall distribute copies of the report upon request.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981 ;-- Am. 2002, Act 357, Imd. Eff. May 23, 2002

Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."For transfer of powers and duties in connection with reports filed by municipalities pursuant to MCL 125.1623(4) from the department of commerce to the chief executive officer of the Michigan jobs commission, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

125.1624 Disposition of net earnings and property upon dissolution of corporation.

Sec. 24. Any net earnings of the corporation beyond that necessary for the retirement of indebtedness or to implement the public purposes or program of the municipality may not inure to the benefit of a person other than the municipality and, upon dissolution of the corporation shall belong to the municipality. Upon dissolution of the corporation title to all property owned by the corporation, subject to existing rights in other parties, shall vest in the municipality.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976

125.1625 Exemption of corporation and instruments of conveyance from taxation.

Sec. 25. The corporation shall be exempt from all taxation on its earnings or property. Instruments of conveyance to or from a corporation shall be exempt from all taxation including taxes imposed by Act No. 134 of the Public Acts of 1966, as amended, being sections 207.501 to 207.513 of the Michigan Compiled Laws.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981

Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act

takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h).”Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: “Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h).”

125.1626 Repealed. 1976, Act 175, Imd. Eff. June 29, 1976.

Compiler's Notes: The repealed section pertained to disposition of property and assets on dissolution of corporation.

125.1627 Powers of public bodies.

Sec. 27. (1) Any municipality and any agency or department thereof, or any other official public body, may do any of the following:

(a) Anything necessary or convenient to aid in the planning and execution of a project plan.

(b) Lend, grant, transfer, or contribute funds to the corporation in furtherance of its public purposes.

(c) Use any funds within its control, including funds derived from the sale or furnishing of property, service, or facilities to the corporation, in the purchase of bonds or other obligations of the corporation, and to exercise any rights connected with such bonds or other obligations of the corporation which it holds.

(d) Enter into agreements up to 50 years with the corporation regarding action it will take pursuant to the provisions of this section.

(e) Arrange for economic and business development on a consumer cooperative basis for the citizens to participate in the development of their own housing as an integral part of the commercial, industrial, and residential development under this act.

(f) Lend, grant, transfer, or convey funds received from the federal or state government or from any nongovernmental entity in aid of the purposes described in section 2, and the corporation may accept these funds.

(2) Any state agency or department may do any of the following:

(a) Lend cooperation and assistance to the municipality and its economic development corporation.

(b) Disburse funds to an economic development corporation in accordance with the terms and condition of any grant or transfer of funds from the federal government or its agencies or any nongovernmental entity.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974 ;-- Am. 1976, Act 175, Imd. Eff. June 29, 1976

125.1628 Incorporation of economic development corporation; name of corporation.

Sec. 28. Any number of persons, not less than 3, may incorporate, as provided in this act, an economic development corporation for the purpose of implementing or furthering the public purposes stated in section 2 through the exercise of some or all of the powers created in section 7. The name of the corporation shall be "the economic development corporation of the (name of municipality)".

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976

125.1629 Articles of incorporation; approval by resolution; contents.

Sec. 29. The incorporation of the corporation shall be accomplished by the approval of articles of incorporation by resolution of the municipality. The articles of incorporation shall set forth the name of the corporation; the purpose for which the corporation is created; the number, terms, and manner of selection of its officers and their powers and duties; the date upon which the corporation shall become effective; the name of the newspaper in which the articles of incorporation shall be published; the manner of adopting bylaws; and other matters expedient to be incorporated in the articles.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978

125.1630 Amendment of articles of incorporation.

Sec. 30. The articles of incorporation of the corporation may be amended by resolution of the municipality which resolution shall be filed with the secretary of state. The effect of an amendment may include the alteration or changing of the structure, organization, programs, or activities of the corporation including the power to terminate the existence of the corporation. However, an amendment shall not impair the obligation of a bond or contract.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981

Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1631 Articles of incorporation; execution; delivery; filing; publication; statement of right to question incorporation; certificate; effective date and validity of incorporation.

Sec. 31. (1) The articles of incorporation shall be executed in duplicate and delivered to the county clerk who shall file 1 copy in his or her office and the other with the recording officer of the corporation when a recording officer is selected. The municipality's clerk shall cause a copy of the articles of incorporation to be published once in a newspaper designated in the articles of incorporation and circulating within the municipality accompanied by a statement that the right exists to question the incorporation in court as provided in this section.

(2) The county clerk shall file 1 printed copy of the articles of incorporation with the secretary of state and 1 printed copy in his or her office, attached to each of which printed copies shall be his or her certificate setting forth that the same is a true and complete copy of the original articles of incorporation on file in his or her office.

(3) The corporation shall become effective at the time provided in the articles of incorporation.

(4) The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of a certified copy with the secretary of state.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981

Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1632 Corporation as body corporate; powers.

Sec. 32. The corporation shall be a body corporate with power to sue and be sued in any court of this state. The corporation shall possess all the powers necessary to carry out the purpose of its incorporation and those incident thereto. The enumeration of any powers in this act shall not be construed as a limitation upon the general powers of the corporation.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976

125.1632a Personal liability of board members; insurance.

Sec. 32a. The members of the board of directors of any corporation organized pursuant to this act or any person executing any revenue bond or revenue note on behalf of a corporation shall not be liable personally on the revenue bond or revenue note, or be subject to any personal liability or accountability by reason of the issuance of the revenue bond or revenue note, by reason of acquisition, construction, ownership, or operation of a project, or by reason of any other action taken or omitted by the board of directors. By resolution the board of directors of any corporation organized pursuant to this act may provide for the purchase of insurance indemnifying the members of the board from and against

any and all personal liability or accountability described in this section or any loss or expense related thereto.

History: Add. 1980, Act 501, Imd. Eff. Jan. 22, 1981
Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1633 Dissolution of corporation; referendum on continued existence of corporation.
Sec. 33. (1) A corporation which has completed the purposes for which it was organized shall be dissolved by the adoption of a resolution by a 2/3 majority of its directors, which resolution shall be approved by a majority of the governing body of the municipality and filed with the secretary of state.

(2) At any time during the existence of a corporation, the voters of the municipality for which the corporation was organized shall have the right of referendum on the continued existence of the corporation. A referendum on the continued existence of a corporation shall be conducted pursuant to the laws of the municipality which provide for the referendum of ordinances generally. If a majority of those voting approve the rescission of the resolution approving the articles of incorporation, the dissolution of the corporation shall be effective 90 days after certification of a majority of the votes cast. Provided however, that if the corporation has, prior to the date it is to be dissolved pursuant to this section entered into contracts or issued bonds or notes the corporation shall remain in existence after the date it would otherwise be dissolved but only for purpose of carrying out its obligations under such contracts, bonds or notes. A certification of the referendum vote shall be filed with the secretary of state. Another corporation may not be incorporated for a municipality within 5 years after the effective date of a corporation's dissolution by referendum under this section.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976 ;-- Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981

Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1634 Corporations organized and incorporated pursuant to MCL 450.62 to 450.192; validation, force, and effect of prior actions.

Sec. 34. A corporation organized and incorporated pursuant to section 5 and Act No. 327 of the Public Acts of 1931, as amended, being sections 450.62 to 450.192 of the Michigan Compiled Laws, before the effective date of this section, is subject to this act, as amended, without formal reorganization and the corporation shall be deemed to exist solely under this act, as amended. Actions taken under this act by a person, municipality, or corporation in good faith before the effective date of this section and which would have been valid under this act before sections 28 to 36 were added are hereby validated and shall have the same force and effect as if those actions were taken under this act, as amended by the act which added this section.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976

125.1634a Corporation deemed validly incorporated; validity of action taken by corporation under act; validity and legality of evidences of indebtedness and related instruments.

Sec. 34a (1) Notwithstanding any other provision of this act, a corporation for which a copy of articles of incorporation is on file with the secretary of state on or before the effective date of this section shall be deemed validly incorporated under this act from the date on which the articles of incorporation were filed, whether or not the articles of incorporation were adopted, executed, printed, certified, or filed in accordance with this act as in effect at the time of filing.

(2) Any action taken by the corporation under this act, which at the time of the taking of the action the corporation would have been empowered to take, is deemed valid from the date the action was taken.

(3) Any bond, note, or other evidence of indebtedness of any corporation and any instrument relating thereto authorized, issued, or delivered prior to the effective date of this section, is valid and legal for all purposes.

History: Add. 1980, Act 501, Imd. Eff. Jan. 22, 1981
Compiler's Notes: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1635 Liberal construction

Sec. 35. This act, being necessary for and to secure the performance of essential public purposes and functions for the state and its municipalities shall be liberally construed to effect the purposes of this act.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976

125.1636 Authority cumulative.

Sec. 36. The authority given by this act shall be in addition to and not in derogation of any power existing in any of the municipalities under any statutory or charter provisions.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976

DOWNTOWN DEVELOPMENT AUTHORITY
Act 197 of 1975

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.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975 ;-- Am. 1988, Act 425, Imd. Eff. Dec. 27, 1988 ;-- Am. 1993, Act 323, Eff. Mar. 15, 1994
Popular Name: DDA
Popular Name: Downtown Development Authority Act

The People of the State of Michigan enact:

125.1651 Definitions.
Sec. 1. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

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

(i) For valuations made before January 1, 1995, the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

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

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

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

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

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

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

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

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

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

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

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

(m) "Eligible obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19, 1993 and its subsequent refunding by a qualified refunding obligation. Eligible obligation includes an authority's written agreement entered into before August 19, 1993

to pay an obligation issued after August 18, 1993 and before December 31, 1996 by another entity on behalf of the authority.

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

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

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

(q) "Initial assessed value" means the assessed value, as equalized, of all the taxable property within the boundaries of the development area at the time the ordinance establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the municipality for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of a property tax shall be determined as provided in subdivision (z). In the case of a municipality having a population of less than 35,000 that established an authority prior to 1985, created a district or districts, and approved a development plan or tax increment financing plan or amendments to a plan, and which plan or tax increment financing plan or amendments to a plan, and which plan expired by its terms December 31, 1991, the initial assessed value for the purpose of any plan or plan amendment adopted as an extension of the expired plan shall be determined as if the plan had not expired December 31, 1991. For a development area designated before 1997 in which a renaissance zone has subsequently been designated pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, the initial assessed value of the development area otherwise determined under this subdivision shall be reduced by the amount by which the current assessed value of the development area was reduced in 1997 due to the exemption of property under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, but in no case shall the initial assessed value be less than zero.

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) "Other protected obligation" means:

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

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

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

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

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

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

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

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

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

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

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

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

(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.

(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 facility includes an improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, which improvement is made to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. Public facility also includes the acquisition, construction, improvement, and operation of a building owned or leased by the authority to be used as a retail business incubator.

(x) "Qualified refunding obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if 1 or more of the following apply:

(i) The obligation is issued to refund a qualified refunding obligation issued in November 1997 and any subsequent refundings of that obligation issued before January 1, 2010 or the obligation is issued to refund a qualified refunding obligation issued on May 15, 1997 and any subsequent refundings of that obligation issued before January 1, 2010 in an authority in which 1 parcel or group of parcels under common ownership represents 50% or more of the taxable value captured within the tax increment finance district and that will ultimately provide for at least a 40% reduction in the taxable value of the property as part of a negotiated settlement as a result of an appeal filed with the state tax tribunal. Qualified refunding obligations issued under this subparagraph are not subject to the requirements of section 611 of the revised municipal finance act, 2001 PA 34, MCL 141.2611, if issued before January 1, 2010. The duration of the development program described in the tax increment financing plan relating to the qualified refunding obligations issued under this subparagraph is hereby extended to 1 year after the final date of maturity of the qualified refunding obligations.

(ii) The refunding obligation meets both of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) Tax increment revenues include ad valorem property taxes and specific local taxes, in an annual amount and for each year approved by the state treasurer, attributable to the levy by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and by local or intermediate school districts, upon the captured assessed value of real and personal property in the development area of an authority established in a city with a population of 750,000 or more to pay for, or reimburse an advance for, not more than $8,000,000.00 for the demolition of buildings or structures on public or privately owned property within a development area that commences in 2005, or to pay the annual principal of or interest on an obligation, the terms of which are approved by the state treasurer, issued by an authority, or by a city on behalf of an authority, to pay not more than $8,000,000.00 of the costs to demolish buildings or structures on public or privately owned property within a development area that commences in 2005.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975 ;-- Am. 1985, Act 221, Imd. Eff. Jan. 10, 1986 ;-- Am. 1993, Act 323, Eff. Mar. 15, 1994 ;-- Am. 1994, Act 280, Imd. Eff. July 11, 1994 ;-- Am. 1994, Act 330, Imd. Eff. Oct. 14, 1994 ;-- Am. 1994, Act 381, Imd. Eff. Dec. 28, 1994 ;-- Am. 1996, Act 269, Imd. Eff. June 12, 1996 ;-- Am. 1996, Act 454, Imd. Eff. Dec. 19, 1996 ;-- Am. 1997, Act 202, Imd. Eff. Jan. 13, 1998 ;-- Am. 2003, Act 136, Imd. Eff. Aug. 1, 2003 ;-- Am. 2004, Act 66, Imd. Eff. Apr. 20, 2004 ;-- Am. 2004, Act 158, Imd. Eff. June 17, 2004 ;-- Am. 2004, Act 196, Imd. Eff. July 8, 2004 ;-- Am. 2005, Act 13, Imd. Eff. May 4, 2005 ;-- Am. 2005, Act 115, Imd. Eff. Sept. 22, 2005 ;-- Am. 2006, Act 659, Imd. Eff. Jan. 10, 2007 ;-- Am. 2008, Act 35, Imd. Eff. Mar. 14, 2008 ;-- Am. 2008, Act 225, Imd. Eff. July 17, 2008
Compiler's Notes: Enacting section 1 of Act 202 of 1997 provides:"The provisions of section 1 and section 13b, as amended by this amendatory act, are retroactive and effective for taxes levied after 1993."
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1651a Legislative findings.

Sec. 1a. The legislature finds all of the following:

(a) That there exists in this state conditions of property value deterioration detrimental to the state economy and the economic growth of the state and its local units of government.

(b) That government programs are desirable and necessary to eliminate the causes of property value deterioration thereby benefiting the economic growth of the state.

(c) That it is appropriate to finance these government programs by means available to the state and local units of government in the state, including tax increment financing.

(d) That tax increment financing is a government financing program that contributes to economic growth and development by dedicating a portion of the increase in the tax base resulting from economic growth and development to facilities, structures, or improvements within a development area thereby facilitating economic growth and development.

(e) That it is necessary for the legislature to exercise its power to legislate tax increment financing as authorized in this act and in the exercise of this power to mandate the transfer of tax increment revenues by city, village, township, school district, and county treasurers to authorities created under this act in order to effectuate the legislative government programs to eliminate property value deterioration and to promote economic growth.

(f) That halting property value deterioration and promoting economic growth in the state are essential governmental functions and constitute essential public purposes.

(g) That economic development strengthens the tax base upon which local units of government rely and that government programs to eliminate property value deterioration benefit local units of government and are for the use of the local units of government.

(h) That the provisions of this act are enacted to provide a means for local units of government to eliminate property value deterioration and to promote economic growth in the communities served by those local units of government.

History: Add. 1988, Act 425, Imd. Eff. Dec. 27, 1988
Compiler's Notes: Section 2 of Act 425 of 1988 provides: "This amendatory act is effective beginning with taxes levied in 1989. However, for taxes levied before 1989, tax increment revenues based on the definition of initial assessed value provided for in this amendatory act that were received by an authority are validated."
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1652 Authority; establishment; restriction; public body corporate; powers generally.

Sec. 2. (1) Except as otherwise provided in this subsection, a municipality may establish 1 authority. If, before November 1, 1985, a municipality establishes more than 1 authority, those authorities may continue to exist as separate authorities. Under the conditions described in section 3a, a municipality may have more than 1 authority within that municipality's boundaries. A parcel of property shall not be included in more than 1 authority created by this act.

(2) An authority shall be a public body corporate which may sue and be sued in any court of this state. An authority possesses all the powers necessary to carry out the purpose of its incorporation. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of an authority.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975 ;-- Am. 1985, Act 159, Imd. Eff. Nov. 15, 1985
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1653 Resolution of intent to create and provide for operation of authority; public hearing on proposed ordinance creating authority and designating boundaries of downtown district; notice; exemption of taxes from capture; adoption, filing, and publication of ordinance; altering or amending boundaries; agreement with adjoining municipality; agreement with qualified township.

Sec. 3. (1) When the governing body of a municipality determines that it is necessary for the best interests of the public to halt property value deterioration and increase property tax valuation where possible in its business district, to eliminate the causes of that deterioration, and to promote economic growth, the governing body may, by resolution, declare its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall set a date for the holding of a public hearing on the adoption of a proposed ordinance creating the authority and designating the boundaries of the downtown district. Notice of

the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 or more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in the proposed district and for a public hearing to be held after February 15, 1994 to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice shall not invalidate these proceedings. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the proposed downtown district not less than 20 days before the hearing. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed downtown district. A citizen, taxpayer, or property owner of the municipality or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of the proposed downtown district. The governing body of the municipality shall not incorporate land into the downtown district not included in the description contained in the notice of public hearing, but it may eliminate described lands from the downtown district in the final determination of the boundaries.

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

(4) Not less than 60 days after the public hearing, if the governing body of the municipality intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members, an ordinance establishing the authority and designating the boundaries of the downtown district within which the authority shall exercise its powers. The adoption of the ordinance is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the chief executive or other officer of the municipality and the

adoption of an ordinance over his or her veto. This ordinance shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(5) The governing body of the municipality may alter or amend the boundaries of the downtown district to include or exclude lands from the downtown district pursuant to the same requirements for adopting the ordinance creating the authority.

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

(7) A municipality that has created an authority may enter into an agreement with a qualified township to operate its authority in a downtown district in the qualified township under an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512. The interlocal agreement between the municipality and the qualified township shall provide for, but is not limited to, all of the following:

(a) Size and makeup of the board.

(b) Determination and modification of downtown district, business district, and development area.

(c) Modification of development area and development plan.

(d) Issuance and repayment of obligations.

(e) Capture of taxes.

(f) Notice, hearing, and exemption of taxes from capture provisions described in this section.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975 ;-- Am. 1993, Act 323, Eff. Mar. 15, 1994 ;-- Am. 2004, Act 521, Imd. Eff. Jan. 3, 2005 ;-- Am. 2005, Act 13, Imd. Eff. May 4, 2005 ;-- Am. 2005, Act 115, Imd. Eff. Sept. 22, 2005
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1653a Authority of annexing or consolidated municipality; obligations, agreements, and bonds.

Sec. 3a. If a downtown district is part of an area annexed to or consolidated with another municipality, the authority managing that district shall become an authority of the annexing or consolidated municipality. Obligations of that authority incurred under a development or tax increment plan, agreements related to a development or tax increment plan, and bonds issued under this act shall remain in effect following the annexation or consolidation.

History: Add. 1985, Act 159, Imd. Eff. Nov. 15, 1985
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1653b Ratification and validation of ordinance and actions; compliance.

Sec. 3b. (1) An ordinance enacted by a municipality that has a population of less than 50,000 establishing an authority, creating a district, or approving a development plan or tax increment financing plan, or an amendment to an authority, district, or plan, and all actions taken under that ordinance, including the issuance of bonds, are ratified and validated notwithstanding that notice for the public hearing on the establishment of the authority, creation of the district, or approval of the development plan or tax increment financing plan, or on the amendment, was not published, posted, or mailed at least 20 days before the hearing, if the notice was published or posted at least 15 days before the hearing or the authority was established in 1984 by a village that filed the ordinance with the secretary of state not later than March, 1986. This section applies only to an ordinance adopted by a municipality before February 1, 1991, and shall include any bonds or amounts to be used by the authority to pay the principal of and interest on bonds that have been issued or that are to be issued by the authority, the incorporating municipality, or a county on behalf of the incorporating municipality. An authority for which an ordinance or amendment to the ordinance establishing the authority has been published before February 1, 1991 is considered for purposes of section 3(4) to have promptly filed the ordinance or amendment to the ordinance with the secretary of state if the ordinance or amendment to the ordinance is filed with the secretary of state before October 1, 1991. As used in this section, "notice was published" means publication of the notice occurred at least once.

(2) A development plan and tax increment financing plan approved by a resolution adopted by the village council of a village having a population of less than 3,000 before June 15, 1988 rather than by adoption of an ordinance is

ratified and validated, if an amendment to the plans was adopted by the village council in compliance with sections 18 and 19.

(3) A development plan and tax increment financing plan approved by a resolution adopted by the village council of a village having a population of less than 7,000 before June 1, 1998 rather than by adoption of an ordinance is ratified and validated if an amendment to the plans was adopted by the village council in compliance with sections 18 and 19.

History: Add. 1989, Act 242, Imd. Eff. Dec. 21, 1989 ;-- Am. 1991, Act 66, Imd. Eff. July 3, 1991 ;-- Am. 1993, Act 42, Imd. Eff. May 27, 1993 ;-- Am. 1993, Act 323, Eff. Mar. 15, 1994 ;-- Am. 2006, Act 329, Imd. Eff. Aug. 10, 2006
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1653c Proceedings or findings; validity.

Sec. 3c. The validity of the proceedings or findings establishing an authority, or of the procedure, adequacy of notice, or findings with respect to the approval of a development plan or tax increment financing plan is conclusive with respect to the capture of tax increment revenues for an other protected obligation that is a bond issued after October 1, 1994.

History: Add. 1994, Act 381, Imd. Eff. Dec. 28, 1994
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1653d Establishment or amendment of authority, district, or plan; notice; publication or posting.

Sec. 3d. An ordinance enacted by a municipality that has a population of greater than 1,000 and less than 2,000 establishing an authority, creating a district, or approving a development plan or tax increment financing plan, or an amendment to an authority, district, or plan, and all actions taken or to be taken under that ordinance, including the issuance of bonds, are ratified and validated notwithstanding that notice for the public hearing on the establishment of the authority, creation of the district, or approval of the development plan or tax increment financing plan, or on the amendment, was not published, posted, or mailed at least 20 days before the hearing, provided that the notice was either published or posted at least 10 days before the hearing or that the authority was established in 1990 by a municipality that filed the ordinance with the secretary of state not later than July 1991. This section applies only to an ordinance or an amendment adopted by a municipality before January 1, 1999 and shall include any bonds or amounts to be used by the authority to pay the principal of and

interest on bonds that have been issued or that are to be issued by the authority or the incorporating municipality. An authority for which an ordinance or amendment to the ordinance establishing the authority has been published before February 1, 1991 is considered for purposes of section 3(3) to have promptly filed the ordinance or amendment to the ordinance with the secretary of state if the ordinance or amendment to the ordinance is filed with the secretary of state before December 31, 2002. The validity of the proceedings or findings establishing an authority described in this section, or of the procedure, adequacy of notice, or findings with respect to the approval of a development plan or tax increment financing plan for an authority described in this section is conclusive with respect to the capture of tax increment revenues for a bond issued after June 1, 2002 and before June 1, 2006. As used in this section, "notice was either published or posted" means either publication or posting of the notice occurred at least once.

History: Add. 2002, Act 460, Imd. Eff. June 21, 2002
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1654 Board; appointment, terms, and qualifications of members; vacancy; compensation and expenses; election of chairperson; oath; conducting business at public meeting; public notice; special meetings; removal of members; review; expense items and financial records; availability of writings to public; single board governing all authorities; member as resident or having interest in property; planning commission serving as board in certain municipalities; modification by interlocal agreement.

Sec. 4. (1) Except as provided in subsections (7), (8), and (9), an authority shall be under the supervision and control of a board consisting of the chief executive officer of the municipality and not less than 8 or more than 12 members as determined by the governing body of the municipality. Members shall be appointed by the chief executive officer of the municipality, subject to approval by the governing body of the municipality. Not less than a majority of the members shall be persons having an interest in property located in the downtown district or officers, members, trustees, principals, or employees of a legal entity having an interest in property located in the downtown district. Not less than 1 of the members shall be a resident of the downtown district, if the downtown district has 100 or more persons residing within it. Of the members first appointed, an equal number of the members, as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office until the member's successor is appointed. Thereafter, each member shall

serve for a term of 4 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board.

(2) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(3) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall adopt rules consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

(4) Pursuant to notice and after having been given an opportunity to be heard, a member of the board may be removed for cause by the governing body. Removal of a member is subject to review by the circuit court.

(5) All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(6) In addition to the items and records prescribed in subsection (5), a writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) By resolution of its governing body, a municipality having more than 1 authority may establish a single board to govern all authorities in the municipality. The governing body may designate the board of an existing authority as the board for all authorities or may establish by resolution a new board in the same manner as provided in subsection (1). A member of a board governing more than 1 authority may be a resident of or have an interest in property in any of the downtown districts controlled by the board in order to meet the requirements of this section.

(8) By ordinance, the governing body of a municipality that has a population of less than 5,000 may have the municipality's planning commission created pursuant to 1931 PA 285, MCL 125.31 to 125.45, serve as the board provided for in subsection (1).

(9) If a municipality enters into an agreement with a qualified township under section 3(7), the membership of the board may be modified by the interlocal agreement described in section 3(7).

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975 ;-- Am. 1978, Act 521, Imd. Eff. Dec. 20, 1978 ;-- Am. 1985, Act 159, Imd. Eff. Nov. 15, 1985 ;-- Am. 1987, Act 66, Imd. Eff. June 25, 1987 ;-- Am. 2005, Act 115, Imd. Eff. Sept. 22, 2005 ;-- Am. 2006, Act 279, Imd. Eff. July 7, 2006
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1655 Director, acting director, treasurer, secretary, legal counsel, and other personnel.

Sec. 5. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body of the municipality. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before entering upon the duties of his office, the director shall take and subscribe to the constitutional oath, and furnish bond, by posting a bond in the penal sum determined in the ordinance establishing the authority payable to the authority for use and benefit of the authority, approved by the board, and filed with the municipal clerk. The premium on the bond shall be deemed an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority. Subject to the approval of the board, the director shall supervise, and be responsible for, the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board, and shall render to the board and to the governing body of the municipality a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of his office, the acting director shall take and subscribe to the oath, and furnish bond, as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may employ and fix the compensation of a treasurer, who shall keep the financial records of the authority and who, together with the director,

shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform such other duties as may be delegated to him by the board and shall furnish bond in an amount as prescribed by the board.

(3) The board may employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings, and shall perform such other duties delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel shall represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel deemed necessary by the board.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1656 Participation of employees in municipal retirement and insurance programs.

Sec. 6. The employees of an authority shall be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees except that the employees of an authority are not civil service employees.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1657 Powers of board; creation, operation, or funding of retail business incubator.

Sec. 7. (1) The board may:

(a) Prepare an analysis of economic changes taking place in the downtown district.

(b) Study and analyze the impact of metropolitan growth upon the downtown district.

(c) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the board, aids in the economic growth of the downtown district.

(d) Plan, propose, and implement an improvement to a public facility within the development area to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(e) Develop long-range plans, in cooperation with the agency which is chiefly responsible for planning in the municipality, designed to halt the deterioration of property values in the downtown district and to promote the economic growth of the downtown district, and take such steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible.

(f) Implement any plan of development in the downtown district necessary to achieve the purposes of this act, in accordance with the powers of the authority as granted by this act.

(g) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(h) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in property, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect to that property.

(i) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, and operate any building, including multiple-family dwellings, and any necessary or desirable appurtenances to that property, within the downtown district for the use, in whole or in part, of any public or private person or corporation, or a combination of them.

(j) Fix, charge, and collect fees, rents, and charges for the use of any building or property under its control or any part thereof, or facility therein, and pledge the

fees, rents, and charges for the payment of revenue bonds issued by the authority.

(k) Lease any building or property under its control, or any part of a building or property.

(l) Accept grants and donations of property, labor, or other things of value from a public or private source.

(m) Acquire and construct public facilities.

(n) Create, operate, and fund marketing initiatives that benefit only retail and general marketing of the downtown district.

(o) Contract for broadband service and wireless technology service in the downtown district.

(p) Operate and perform all duties and exercise all responsibilities described in this section in a qualified township if the qualified township has entered into an agreement with the municipality under section 3(7).

(q) Create, operate, and fund a loan program to fund improvements for existing buildings located in a downtown district to make them marketable for sale or lease. The board may make loans with interest at a market rate or may make loans with interest at a below market rate, as determined by the board.

(r) Create, operate, and fund retail business incubators in the downtown district.

(2) If it is the express determination of the board to create, operate, or fund a retail business incubator in the downtown district, the board shall give preference to tenants who will provide goods or services that are not available or that are underserved in the downtown area. If the board creates, operates, or funds retail business incubators in the downtown district, the board and each tenant who leases space in a retail business incubator shall enter into a written contract that includes, but is not limited to, all of the following:

(a) The lease or rental rate that may be below the fair market rate as determined by the board.

(b) The requirement that a tenant may lease space in the retail business incubator for a period not to exceed 18 months.

(c) The terms of a joint operating plan with 1 or more other businesses located in the downtown district.

(d) A copy of the business plan of the tenant that contains measurable goals and objectives.

(e) The requirement that the tenant participate in basic management classes, business seminars, or other business education programs offered by the authority, the local chamber of commerce, local community colleges, or institutions of higher education, as determined by the board.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975 ;-- Am. 1985, Act 221, Imd. Eff. Jan. 10, 1986 ;-- Am. 2004, Act 196, Imd. Eff. July 8, 2004 ;-- Am. 2005, Act 115, Imd. Eff. Sept. 22, 2005 ;-- Am. 2008, Act 226, Imd. Eff. July 17, 2008
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1658 Board serving as planning commission; agenda.

Sec. 8. If a board created under this act serves as the planning commission under section 2 of Act No. 285 of the Public Acts of 1931, being section 125.32 of the Michigan Compiled Laws, the board shall include planning commission business in its agenda.

History: Add. 1987, Act 66, Imd. Eff. June 25, 1987
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1659 Authority as instrumentality of political subdivision.

Sec. 9. The authority shall be deemed an instrumentality of a political subdivision for purposes of Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1660 Taking, transfer, and use of private property

Sec. 10. A municipality may take private property under Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the

Michigan Compiled Laws, for the purpose of transfer to the authority, and may transfer the property to the authority for use in an approved development, on terms and conditions it deems appropriate, and the taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1661 Financing activities of authority; disposition of money received by authority; municipal obligations.
Sec. 11. (1) The activities of the authority shall be financed from 1 or more of the following sources:

(a) Donations to the authority for the performance of its functions.

(b) Proceeds of a tax imposed pursuant to section 12.

(c) Money borrowed and to be repaid as authorized by sections 13 and 13a.

(d) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(e) Proceeds of a tax increment financing plan, established under sections 14 to 16.

(f) Proceeds from a special assessment district created as provided by law.

(g) Money obtained from other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.

(h) Money obtained pursuant to section 13b.

(i) Revenue from the federal facility development act, Act No. 275 of the Public Acts of 1992, being sections 3.931 to 3.940 of the Michigan Compiled Laws, or revenue transferred pursuant to section 11a of chapter 2 of the city income tax

act, Act No. 284 of the Public Acts of 1964, being section 141.611a of the Michigan Compiled Laws.

(j) Revenue from the federal data facility act, Act No. 126 of the Public Acts of 1993, being sections 3.951 to 3.961 of the Michigan Compiled Laws, or revenue transferred pursuant to section 11b of chapter 2 of the city income tax act, Act No. 284 of the Public Acts of 1964, being section 141.611b of the Michigan Compiled Laws.

(2) Money received by the authority and not covered under subsection (1) shall immediately be deposited to the credit of the authority, subject to disbursement pursuant to this act. Except as provided in this act, the municipality shall not obligate itself, nor shall it ever be obligated to pay any sums from public funds, other than money received by the municipality pursuant to this section, for or on account of the activities of the authority.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975 ;-- Am. 1981, Act 34, Imd. Eff. May 11, 1981 ;-- Am. 1992, Act 279, Imd. Eff. Dec. 18, 1992 ;-- Am. 1993, Act 122, Imd. Eff. July 20, 1993 ;-- Am. 1993, Act 323, Eff. Mar. 15, 1994
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1662 Ad valorem tax; borrowing in anticipation of collection.
Sec. 12. (1) An authority with the approval of the municipal governing body may levy an ad valorem tax on the real and tangible personal property not exempt by law and as finally equalized in the downtown district. The tax shall not be more than 1 mill if the downtown district is in a municipality having a population of 1,000,000 or more, or not more than 2 mills if the downtown district is in a municipality having a population of less than 1,000,000. The tax shall be collected by the municipality creating the authority levying the tax. The municipality shall collect the tax at the same time and in the same manner as it collects its other ad valorem taxes. The tax shall be paid to the treasurer of the authority and credited to the general fund of the authority for purposes of the authority.

(2) The municipality may at the request of the authority borrow money and issue its notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of the ad valorem tax authorized in this section.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975 ;-- Am. 1983, Act 86, Imd. Eff. June 16, 1983 ;-- Am. 2002, Act 234, Imd. Eff. Apr. 29, 2002
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1663 Revenue bonds.

Sec. 13. The authority may borrow money and issue its negotiable revenue bonds therefor pursuant to Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Michigan Compiled Laws. Revenue bonds issued by the authority shall not except as hereinafter provided be deemed a debt of the municipality or the state. The municipality by majority vote of the members of its governing body may pledge its full faith and credit to support the authority's revenue bonds.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1663a Borrowing money; issuing revenue bonds or notes; purpose; costs; security; pledge and lien of pledge valid and binding; filing or recordation not required; tax exemption; bonds or notes neither liability nor debt of municipality; statement; investment and deposit of bonds and notes.

Sec. 13a. (1) The authority may with approval of the local governing body borrow money and issue its revenue bonds or notes to finance all or part of the costs of acquiring or constructing property in connection with the implementation of a development plan in the downtown district or to refund or refund in advance bonds or notes issued pursuant to this section. The costs which may be financed by the issuance of revenue bonds or notes may include the cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing property in connection with the implementation of a development plan in the downtown district; any engineering, architectural, legal, accounting, or financial expenses; the costs necessary or incidental to the borrowing of money; interest on the bonds or notes during the period of construction; a reserve for payment of principal and interest on the bonds or notes; and a reserve for operation and maintenance until sufficient revenues have developed. The authority may secure the bonds and notes by mortgage, assignment, or pledge of the property and any money, revenues, or income received in connection therewith.

(2) A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged by the authority immediately

shall be subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of such a pledge shall be valid and binding as against parties having claims of any kind in tort, contract, or otherwise, against the authority, irrespective of whether the parties have notice of the lien. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created need be filed or recorded.

(3) Bonds or notes issued pursuant to this section shall be exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes shall be exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(4) The municipality shall not be liable on bonds or notes of the authority issued pursuant to this section and the bonds or notes shall not be a debt of the municipality. The bonds or notes shall contain on their face a statement to that effect.

(5) The bonds and notes of the authority may be invested in by all public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by all public officers and the agencies and political subdivisions of this state for any purpose for which the deposit of bonds is authorized.

History: Add. 1981, Act 151, Imd. Eff. Nov. 19, 1981
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1663b Insufficient tax increment revenues to repay advance or pay obligation; contents, time, and payment of claim; appropriation and distribution of aggregate amount; limitations; distribution subject to lien; obligation as debt or liability; certification of distribution amount; basis for calculation of distributions and claim reports.
Sec. 13b. (1) If the amount of tax increment revenues lost as a result of the reduction of taxes levied by local school districts for school operating purposes required by the millage limitations under section 1211 of the school code of 1976, 1976 PA 451, MCL 380.1211, reduced by the amount of tax increment revenues received from the capture of taxes levied under or attributable to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, will cause the tax increment revenues received in a fiscal year by an authority under section 15 to be insufficient to repay an eligible advance or to pay an eligible

obligation, the legislature shall appropriate and distribute to the authority the amount described in subsection (5).

(2) Not less than 30 days before the first day of a fiscal year, an authority eligible to retain tax increment revenues from taxes levied by a local or intermediate school district or this state or to receive a distribution under this section for that fiscal year shall file a claim with the department of treasury. The claim shall include the following information:

(a) The property tax millage rates levied in 1993 by local school districts within the jurisdictional area of the authority for school operating purposes.

(b) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(c) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(d) The tax increment revenues the authority estimates it would have received for that fiscal year if property taxes were levied by local school districts within the jurisdictional area of the authority for school operating purposes at the millage rates described in subdivision (a) and if no property taxes were levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(e) A list and documentation of eligible obligations and eligible advances and the payments due on each of those eligible obligations or eligible advances in that fiscal year, and the total amount of all the payments due on those eligible obligations and eligible advances in that fiscal year.

(f) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation or the repayment of an eligible advance. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is

enacted on or after December 1, 1993, for use by the municipality or authority to finance a development project.

(g) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(h) A list and documentation of other protected obligations and the payments due on each of those other protected obligations in that fiscal year, and the total amount of all the payments due on those other protected obligations in that fiscal year.

(3) For the fiscal year that commences after September 30, 1993 and before October 1, 1994, an authority may make a claim with all information required by subsection (2) at any time after March 15, 1994.

(4) After review and verification of claims submitted pursuant to this section, amounts appropriated by the state in compliance with this act shall be distributed as 2 equal payments on March 1 and September 1 after receipt of a claim. An authority shall allocate a distribution it receives for an eligible obligation issued on behalf of a municipality to the municipality.

(5) Subject to subsections (6) and (7), the aggregate amount to be appropriated and distributed pursuant to this section to an authority shall be the sum of the amounts determined pursuant to subdivisions (a) and (b) minus the amount determined pursuant to subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if property taxes were levied by local school districts for school operating purposes at the millage rates described in subsection (2)(a) and if no property taxes were levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported pursuant to subsection (2)(g) that had not previously increased a distribution.

(c) An excess amount required to be reported pursuant to subsection (2)(g) that had not previously decreased a distribution.

(6) The amount distributed under subsection (5) shall not exceed the difference between the amount described in subsection (2)(e) and the sum of the amounts described in subsection (2)(c) and (f).

(7) If, based upon the tax increment financing plan in effect on August 19, 1993, the payment due on eligible obligations or eligible advances anticipates the use of excess prior year tax increment revenues permitted by law to be retained by the authority, and if the sum of the amounts described in subsection (2)(c) and (f) plus the amount to be distributed under subsections (5) and (6) is less than the amount described in subsection (2)(e), the amount to be distributed under subsections (5) and (6) shall be increased by the amount of the shortfall. However, the amount authorized to be distributed pursuant to this section shall not exceed that portion of the cumulative difference, for each preceding fiscal year, between the amount that could have been distributed pursuant to subsection (5) and the amount actually distributed pursuant to subsections (5) and (6) and this subsection.

(8) A distribution under this section replacing tax increment revenues pledged by an authority or a municipality is subject to the lien of the pledge, whether or not there has been physical delivery of the distribution.

(9) Obligations for which distributions are made pursuant to this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(10) Not later than July 1 of each year, the authority shall certify to the local tax collecting treasurer the amount of the distribution required under subsection (5), calculated without regard to the receipt of tax increment revenues attributable to local or intermediate school district taxes or attributable to taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(11) Calculations of distributions under this section and claims reports required to be made under subsection (2) shall be made on the basis of each development area of the authority.

(12) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt

payment period used by the authority and approved by the state tax commission.

History: Add. 1993, Act 323, Eff. Mar. 15, 1994 ;-- Am. 1994, Act 280, Imd. Eff. July 11, 1994 ;-- Am. 1996, Act 269, Imd. Eff. June 12, 1996 ;-- Am. 1996, Act 454, Imd. Eff. Dec. 19, 1996 ;-- Am. 1997, Act 202, Imd. Eff. Jan. 13, 1998
Compiler's Notes: Enacting section 1 of Act 202 of 1997 provides:"The provisions of section 1 and section 13b, as amended by this amendatory act, are retroactive and effective for taxes levied after 1993."
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1663c Retention and payment of taxes levied under state education tax act; conditions; application by authority for approval; information to be included; approval, modification, or denial of application by department of treasury; appropriation and distribution of amount; calculation of aggregate amount; lien; reimbursement calculations; legislative intent.
Sec. 13c. (1) If the amount of tax increment revenues lost as a result of the personal property tax exemptions provided by section 1211(4) of the revised school code, 1976 PA 451, MCL 380.1211, section 3 of the state education tax act, 1993 PA 331, MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will reduce the allowable school tax capture received in a fiscal year, then, notwithstanding any other provision of this act, the authority, with approval of the department of treasury under subsection (3), may request the local tax collecting treasurer to retain and pay to the authority taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used for the following:

(a) To repay an eligible advance.

(b) To repay an eligible obligation.

(c) To repay an other protected obligation.

(2) Not later than June 15 of 2008 and not later than June 1 of each subsequent year, an authority eligible under subsection (1) to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section, shall apply for approval with the department of treasury. The application for approval shall include the following information:

(a) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(b) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(c) The tax increment revenues the authority estimates it would have received for that fiscal year if the personal property tax exemptions described in subsection (1) were not in effect.

(d) A list of eligible obligations, eligible advances, and other protected obligations, the payments due on each of those in that fiscal year, and the total amount of all the payments due on all of those in that fiscal year.

(e) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation, the repayment of an eligible advance, or the payment of an other protected obligation. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development plan.

(f) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(3) Not later than August 15 of each year, based on the calculations under subsection (5), the department of treasury shall approve, modify, or deny the application for approval to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section. If the application for approval contains the information required under subsection (2)(a) through (f) and appears to be in substantial compliance with the provisions of this section, then the department of treasury shall approve the application. If the application is denied by the department of treasury, then the department of treasury shall provide the opportunity for a representative of the authority to discuss the denial within 21 days after the

denial occurs and shall sustain or modify its decision within 30 days after receiving information from the authority. If the application for approval is approved or modified by the department of treasury, the local tax collecting treasurer shall retain and pay to the authority the amount described in subsection (5) as approved by the department. If the department of treasury denies the authority's application for approval, the local tax collecting treasurer shall not retain or pay to the authority the taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the department does not prohibit a subsequent audit of taxes retained in accordance with the procedures currently authorized by law.

(4) Each year the legislature shall appropriate and distribute an amount sufficient to pay each authority the following:

(a) If the amount to be retained and paid under subsection (3) is less than the amount calculated under subsection (5), the difference between those amounts.

(b) If the application for approval is denied by the department of treasury, an amount verified by the department equal to the amount calculated under subsection (5).

(5) Subject to subsection (6), the aggregate amount under this section shall be the sum of the amounts determined under subdivisions (a) and (b) minus the amount determined under subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received and retained for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax exemptions described in subsection (1) were not in effect, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported under subsection (2)(f) that had not previously increased a distribution.

(c) An excess amount required to be reported under subsection (2)(f) that had not previously decreased a distribution.

(6) A distribution or taxes retained under this section replacing tax increment revenues pledged by an authority or a municipality are subject to any lien of the

pledge described in subsection (1), whether or not there has been physical delivery of the distribution.

(7) Obligations for which distributions are made under this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(8) Not later than September 15 of each year, the authority shall provide a copy of the application for approval approved by the department of treasury to the local tax collecting treasurer and provide the amount of the taxes retained and paid to the authority under subsection (5).

(9) Calculations of amounts retained and paid and appropriations to be distributed under this section shall be made on the basis of each development area of the authority.

(10) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

(11) It is the intent of the legislature that, to the extent that the total amount of taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be retained under this section and section 11b of the local development financing act, 1986 PA 281, MCL 125.2161b, section 15a of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2665a, and section 12b of the tax increment financing act, 1980 PA 450, MCL 125.1812b, exceeds the difference of the total school aid fund revenue for the tax year minus the estimated amount of revenue the school aid fund would have received for the tax year had the tax exemptions described in subsection (1) and the earmark created by section 515 of the Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken effect, the general fund shall reimburse the school aid fund the difference.

History: Add. 2008, Act 157, Imd. Eff. June 5, 2008
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1664 Tax increment financing plan; preparation and contents; limitation; definition; public hearing; fiscal and economic implications; recommendations; agreements; modification of plan.
Sec. 14. (1) When the authority determines that it is necessary for the achievement of the purposes of this act, the authority shall prepare and submit a tax increment financing plan to the governing body of the municipality. The plan shall include a development plan as provided in section 17, a detailed explanation of the tax increment procedure, the maximum amount of bonded indebtedness to be incurred, and the duration of the program, and shall be in compliance with section 15. The plan shall contain a statement of the estimated impact of tax increment financing on the assessed values of all taxing jurisdictions in which the development area is located. The plan may provide for the use of part or all of the captured assessed value, but the portion intended to be used by the authority shall be clearly stated in the tax increment financing plan. The authority or municipality may exclude from captured assessed value growth in property value resulting solely from inflation. The plan shall set forth the method for excluding growth in property value resulting solely from inflation.

(2) The percentage of taxes levied for school operating purposes that is captured and used by the tax increment financing plan shall not be greater than the plan's percentage capture and use of taxes levied by a municipality or county for operating purposes. For purposes of the previous sentence, taxes levied by a county for operating purposes include only millage allocated for county or charter county purposes under the property tax limitation act, Act No. 62 of the Public Acts of 1933, being sections 211.201 to 211.217a of the Michigan Compiled Laws. For purposes of this subsection, tax increment revenues used to pay bonds issued by a municipality under section 16(1) shall be considered to be used by the tax increment financing plan rather than shared with the municipality. The limitation of this subsection does not apply to the portion of the captured assessed value shared pursuant to an agreement entered into before 1989 with a county or with a city in which an enterprise zone is approved under section 13 of the enterprise zone act, Act No. 224 of the Public Acts of 1985, being section 125.2113 of the Michigan Compiled Laws.

(3) Approval of the tax increment financing plan shall be pursuant to the notice, hearing, and disclosure provisions of section 18. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together.

(4) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to meet with the governing body. The authority shall fully inform the taxing jurisdictions of the fiscal and economic implications of the proposed development area. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the development area is located to share a portion of the captured assessed value of the district.

(5) A tax increment financing plan may be modified if the modification is approved by the governing body upon notice and after public hearings and agreements as are required for approval of the original plan.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975 ;-- Am. 1979, Act 26, Imd. Eff. June 6, 1979 ;-- Am. 1981, Act 34, Imd. Eff. May 11, 1981 ;-- Am. 1986, Act 229, Imd. Eff. Oct. 1, 1986 ;-- Am. 1988, Act 425, Imd. Eff. Dec. 27, 1988 ;-- Am. 1989, Act 108, Imd. Eff. June 23, 1989 ;-- Am. 1993, Act 323, Eff. Mar. 15, 1994
Compiler's Notes: Section 2 of Act 425 of 1988 provides: "This amendatory act is effective beginning with taxes levied in 1989. However, for taxes levied before 1989, tax increment revenues based on the definition of initial assessed value provided for in this amendatory act that were received by an authority are validated."
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1665 Transmitting and expending tax increments revenues; reversion of surplus funds; abolition of tax increment financing plan; conditions; annual report on status of tax increment financing account; contents; publication.

Sec. 15. (1) The municipal and county treasurers shall transmit to the authority tax increment revenues.

(2) The authority shall expend the tax increment revenues received for the development program only pursuant to the tax increment financing plan. Surplus funds shall revert proportionately to the respective taxing bodies. These revenues shall not be used to circumvent existing property tax limitations. The governing body of the municipality may abolish the tax increment financing plan when it finds that the purposes for which it was established are accomplished. However, the tax increment financing plan shall not be abolished until the principal of, and interest on, bonds issued pursuant to section 16 have been paid or funds sufficient to make the payment have been segregated.

(3) Annually the authority shall submit to the governing body of the municipality and the state tax commission a report on the status of the tax increment financing account. The report shall be published in a newspaper of general circulation in the municipality and shall include the following:

(a) The amount and source of revenue in the account.

(b) The amount in any bond reserve account.

(c) The amount and purpose of expenditures from the account.

(d) The amount of principal and interest on any outstanding bonded indebtedness.

(e) The initial assessed value of the project area.

(f) The captured assessed value retained by the authority.

(g) The tax increment revenues received.

(h) The number of jobs created as a result of the implementation of the tax increment financing plan.

(i) Any additional information the governing body or the state tax commission considers necessary.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975 ;-- Am. 1979, Act 26, Imd. Eff. June 6, 1979 ;-- Am. 1981, Act 34, Imd. Eff. May 11, 1981 ;-- Am. 1986, Act 229, Imd. Eff. Oct. 1, 1986 ;-- Am. 1988, Act 425, Imd. Eff. Dec. 27, 1988 ;-- Am. 1992, Act 279, Imd. Eff. Dec. 18, 1992 ;-- Am. 1993, Act 323, Eff. Mar. 15, 1994
Compiler's Notes: Section 2 of Act 425 of 1988 provides: "This amendatory act is effective beginning with taxes levied in 1989. However, for taxes levied before 1989, tax increment revenues based on the definition of initial assessed value provided for in this amendatory act that were received by an authority are validated."
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1666 General obligation bonds and tax increment bonds; qualified refunding obligation.

Sec. 16. (1) The municipality may by resolution of its governing body authorize, issue, and sell general obligation bonds subject to the limitations set

forth in this subsection to finance the development program of the tax increment financing plan and shall pledge its full faith and credit for the payment of the bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality pursuant to section 11. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Before the municipality may authorize the borrowing, the authority shall submit an estimate of the anticipated tax increment revenues and other revenue available under section 11 to be available for payment of principal and interest on the bonds, to the governing body of the municipality. This estimate shall be approved by the governing body of the municipality by resolution adopted by majority vote of the members of the governing body in the resolution authorizing the bonds. If the governing body of the municipality adopts the resolution authorizing the bonds, the estimate of the anticipated tax increment revenues and other revenue available under section 11 to be available for payment of principal and interest on the bonds shall be conclusive for purposes of this section. The bonds issued under this subsection shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2801.

(2) By resolution of its governing body, the authority may authorize, issue, and sell tax increment bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan. The tax increment bonds issued by the authority under this subsection shall pledge solely the tax increment revenues of a development area in which the project is located or a development area from which tax increment revenues may be used for this project, or both. In addition or in the alternative, the bonds issued by the authority pursuant to this subsection may be secured by any other revenues identified in section 11 as sources of financing for activities of the authority that the authority shall specifically pledge in the resolution. However, the full faith and credit of the municipality shall not be pledged to secure bonds issued pursuant to this subsection. The bond issue may include a sum sufficient to pay interest on the tax increment bonds until full development of tax increment revenues from the project and also a sum to provide a reasonable reserve for payment of principal and interest on the bonds. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution. Bonds issued under this subsection that pledge revenue received

under section 11 for repayment of the bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) Notwithstanding any other provision of this act, if the state treasurer determines that an authority or municipality can issue a qualified refunding obligation and the authority or municipality does not make a good faith effort to issue the qualified refunding obligation as determined by the state treasurer, the state treasurer may reduce the amount claimed by the authority or municipality under section 13b by an amount equal to the net present value saving that would have been realized had the authority or municipality refunded the obligation or the state treasurer may require a reduction in the capture of tax increment revenues from taxes levied by a local or intermediate school district or this state by an amount equal to the net present value savings that would have been realized had the authority or municipality refunded the obligation. This subsection does not authorize the state treasurer to require the authority or municipality to pledge security greater than the security pledged for the obligation being refunded.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975 ;-- Am. 1981, Act 34, Imd. Eff. May 11, 1981 ;-- Am. 1983, Act 34, Imd. Eff. May 10, 1983 ;-- Am. 1985, Act 159, Imd. Eff. Nov. 15, 1985 ;-- Am. 1992, Act 279, Imd. Eff. Dec. 18, 1992 ;-- Am. 1993, Act 122, Imd. Eff. July 20, 1993 ;-- Am. 1993, Act 323, Eff. Mar. 15, 1994 ;-- Am. 1996, Act 269, Imd. Eff. June 12, 1996 ;-- Am. 2002, Act 234, Imd. Eff. Apr. 29, 2002
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1667 Development plan; preparation; contents; improvements related to qualified facility.

Sec. 17. (1) When a board decides to finance a project in the downtown district by the use of revenue bonds as authorized in section 13 or tax increment financing as authorized in sections 14, 15, and 16, it shall prepare a development plan.

(2) The development plan shall contain all of the following:

(a) The designation of boundaries of the development area in relation to highways, streets, streams, or otherwise.

(b) The location and extent of existing streets and other public facilities within the development area, shall designate the location, character, and extent of the categories of public and private land uses then existing and proposed for the

development area, including residential, recreational, commercial, industrial, educational, and other uses, and shall include a legal description of the development area.

(c) A description of existing improvements in the development area to be demolished, repaired, or altered, a description of any repairs and alterations, and an estimate of the time required for completion.

(d) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the development area and an estimate of the time required for completion.

(e) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(f) A description of any parts of the development area to be left as open space and the use contemplated for the space.

(g) A description of any portions of the development area that the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

(h) A description of desired zoning changes and changes in streets, street levels, intersections, or utilities.

(i) An estimate of the cost of the development, a statement of the proposed method of financing the development, and the ability of the authority to arrange the financing.

(j) Designation of the person or persons, natural or corporate, to whom all or a portion of the development is to be leased, sold, or conveyed in any manner and for whose benefit the project is being undertaken if that information is available to the authority.

(k) The procedures for bidding for the leasing, purchasing, or conveying in any manner of all or a portion of the development upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed in any manner to those persons.

(l) Estimates of the number of persons residing in the development area and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, a development plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those units in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(m) A plan for establishing priority for the relocation of persons displaced by the development in any new housing in the development area.

(n) Provision for the costs of relocating persons displaced by the development and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the federal uniform relocation assistance and real property acquisition policies act of 1970, being Public Law 91-646, 42 U.S.C. sections 4601, et seq.

(o) A plan for compliance with Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

(p) Other material that the authority, local public agency, or governing body considers pertinent.

(3) A development plan may provide for improvements related to a qualified facility, as defined in the federal facility development act, Act No. 275 of the Public Acts of 1992, being sections 3.931 to 3.940 of the Michigan Compiled Laws, that is located outside of the boundaries of the development area but within the district, including the cost of construction, renovation, rehabilitation, or acquisition of that qualified facility or of public facilities and improvements related to that qualified facility.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975 ;-- Am. 1992, Act 279, Imd. Eff. Dec. 18, 1992 ;-- Am. 1993, Act 122, Imd. Eff. July 20, 1993
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1668 Ordinance approving development plan or tax increment financing plan; public hearing; notice; record.
Sec. 18. (1) The governing body, before adoption of an ordinance approving or amending a development plan or approving or amending a tax increment financing plan, shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall be not less than 20 days before the date set for the hearing. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the downtown district not less than 20 days before the hearing. Notice shall also be mailed to all property taxpayers of record in the downtown district not less than 20 days before the hearing. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the development plan or the tax increment financing plan is approved or amended.

(2) Notice of the time and place of hearing on a development plan shall contain: a description of the proposed development area in relation to highways, streets, streams, or otherwise; a statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice, and that all aspects of the development plan will be open for discussion at the public hearing; and other information that the governing body considers appropriate. At the time set for hearing, the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the development plan. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented thereat.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975 ;-- Am. 2005, Act 13, Imd. Eff. May 4, 2005
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1669 Development plan or tax increment financing plan as constituting public purpose; determination; ordinance; considerations.
Sec. 19. (1) The governing body after a public hearing on the development plan or the tax increment financing plan, or both, with notice thereof given in

accordance with section 18, shall determine whether the development plan or tax increment financing plan constitutes a public purpose. If it determines that the development plan or tax increment financing plan constitutes a public purpose, it shall then approve or reject the plan, or approve it with modification, by ordinance based on the following considerations:

(a) The findings and recommendations of a development area citizens council, if a development area citizens council was formed.

(b) The plan meets the requirements set forth in section 17 (2).

(c) The proposed method of financing the development is feasible and the authority has the ability to arrange the financing.

(d) The development is reasonable and necessary to carry out the purposes of this act.

(e) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plan and of this act in an efficient and economically satisfactory manner.

(f) The development plan is in reasonable accord with the master plan of the municipality.

(g) Public services, such as fire and police protection and utilities, are or will be adequate to service the project area.

(h) Changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

(2) Amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1670 Notice to vacate.
Sec. 20. A person to be relocated under this act shall be given not less than 90 days' written notice to vacate unless modified by court order for good cause.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1671 Development area citizens council; establishment; appointment and qualifications of members; representative of development area.
Sec. 21. (1) If a proposed development area has residing within it 100 or more residents, a development area citizens council shall be established at least 90 days before the public hearing on the development or tax increment financing plan. The development area citizens council shall be established by the governing body and shall consist of not less than 9 members. The members of the development area citizens council shall be residents of the development area and shall be appointed by the governing body. A member of a development area citizens council shall be at least 18 years of age.

(2) A development area citizens council shall be representative of the development area.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1672 Development area citizens council; advisory body.
Sec. 22. A development area citizens council established pursuant to this act shall act an advisory body to the authority and the governing body in the adoption of the development or tax increment financing plans.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1673 Consultation.
Sec. 23. Periodically a representative of the authority responsible for preparation of a development or tax increment financing plan within the development area shall consult with and advise the development area citizens council regarding the aspects of a development plan, including the development of new housing for relocation purposes located either inside or outside of the development area. The consultation shall begin before any final decisions by the authority and the governing body regarding a development or tax increment financing plan. The consultation shall continue throughout the preparation and implementation of the development or tax increment financing plan.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1674 Development area citizens council; meetings; notice; record; information and technical assistance; failure to organize, consult, or advise.
Sec. 24. (1) Meetings of the development area citizens council shall be open to the public. Notice of the time and place of the meetings shall be given by publication in a newspaper of general circulation not less than 5 days before the dates set for meetings of the development area citizens council. A person present at those meetings shall have reasonable opportunity to be heard.

(2) A record of the meetings of a development area citizens council, including information and data presented, shall be maintained by the council.

(3) A development area citizens council may request of and receive from the authority information and technical assistance relevant to the preparation of the development plan for the development area.

(4) Failure of a development area citizens council to organize or to consult with and be advised by the authority, or failure to advise the governing body, as provided in this act, shall not preclude the adoption of a development plan by a municipality if the municipality complies with the other provisions of this act.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1675 Citizens district council as development area citizens council.
Sec. 25. In a development area where a citizens district council established according to Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to 125.84 of the Michigan Compiled Laws, already exists the governing body may designate it as the development area citizens council authorized by this act.
History: 1975, Act 197, Imd. Eff. Aug. 13, 1975
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1676 Notice of findings and recommendations.
Sec. 26. Within 20 days after the public hearing on a development or tax increment financing plan, the development area citizens council shall notify the

governing body, in writing, of its findings and recommendations concerning a proposed development plan.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1677 Development area citizens council; dissolution.
Sec. 27. A development area citizens council may not be required and, if formed, may be dissolved in any of the following situations:

(a) On petition of not less than 20% of the adult resident population of the development area by the last federal decennial or municipal census, a governing body, after public hearing with notice thereof given in accordance with section 18 and by a 2/3 vote, may adopt an ordinance for the development area to eliminate the necessity of a development area citizens council.

(b) When there are less than 18 residents, real property owners, or representatives of establishments located in the development area eligible to serve on the development area citizens council.

(c) Upon termination of the authority by ordinance of the governing body.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1678 Budget; cost of handling and auditing funds.
Sec. 28. (1) The director of the authority shall prepare and submit for the approval of the board a budget for the operation of the authority for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. Before the budget may be adopted by the board, it shall be approved by the governing body of the municipality. Funds of the municipality shall not be included in the budget of the authority except those funds authorized in this act or by the governing body of the municipality.

(2) The governing body of the municipality may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed, which cost shall be paid annually by the board pursuant to an appropriate item in its budget.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1679 Historic sites.

Sec. 29. (1) A public facility, building, or structure that is determined by the municipality to have significant historical interests shall be preserved in a manner as considered necessary by the municipality in accordance with laws relative to the preservation of historical sites. The preservation of facilities, buildings, or structures determined to be historic sites by a municipality shall include, at a minimum, equipping the historic site with a fire alarm system.

(2) An authority shall refer all proposed changes to the exterior of sites listed on the state register of historic sites and the national register of historic places to the applicable historic district commission created under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, or the department of history, arts, and libraries for review.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975 ;-- Am. 2001, Act 68, Imd. Eff. July 24, 2001 ;-- Am. 2004, Act 66, Imd. Eff. Apr. 20, 2004
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1680 Dissolution of authority; disposition of property and assets; reinstatement of authority; contesting validity of proceedings, findings, and determinations.

Sec. 30. (1) An authority that has completed the purposes for which it was organized shall be dissolved by ordinance of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority belong to the municipality.

(2) An authority established under this act before December 31, 1988, that is dissolved by ordinance of the governing body before September 30, 1990 and that is reinstated by ordinance of the governing body after notice and public hearing as provided in section 3(2) shall not be invalidated pursuant to a claim that, based upon the standards set forth in section 3(1), a governing body improperly determined that the necessary conditions existed for the reinstatement of an authority under the act if at the time the governing body established the authority the governing body determined or could have determined that the necessary conditions existed for the establishment of an authority under this act or could have determined that establishment of an

authority under this act would serve to promote economic growth and notwithstanding that the boundaries of the downtown district are altered at the time of reinstatement of the authority.

(3) In the resolution of intent, the municipality shall set a date for the holding of a public hearing on the adoption of a proposed ordinance reinstating the authority. The procedure for publishing the notice of hearing, holding the hearing, and adopting the ordinance reinstating the authority shall be as provided in section 3(2), (4), and (5).

(4) The validity of the proceedings, findings, and determinations reinstating an authority shall be conclusive unless contested in a court of competent jurisdiction within 60 days after the last of the following occurs:

(a) Publication of the ordinance reinstating the authority as adopted.

(b) Filing of the ordinance reinstating the authority with the secretary of state.

(c) May 27, 1993.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975 ;-- Am. 1993, Act 42, Imd. Eff. May 27, 1993 ;-- Am. 1993, Act 323, Eff. Mar. 15, 1994
Popular Name: DDA
Popular Name: Downtown Development Authority Act

125.1681 Proceedings to compel enforcement of act; rules.

Sec. 31. (1) The state tax commission may institute proceedings to compel enforcement of this act.

(2) The state tax commission may promulgate rules necessary for the administration of this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: Add. 1988, Act 425, Imd. Eff. Dec. 27, 1988
Compiler's Notes: Section 2 of Act 425 of 1988 provides: "This amendatory act is effective beginning with taxes levied in 1989. However, for taxes levied before 1989, tax increment revenues based on the definition of initial assessed value provided for in this amendatory act that were received by an authority are validated."
Popular Name: DDA
Popular Name: Downtown Development Authority Act

THE TAX INCREMENT FINANCE AUTHORITY ACT
Act 450 of 1980

AN ACT to prevent urban deterioration and encourage economic development and activity and to encourage neighborhood revitalization and historic preservation; to provide for the establishment of tax increment finance authorities and to prescribe their powers and duties; to authorize the acquisition and disposal of interests in real and personal property; to provide for the creation and implementation of development plans; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to permit the issuance of bonds and other evidences of indebtedness by an authority; to permit the use of tax increment financing; to reimburse authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state agencies and officers.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981 ;-- Am. 1988, Act 420, Imd. Eff. Dec. 27, 1988 ;-- Am. 1993, Act 322, Eff. Mar. 15, 1994
Popular Name: TIFA

The People of the State of Michigan enact:

125.1801 Definitions.
Sec. 1. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority. Evidence of the intent to repay an advance is required and may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved before the advance or before August 14, 1993, or a resolution of the authority or the municipality.

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

(i) For valuations made before January 1, 1995, the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

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

(c) "Authority" means a tax increment finance authority created under this act.

(d) "Authority district" means that area within which an authority exercises its powers and within which 1 or more development areas may exist.

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

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

(g) "Chief executive officer" means the mayor or city manager of a city, the president of a village, or the supervisor of a township.

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

(i) "Development area citizens council" or "council" means that advisory body established pursuant to section 20.

(j) "Development plan" means that information and those requirements for a development set forth in section 16.

(k) "Development program" means the implementation of the development plan.

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

(m) "Eligible obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19, 1993 and its subsequent refunding by a qualified refunding obligation. Eligible obligation includes an authority's written agreement entered into before August 19, 1993 to pay an obligation issued after August 18, 1993 and before December 31, 1996 by another entity on behalf of the authority. Eligible obligation also includes an ongoing management contract or contract for professional services or development services that was entered into by the authority or a municipality on behalf of the authority in 1991, and related

similar written agreements executed before 1984, if the 1991 agreement both provides for automatic annual renewal and incorporates by reference the prior related agreements; however, receipt by an authority of tax increment revenues authorized under subdivision (aa)(ii) in order to pay costs arising under those contracts shall be limited to:

(i) For taxes levied before July 1, 2005, the amount permitted to be received by an authority for an eligible obligation as provided in this act.

(ii) For taxes levied after June 30, 2005 and before July 1, 2006, $3,000,000.00.

(iii) For taxes levied after June 30, 2006 and before July 1, 2007, $3,000,000.00.

(iv) For taxes levied after June 30, 2007 and before July 1, 2008, $3,000,000.00.

(v) For taxes levied after June 30, 2008 and before July 1, 2009, $3,000,000.00.

(vi) For taxes levied after June 30, 2009 and before July 1, 2010, $3,000,000.00.

(vii) For taxes levied after June 30, 2010 and before July 1, 2011, $2,650,000.00.

(viii) For taxes levied after June 30, 2011 and before July 1, 2012, $2,400,000.00.

(ix) For taxes levied after June 30, 2012 and before July 1, 2013, $2,125,000.00.

(x) For taxes levied after June 30, 2013 and before July 1, 2014, $1,500,000.00.

(xi) For taxes levied after June 30, 2014 and before July 1, 2015, $1,150,000.00.

(xii) For taxes levied after June 30, 2015, $0.00.

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

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

(p) "Initial assessed value" means the assessed value, as equalized, of all the taxable property within the boundaries of the development area at the time the resolution establishing the tax increment financing plan is approved as shown by the most recent assessment roll of the municipality for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered property that is exempt from taxation. The initial assessed value of property for which a specific tax was paid in lieu of a property tax shall be determined as provided in subdivision (w).

(q) "Municipality" means a city.

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

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

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

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

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

other agreement.

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

(s) "On behalf of an authority", in relation to an eligible advance made by a municipality, or an eligible obligation or other protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by a municipality, or the eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

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

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

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

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

(t) "Other protected obligation" means:

(i) A qualified refunding obligation issued to refund an obligation described in subparagraph (ii) or (iii), an obligation that is not a qualified refunding obligation that is issued to refund an eligible obligation, or a qualified refunding obligation issued to refund an obligation described in this subparagraph.

(ii) An obligation issued or incurred by an authority or by a municipality on behalf of an authority after August 19, 1993, but before December 31, 1994, to finance a project described in a tax increment finance plan approved by the municipality in accordance with this act before December 31, 1993, for which

a contract for final design is entered into by the municipality or authority before March 1, 1994.

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

(iv) An obligation issued or incurred by an authority or by a municipality on behalf of an authority to implement a project described in a tax increment finance plan approved by the municipality in accordance with this act before August 19, 1993, that is located on land owned by a public university on the date the tax increment financing plan is approved, and for which a contract for final design is entered into before December 31, 1993.

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

(vi) An obligation issued or incurred by a municipality under a contract executed on December 19, 1994 as subsequently amended between the municipality and the authority to implement a project described in a tax increment finance plan approved by the municipality under this act before August 19, 1993 for which a contract for final design was entered into by the municipality before March 1, 1994 provided that final payment by the municipality is made on or before December 31, 2001.

(vii) An obligation issued or incurred by an authority or by a municipality on behalf of an authority that meets all of the following qualifications:

(A) The obligation is issued or incurred to finance a project described in a tax increment financing plan approved before August 19, 1993 by a municipality in accordance with this act.

(B) The obligation qualifies as an other protected obligation under subparagraph (ii) and was issued or incurred by the authority before December

31, 1994 for the purpose of financing the project.

(C) A portion of the obligation issued or incurred by the authority before December 31, 1994 for the purpose of financing the project was retired prior to December 31, 1996.

(D) The obligation does not exceed the dollar amount of the portion of the obligation retired prior to December 31, 1996.

(viii) An obligation incurred by an authority that meets both of the following qualifications:

(A) The obligation is a contract of lease originally executed on December 20, 1994 between the municipality and the authority to partially implement the authority's development plan and tax increment financing plan.

(B) The obligation qualifies as an obligation under subparagraph (ii). The obligation described in this subparagraph may be amended to extend cash rental payments for a period not to exceed 30 years through the year 2039. The duration of the development plan and tax increment financing plan described in this subparagraph is extended to 1 year after the final date that the extended cash rental payments are due.

(u) "Public facility" means 1 or more of the following:

(i) A street, plaza, or pedestrian mall, and any improvements to a street, plaza, boulevard, alley, or pedestrian mall, including street furniture and beautification, park, parking facility, recreation facility, playground, school, library, public institution or administration building, right of way, structure, waterway, bridge, lake, pond, canal, utility line or pipeline, and other similar facilities and necessary easements of these facilities designed and dedicated to use by the public generally or used by a public agency. As used in this subparagraph, public institution or administration building includes, but is not limited to, a police station, fire station, court building, or other public safety facility.

(ii) The acquisition and disposal of real and personal property or interests in real and personal property, demolition of structures, site preparation, relocation costs, building rehabilitation, and all associated administrative costs, including, but not limited to, architect's, engineer's, legal, and accounting fees as

contained in the resolution establishing the district's development plan.

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

(v) "Qualified refunding obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if 1 of the following applies:

(i) The refunding obligation meets both of the following:

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

(B) The net present value of the sum of the tax increment revenues described in subdivision (aa)(ii) and the distributions under section 12a to repay the refunding obligation will not be greater than the net present value of the sum of the tax increment revenues described in subdivision (aa)(ii) and the distributions under section 12a to repay the obligation being refunded, as calculated using a method approved by the department of treasury.

(ii) The refunding obligation is a tax increment refunding bond issued to refund a refunding bond that is an other protected obligation issued as a capital appreciation bond delivered to the Michigan municipal bond authority on December 21, 1994, and the authority, by resolution of its board, authorized issuance of the refunding obligation before January 1, 2011 with a final maturity not later than 2039. The municipality by majority vote of the members of its governing body may pledge its full faith and credit for the payment of the principal of and interest on the refunding obligation. A refunding obligation issued under this subparagraph is not subject to the requirements of section 305(2), (3), (5), or (6), 501, or 503 of the revised municipal finance act, 2001 PA 34, MCL 141.2305, 141.2501, and 141.2503. The duration of the development plan and the tax increment financing plan relating to the refunding obligations described in this subparagraph is extended

to 1 year after the final date of maturity of the refunding obligation.

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

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

(y) "Tax increment district" or "district" means that area to which the tax increment finance plan pertains.

(z) "Tax increment financing plan" means that information and those requirements set forth in sections 13 to 15.

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

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

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

eligible obligations, and other protected obligations.

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

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

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

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

(A) The percentage which the total ad valorem taxes and specific local taxes available for distribution by law to the state, local school district, or intermediate school district, respectively, bear to the aggregate amount of ad valorem millage taxes and specific taxes available for distribution by law to the state, each local school district, and each intermediate school district.

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

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981 ;-- Am. 1985, Act 193, Imd. Eff. Dec. 20, 1985 ;-- Am. 1993, Act 322, Eff. Mar. 15, 1994 ;-- Am. 1994, Act 281, Imd. Eff. July 11, 1994 ;-- Am. 1994, Act 329, Imd. Eff. Oct. 14, 1994 ;-- Am. 1996, Act 271, Imd. Eff. June 12, 1996 ;-- Am. 1997, Act 201, Imd. Eff. Jan. 13, 1998 ;-- Am. 1998, Act 499, Imd. Eff. Jan. 5, 1999 ;-- Am. 2005, Act 29, Imd. Eff. May 25, 2005 ;-- Am. 2008, Act 453, Imd. Eff. Jan. 9, 2009
Compiler's Notes: Enacting section 1 of Act 201 of 1997 provides:"The provisions of section 1 and section 12a, as amended by this amendatory act, are retroactive and effective for taxes levied

after 1993."
Popular Name: TIFA

125.1801a Short title.

Sec. 1a. This act shall be known and may be cited as "the tax increment finance authority act".

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Popular Name: TIFA

125.1802 Authority; establishment; public body corporate; powers generally.

Sec. 2. (1) A municipality may establish not more than 1 authority. An authority shall exercise its powers in all development areas designated pursuant to this act.

(2) The authority shall be a public body corporate which may sue and be sued in any court of this state. The authority possesses all the powers necessary to carry out the purpose of its incorporation. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of the authority. The powers granted in this act to an authority may be exercised notwithstanding that bonds are not issued by the authority.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Popular Name: TIFA

125.1803 Resolution of intent; determinations; notice of public hearing; adoption, filing, and publication of resolution establishing authority and designating boundaries of authority district; alteration or amendment of boundaries; validity of proceedings establishing authority.

Sec. 3. (1) If the governing body of a municipality determines that it is in the best interests of the public to halt a decline in property values, increase property tax valuation, eliminate the causes of the decline in property values, and to promote growth in an area in the municipality, the governing body of that municipality may declare by resolution its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall set a date for the holding of a public hearing on the adoption of a proposed resolution creating the authority and designating the boundaries of the authority district. Notice of the public hearing shall be published twice in a newspaper of general

circulation in the municipality, not less than 20 nor more than 40 days before the date of the hearing. Notice shall also be mailed to the property taxpayers of record in the proposed authority district not less than 20 days before the hearing. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure to receive the notice shall not invalidate these proceedings. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed authority district. At that hearing, a citizen, taxpayer, or property owner of the municipality has the right to be heard in regard to the establishment of the authority and the boundaries of the proposed authority district. The governing body of the municipality shall not incorporate land into the authority district not included in the description contained in the notice of public hearing, but it may eliminate described lands from the authority district in the final determination of the boundaries.

(3) After the public hearing, if the governing body intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members, a resolution establishing the authority and designating the boundaries of the authority district within which the authority shall exercise its powers. The adoption of the resolution is subject to any applicable statutory or charter provisions with respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(4) The governing body may alter or amend the boundaries of the authority district to include or exclude lands from the authority district in accordance with the same requirements prescribed for adopting the resolution creating the authority.

(5) The validity of the proceedings establishing an authority shall be conclusive unless contested in a court of competent jurisdiction within 60 days after the last of the following takes place:

(a) Publication of the resolution as adopted.

(b) Filing of the resolution with the secretary of state.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981 ;-- Am. 1983, Act 148, Imd. Eff. July 18, 1983 ;-- Am. 2005, Act 14, Imd. Eff. May 4, 2005
Popular Name: TIFA

125.1804 Board; composition; chairperson; oath of member; rules governing procedure and meetings; meetings open to public; removal of member; publicizing expense items; financial records open to public.
Sec. 4. (1) The authority shall be under the supervision and control of a board chosen by the governing body which may by majority vote designate any 1 of the following to constitute the board:

(a) The board of directors of the economic development corporation of the municipality established pursuant to the economic development corporations act, Act No. 338 of the Public Acts of 1974, as amended, being sections 125.1601 to 125.1636 of the Michigan Compiled Laws.

(b) The trustees of the board of a downtown development authority established pursuant to Act No. 197 of the Public Acts of 1975, as amended, being sections 125.1651 to 125.1680 of the Michigan Compiled Laws.

(c) The trustees of the board of an urban redevelopment corporation established pursuant to the urban redevelopment corporations law, Act No. 250 of the Public Acts of 1941, as amended, being sections 125.901 to 125.922 of the Michigan Compiled Laws.

(d) The members of the commission established pursuant to Act No. 344 of the Public Acts of 1945, being sections 125.71 to 125.84 of the Michigan Compiled Laws.

(e) In a municipality that has a population of less than 5,000, the planning commission of the municipality established pursuant to Act No. 285 of the Public Acts of 1931, being sections 125.31 to 125.45 of the Michigan Compiled Laws.

(f) Not less than 7 nor more than 13 persons appointed by the chief executive officer of the municipality subject to the approval of the governing body. Of the members appointed, an equal number, as near as practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office

until the member's successor is appointed. Thereafter, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

(2) The chairperson of the board shall be elected by the board.

(3) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(4) The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held when called in the manner provided in the rules of the board. Meetings of the board shall be open to the public, in accordance with the open meetings act, Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(5) Pursuant to notice and an opportunity to be heard, a member of the board appointed pursuant to subsection (1)(f) may be removed before the expiration of his or her term for cause by the governing body. Removal of a member is subject to the review by the circuit court.

(6) All expense items of the authority shall be publicized annually and the financial records shall be open to the public pursuant to the freedom of information act, Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981 ;-- Am. 1987, Act 68, Imd. Eff. June 25, 1987
Popular Name: TIFA

25.1805 Board; employment, compensation, term, oath, and bond of director; chief executive office; duties of director; absence or disability of director; reports; employment, compensation, and duties of treasurer and secretary; retention and duties of legal counsel; employment of other personnel; participation in municipal retirement and insurance programs.
Sec. 5. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before entering upon the duties of the office, the director

shall take and subscribe to the constitutional oath and furnish bond by posting a bond in the penal sum determined in the resolution establishing the authority, payable to the authority for use and benefit of the authority, approved by the board, and filed with the clerk of the municipality. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive office of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall render to the board and to the governing body a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of the office, the acting director shall take and subscribe to the constitutional oath and furnish bond as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may appoint or employ and fix the compensation of a treasurer who shall keep the financial records of the authority, and who, together with the director, if a director is appointed, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform such other duties as may be delegated by the board and shall furnish bond in an amount as prescribed by the board.

(3) The board may appoint or employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform such other duties as may be delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel shall represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel considered necessary by the board.

(6) The employees of an authority may be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil

service employees on the same basis as civil service employees.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Compiler's Notes: In subsection (1), the sentence "The director shall be the chief executive office of the authority." evidently should read "The director shall be the chief executive officer of the authority."
Popular Name: TIFA

125.1807 Board; powers generally.

Sec. 7. The board may:

(a) Prepare an analysis of economic changes taking place in the municipality and its environs as those changes relate to urban deterioration in the development areas.

(b) Study and analyze the impact of growth upon development areas.

(c) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the board, aids in the revitalization and growth of the development area.

(d) Plan, propose, and implement an improvement to a public facility within the development area to comply with the barrier free design requirements of the state construction code promulgated under the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being sections 125.1501 to 125.1531 of the Michigan Compiled Laws.

(e) Develop long-range plans, in cooperation with the agency which is chiefly responsible for planning in the municipality, designed to halt the decline of property values and to promote the growth of the development area, and take such steps as may be necessary to implement the plans to the fullest extent possible.

(f) Implement any plan of development in a development area necessary to achieve the purposes of this act, in accordance with the powers of the authority as granted by this act.

(g) Make and enter into contracts necessary or incidental to the exercise of its

powers and the performance of its duties.

(h) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper, own, convey, demolish, relocate, rehabilitate, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests therein, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect thereto.

(i) Improve land, prepare sites for buildings, including the demolition of existing structures and construct, reconstruct, rehabilitate, restore, and preserve, equip, improve, maintain, repair, and operate any building, including any type of housing, and any necessary or desirable appurtenances thereto, within the development area for the use, in whole or in part, of any public or private person or corporation, or a combination thereof.

(j) Fix, charge, and collect fees, rents, and charges for the use of any building or property or any part of a building or property under its control, or a facility in the building or on the property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(k) Lease any building or property or part of a building or property under its control.

(l) Accept grants and donations of property, labor, or other things of value from a public or private source.

(m) Acquire and construct public facilities.

(n) Incur costs in connection with the performance of its authorized functions, including but not limited to, administrative costs, and architects, engineers, legal, and accounting fees.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981 ;-- Am. 1985, Act 193, Imd. Eff. Dec. 20, 1985
Popular Name: TIFA
Admin Rule: R 408.30101 et seq. of the Michigan Administrative Code.

125.1808 Board serving as planning commission; agenda.
Sec. 8. If a board created under this act serves as the planning commission under section 2 of Act No. 285 of the Public Acts of 1931, being section

125.32 of the Michigan Compiled Laws, the board shall include planning commission business in its agenda.

History: Add. 1987, Act 68, Imd. Eff. June 25, 1987
Popular Name: TIFA

125.1809 Authority as instrumentality of political subdivision.
Sec. 9. The authority shall be considered an instrumentality of a political subdivision for purposes of Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Popular Name: TIFA

125.1810 Taking, transfer, and use of private property by municipality.
Sec. 10. A municipality may take private property under Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws, for the purpose of transfer to the authority, and may transfer the property to the authority for use as authorized in the development program, on terms and conditions it considers appropriate. The taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Popular Name: TIFA

125.1811 Financing activities of authority; sources.
Sec. 11. The activities of the authority shall be financed from 1 or more of the following sources:

(a) Contributions to the authority for the performance of its functions.

(b) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(c) Tax increment revenues received pursuant to a tax increment financing plan established under sections 13 to 15.

(d) Proceeds of tax increment bonds issued pursuant to section 15.

(e) Proceeds of revenue bonds issued pursuant to section 12.

(f) Money obtained from any other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.

(g) Money obtained pursuant to section 12a.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981 ;-- Am. 1993, Act 322, Eff. Mar. 15, 1994
Popular Name: TIFA

125.1812 Borrowing money; issuing negotiable revenue bonds; full faith and credit.
Sec. 12. (1) The authority may borrow money and issue its negotiable revenue bonds pursuant to Act No. 94 of the Public Acts of 1933, as amended, being section 141.101 to 141.139 of the Michigan Compiled Laws. Revenue bonds issued by the authority shall not, except as hereinafter provided, be considered a debt of the municipality or of the state.

(2) The municipality by majority vote of the members of its governing body may pledge its full faith and credit limited tax to support the authority's revenue bonds.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Popular Name: TIFA

125.1812a Insufficient tax increment revenues for repayment of advance or payment of obligation; appropriation and distribution to authority; filing, time, and contents of claim; distribution of amounts in 2 equal payments; appropriation and distribution of aggregate amount; limitations; distribution subject to lien; obligation as debt or liability; certification of distribution amount; basis for calculations of distributions and claims reports; debt payment period.
Sec. 12a. (1) If the amount of tax increment revenues lost as a result of the reduction of taxes levied by local school districts for school operating purposes required by the millage limitations under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, reduced by the amount of tax increment revenues received from the capture of taxes levied under or attributable to the

state education tax act, 1993 PA 331, MCL 211.901 to 211.906, will cause the tax increment revenues received in a fiscal year by an authority under section 14 to be insufficient to repay an eligible advance or to pay an eligible obligation, the legislature shall appropriate and distribute to the authority the amount described in subsection (5).

(2) Not less than 30 days before the first day of a fiscal year, an authority eligible to retain tax increment revenues from taxes levied by a local or intermediate school district or this state, or to receive a distribution under this section for that fiscal year shall file a claim with the department of treasury. The claim shall include the following information:

(a) The property tax millage rates levied in 1993 by local school districts within the jurisdictional area of the authority for school operating purposes.

(b) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(c) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority plus any tax increment revenues the authority would have received for the fiscal year from property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated.

(d) The tax increment revenues the authority estimates it would have received for that fiscal year if property taxes were levied by local school districts within the jurisdictional area of the authority for school operating purposes at the millage rates described in subdivision (a) and if no property taxes were levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(e) A list and documentation of eligible obligations and eligible advances and the payments due on each of those eligible obligations or eligible advances in that fiscal year, and the total amount of all the payments due on those eligible obligations and eligible advances in that fiscal year.

(f) The amount of money, other than tax increment revenues, estimated to be

received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation or the repayment of an eligible advance. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development project.

(g) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(h) A list and documentation of other protected obligations and the payments due on each of those other protected obligations in that fiscal year, and the total amount of all the payments due on those other protected obligations in that fiscal year.

(3) For the fiscal year that commences after September 30, 1993 and before October 1, 1994, an authority may make a claim with all information required by subsection (2) at any time after March 15, 1994.

(4) After review and verification of claims submitted pursuant to this section, amounts appropriated by the state in compliance with this act shall be distributed as 2 equal payments on March 1 and September 1 after receipt of a claim. An authority shall allocate a distribution it receives for an eligible obligation issued on behalf of a municipality to the municipality.

(5) Subject to subsections (6) and (7), the aggregate amount to be appropriated and distributed pursuant to this section to an authority shall be the sum of the amounts determined pursuant to subdivisions (a) and (b) minus the amount determined pursuant to subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received for the fiscal year, if property taxes were levied by local school districts on property, including property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated, for school operating purposes at the millage rates described in subsection (2)(a) and if no property taxes were levied under the state education

tax act, 1993 PA 331, MCL 211.901 to 211.906, exceed the sum of tax increment revenues the authority actually received for the fiscal year plus any tax increment revenues the authority would have received for the fiscal year from property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated.

(b) A shortfall required to be reported pursuant to subsection (2)(g) that had not previously increased a distribution.

(c) An excess amount required to be reported pursuant to subsection (2)(g) that had not previously decreased a distribution.

(6) The amount distributed under subsection (5) shall not exceed the difference between the amount described in subsection (2)(e) and the sum of the amounts described in subsection (2)(c) and (f).

(7) If, based upon the tax increment financing plan in effect on August 19, 1993, the payment due on eligible obligations or eligible advances anticipates the use of excess prior year tax increment revenues permitted by law to be retained by the authority, and if the sum of the amounts described in subsection (2)(c) and (f) plus the amount to be distributed under subsections (5) and (6) is less than the amount described in subsection (2)(e), the amount to be distributed under subsections (5) and (6) shall be increased by the amount of the shortfall. However, the amount authorized to be distributed pursuant to this section shall not exceed that portion of the cumulative difference, for each preceding fiscal year, between the amount that could have been distributed pursuant to subsection (5) and the amount actually distributed pursuant to subsections (5) and (6) and this subsection.

(8) A distribution under this section replacing tax increment revenues pledged by an authority or a municipality is subject to the lien of the pledge, whether or not there has been physical delivery of the distribution.

(9) Obligations for which distributions are made pursuant to this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(10) Not later than July 1 of each year, the authority shall certify to the local

tax collecting treasurer the amount of the distribution required under subsection (5), calculated without regard to the receipt of tax increment revenues attributable to local or intermediate school district taxes or attributable to taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(11) Calculations of distributions under this section and claims reports required to be made under subsection (2) shall be made on the basis of each development area of the authority.

(12) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

History: Add. 1993, Act 322, Eff. Mar. 15, 1994 ;-- Am. 1994, Act 281, Imd. Eff. July 11, 1994 ;-- Am. 1996, Act 271, Imd. Eff. June 12, 1996 ;-- Am. 1996, Act 453, Imd. Eff. Dec. 19, 1996 ;-- Am. 1997, Act 201, Imd. Eff. Jan. 13, 1998
Compiler's Notes: Enacting section 1 of Act 201 of 1997 provides:"The provisions of section 1 and section 12a, as amended by this amendatory act, are retroactive and effective for taxes levied after 1993."
Popular Name: TIFA

125.1812b Retention and payment of taxes levied under state education tax act; conditions; application by authority for approval; information to be included; approval, modification, or denial of application by department of treasury; appropriation and distribution of amount; calculation of aggregate amount; lien; reimbursement calculations; legislative intent.
Sec. 12b. (1) If the amount of tax increment revenues lost as a result of the personal property tax exemptions provided by section 1211(4) of the revised school code, 1976 PA 451, MCL 380.1211, section 3 of the state education tax act, 1993 PA 331, MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will reduce the allowable school tax capture received in a fiscal year, then, notwithstanding any other provision of this act, the authority, with approval of the department of treasury under subsection (3), may request the local tax collecting treasurer to retain and pay to the authority taxes levied within the municipality under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used for the following:

(a) To repay an eligible advance.

(b) To repay an eligible obligation.

(c) To repay an other protected obligation.

(2) Not later than June 15 of 2008 and not later than June 1 of each subsequent year, an authority eligible under subsection (1) to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section, shall apply for approval with the department of treasury. The application for approval shall include the following information:

(a) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(b) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(c) The tax increment revenues the authority estimates it would have received for that fiscal year if the personal property tax exemptions described in subsection (1) were not in effect.

(d) A list of eligible obligations, eligible advances, and other protected obligations, the payments due on each of those in that fiscal year, and the total amount of all the payments due on all of those in that fiscal year.

(e) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation, the repayment of an eligible advance, or the payment of an other protected obligation. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993,

for use by the municipality or authority to finance a development plan.

(f) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(3) Not later than August 15 of each year, based on the calculations under subsection (5), the department of treasury shall approve, modify, or deny the application for approval to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section. If the application for approval contains the information required under subsection (2)(a) through (f) and appears to be in substantial compliance with the provisions of this section, then the department of treasury shall approve the application. If the application is denied by the department of treasury, then the department of treasury shall provide the opportunity for a representative of the authority to discuss the denial within 21 days after the denial occurs and shall sustain or modify its decision within 30 days after receiving information from the authority. If the application for approval is approved or modified by the department of treasury, the local tax collecting treasurer shall retain and pay to the authority the amount described in subsection (5) as approved by the department. If the department of treasury denies the authority's application for approval, the local tax collecting treasurer shall not retain or pay to the authority the taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the department does not prohibit a subsequent audit of taxes retained in accordance with the procedures currently authorized by law.

(4) Each year, the legislature shall appropriate and distribute an amount sufficient to pay each authority the following:

(a) If the amount to be retained and paid under subsection (3) is less than the amount calculated under subsection (5), the difference between those amounts.

(b) If the application for approval is denied by the department of treasury, an amount verified by the department equal to the amount calculated under subsection (5).

(5) Subject to subsection (6), the aggregate amount under this section shall be the sum of the amounts determined under subdivisions (a) and (b) minus the

amount determined under subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received and retained for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax exemptions described in subsection (1) were not in effect, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported under subsection (2)(f) that had not previously increased a distribution.

(c) An excess amount required to be reported under subsection (2)(f) that had not previously decreased a distribution.

(6) A distribution or taxes retained under this section replacing tax increment revenues pledged by an authority or a municipality are subject to any lien of the pledge described in subsection (1), whether or not there has been physical delivery of the distribution.

(7) Obligations for which distributions are made under this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(8) Not later than September 15 of each year, the authority shall provide a copy of the application for approval approved by the department of treasury to the local tax collecting treasurer and provide the amount of the taxes retained and paid to the authority under subsection (5).

(9) Calculations of amounts retained and paid and appropriations to be distributed under this section shall be made on the basis of each development area of the authority.

(10) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

(11) It is the intent of the legislature that, to the extent that the total amount of taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be retained under this section and section 11b of the local development financing act, 1986 PA 281, MCL 125.2161b, section 15a of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2665a, and section 13c of 1975 PA 197, MCL 125.1663c, exceeds the difference of the total school aid fund revenue for the tax year minus the estimated amount of revenue the school aid fund would have received for the tax year had the tax exemptions described in subsection (1) and the earmark created by section 515 of the Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken effect, the general fund shall reimburse the school aid fund the difference.

History: Add. 2008, Act 156, Imd. Eff. June 5, 2008
Popular Name: TIFA

125.1813 Preparation and submission of tax increment financing plan; contents and approval of plan; public hearing; taxing jurisdictions.
Sec. 13. (1) When the authority determines that it is necessary for the achievement of the purposes of this act, the authority shall prepare and submit a tax increment financing plan to the governing body. The plan shall be in compliance with section 14 and shall include a development plan as provided in section 16. The plan shall also contain the following:

(a) A statement of the reasons that the plan will result in the development of captured assessed value that could not otherwise be expected. The reasons may include, but are not limited to, activities of the municipality, authority, or others undertaken before formulation or adoption of the plan in reasonable anticipation that the objectives of the plan would be achieved by some means.

(b) An estimate of the captured assessed value for each year of the plan. The plan may provide for the use of part or all of the captured assessed value, but the portion intended to be used shall be clearly stated in the plan. The authority or municipality may exclude from captured assessed value growth in property value resulting solely from inflation. The plan shall set forth the method for excluding growth in property value resulting solely from inflation. The percentage of taxes levied for school operating purposes that is captured and used by the plan shall not be greater than the plan's percentage capture and use of taxes levied by a municipality or county for operating purposes. For purposes of the previous sentence, taxes levied by a county for operating

purposes include only millage allocated for county or charter county purposes under the property tax limitation act, Act No. 62 of the Public Acts of 1933, being sections 211.201 to 211.217a of the Michigan Compiled Laws. This limitation does not apply to the portion of the captured assessed value shared pursuant to an agreement entered into before 1989 with a county or with a city in which an enterprise zone is approved under section 13 of the enterprise zone act, Act No. 224 of the Public Acts of 1985, being section 125.2113 of the Michigan Compiled Laws.

(c) The estimated tax increment revenues for each year of the plan.

(d) A detailed explanation of the tax increment procedure.

(e) The maximum amount of bonded indebtedness to be incurred.

(f) The amount of operating and planning expenditures of the authority and municipality, the amount of advances extended by or indebtedness incurred by the municipality, and the amount of advances by others to be repaid from tax increment revenues.

(g) The costs of the plan anticipated to be paid from tax increment revenues as received.

(h) The duration of the development plan and the tax increment plan.

(i) An estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions in which the development area is located.

(2) Approval of the tax increment financing plan shall be in accordance with the notice, hearing, disclosure, and approval provisions of sections 17 and 18. When the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together.

(3) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions in which the development is located to express their views and recommendations regarding the tax increment financing plan. The authority shall fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed tax increment financing plan. The taxing

jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the development area is located to share a portion of the captured assessed value of the district.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981 ;-- Am. 1982, Act 492, Imd. Eff. Dec. 30, 1982 ;-- Am. 1983, Act 148, Imd. Eff. July 18, 1983 ;-- Am. 1986, Act 294, Imd. Eff. Dec. 22, 1986 ;-- Am. 1988, Act 420, Imd. Eff. Dec. 27, 1988 ;-- Am. 1989, Act 120, Imd. Eff. June 28, 1989 ;-- Am. 1993, Act 322, Eff. Mar. 15, 1994
Compiler's Notes: Section 2 of Act 420 of 1988 provides: "This amendatory act is effective beginning with taxes levied in 1989."
Popular Name: TIFA

125.1814 Transmitting and expending tax increment revenues; disposition of surplus funds; abolition of tax increment financing plan; financial report.

Sec. 14. (1) The municipal and county treasurers shall transmit to the authority tax increment revenues.

(2) The authority shall expend the tax increment revenues received for the development program only in accordance with the tax increment financing plan. Surplus funds may be retained by the authority for the payment of the principal of and interest on outstanding tax increment bonds or for other purposes that, by resolution of the board, are determined to further the development program. Any surplus funds not so used shall revert proportionately to the respective taxing bodies. These revenues shall not be used to circumvent existing property tax laws or a local charter that provides a maximum authorized rate for levy of property taxes. The governing body may abolish the tax increment financing plan when it finds that the purposes for which the plan was established are accomplished. However, the tax increment finance plan shall not be abolished until the principal of and interest on bonds issued pursuant to section 15 have been paid or funds sufficient to make the payment have been segregated.

(3) The authority shall submit annually to the governing body and the state tax commission a financial report on the status of the tax increment financing plan. The report shall include the following:

(a) The amount and source of tax increments received.

(b) The amount in any bond reserve account.

(c) The amount and purpose of expenditures of tax increment revenues.

(d) The amount of principal and interest on any outstanding bonded indebtedness.

(e) The initial assessed value of the development area.

(f) The captured assessed value retained by the authority.

(g) The number of jobs created as a result of the implementation of the tax increment financing plan.

(h) Any additional information the governing body or the state tax commission considers necessary.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981 ;-- Am. 1983, Act 148, Imd. Eff. July 18, 1983 ;-- Am. 1986, Act 294, Imd. Eff. Dec. 22, 1986 ;-- Am. 1988, Act 420, Imd. Eff. Dec. 27, 1988 ;-- Am. 1993, Act 322, Eff. Mar. 15, 1994
Compiler's Notes: Section 2 of Act 420 of 1988 provides: "This amendatory act is effective beginning with taxes levied in 1989."
Popular Name: TIFA

125.1815 Tax increment bonds; qualified refunding obligation.
Sec. 15. (1) By resolution of its board, the authority may authorize, issue, and sell its tax increment bonds, subject to the limitations set forth in this section, to finance a development program. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The bonds issued under this section shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The municipality by majority vote of the members of its governing body may pledge its full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality pursuant to section 11.

(3) Notwithstanding any other provision of this act, if the state treasurer determines that an authority or municipality can issue a qualified refunding

obligation and the authority or municipality does not make a good faith effort to issue the qualified refunding obligation as determined by the state treasurer, the state treasurer may reduce the amount claimed by the authority or municipality under section 12a by an amount equal to the net present value saving that would have been realized had the authority or municipality refunded the obligation or the state treasurer may require a reduction in the capture of tax increment revenues from taxes levied by a local or intermediate school district or this state by an amount equal to the net present value savings that would have been realized had the authority or municipality refunded the obligation. This subsection does not authorize the state treasurer to require the authority or municipality to pledge security greater than the security pledged for the obligation being refunded.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981 ;-- Am. 1993, Act 322, Eff. Mar. 15, 1994 ;-- Am. 1996, Act 271, Imd. Eff. June 12, 1996 ;-- Am. 2002, Act 190, Imd. Eff. Apr. 24, 2002
Popular Name: TIFA

125.1816 Development plan; preparation; contents.
Sec. 16. (1) When a board decides to finance a project in a development area pursuant to this act, it shall prepare a development plan.

(2) To the extent necessary to accomplish the proposed development program the development plan shall contain:

(a) The designation of boundaries of the development area in relation to the boundaries of the authority district and any other development areas within the authority district.

(b) The designation of boundaries of the development area in relation to highways, streets, or otherwise.

(c) The location and extent of existing streets and other public facilities within the development area and the location, character, and extent of the categories of public and private land uses then existing and proposed for the development area, including residential, recreational, commercial, industrial, educational, and other uses and shall include a legal description of the development area.

(d) A description of improvements to be made in the development area, a description of any repairs and alterations necessary to make those improvements, and an estimate of the time required for completion of the

improvements.

(e) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the development area and an estimate of the time required for completion.

(f) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(g) A description of any parts of the development area to be left as open space and the use contemplated for the space.

(h) A description of any portions of the development area which the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

(i) A description of desired zoning changes and changes in streets, street levels, intersections, and utilities.

(j) An estimate of the cost of the development, a statement of the proposed method of financing the development, and the ability of the authority to arrange the financing.

(k) Designation of the person or persons, natural or corporate, to whom all or a portion of the development is to be leased, sold, or conveyed and for whose benefit the project is being undertaken, if that information is available to the authority.

(l) The procedures for bidding for the leasing, purchasing, or conveying of all or a portion of the development upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed to those persons.

(m) Estimates of the number of persons residing in the development area and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, a development plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the

housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(n) A plan for establishing priority for the relocation of persons displaced by the development in any new housing in the development area.

(o) Provision for the costs of relocating persons displaced by the development, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the federal uniform relocation assistance and real property acquisition policies act of 1970, 42 U.S.C. 4601 to 4655.

(p) A plan for compliance with Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

(q) Other material which the authority, local public agency, or governing body considers pertinent.

(3) It shall not be necessary for the board to prepare a development plan pursuant to this section where a development plan that adequately provides for accomplishing the proposed development program has already been prepared by any of the organizations described in section 4(1)(a) to (d) and where the development plan has been approved by the board and governing body pursuant to sections 17 and 18.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Popular Name: TIFA

125.1817 Public hearing on development plan; publication, mailing, and contents of notice; presentation of data; record.
Sec. 17. (1) The governing body, before adoption of a resolution approving or amending a development plan or approving or amending a tax increment financing plan, shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of

which shall not be less than 20 days before the date set for the hearing. Notice shall also be mailed to all property taxpayers of record in the development area not less than 20 days before the hearing. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the development plan or the tax increment financing plan is approved or amended.

(2) Notice of the time and place of hearing on a development plan shall contain the following:

(a) A description of the proposed development area in relation to highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice, and that all aspects of the development plan will be open for discussion at the public hearing.

(c) Other information that the governing body considers appropriate.

(3) At the time set for hearing, the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference thereto. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented at that time.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981 ;-- Am. 2005, Act 14, Imd. Eff. May 4, 2005
Popular Name: TIFA

125.1818 Development plan or tax increment plan as public purpose; determination; approval or rejection of plan; notice and public hearing; conclusiveness of procedure, adequacy of notice, and certain findings; validation and conclusiveness of plan; contesting plan.
Sec. 18. (1) The governing body, after a public hearing on the development plan or the tax increment financing plan, or both, with notice of the hearing given pursuant to section 17, shall determine whether the development plan or

tax increment financing plan constitutes a public purpose. If the governing body determines that the development plan or tax increment financing plan constitutes a public purpose, the governing body shall then approve or reject the plan, or approve it with modification, by resolution based on the following considerations:

(a) The findings and recommendations of a development area citizens council, if a development area citizens council was formed.

(b) Whether the development plan meets the requirements set forth in section 16(2) and the tax increment financing plan meets the requirements set forth in section 13(1).

(c) Whether the proposed method of financing the development is feasible and the authority has the ability to arrange the financing.

(d) Whether the development is reasonable and necessary to carry out the purposes of this act.

(e) Whether the amount of captured assessed value estimated to result from adoption of the plan is reasonable.

(f) Whether the land to be acquired within the development area is reasonably necessary to carry out the purposes of the plan and the purposes of this act.

(g) Whether the development plan is in reasonable accord with the approved master plan of the municipality, if an approved master plan exists.

(h) Whether public services, such as fire and police protection and utilities, are or will be adequate to service the development area.

(i) Whether changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

(2) Except as provided in this subsection, amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection following the same notice and public hearing provisions that are necessary for approval or rejection of the original plan. Notice and hearing shall not be necessary for revisions in the

estimates of captured assessed value and tax increment revenues.

(3) The procedure, adequacy of notice, and findings with respect to purpose and captured assessed value shall be conclusive unless contested in a court of competent jurisdiction within 60 days after adoption of the resolution adopting the plan. A plan adopted before July 18, 1983 is validated and shall be conclusive unless contested in a court of competent jurisdiction within 60 days after July 18, 1983. A plan in effect before July 18, 1983 shall not be contested to the extent that tax increment revenues are necessary for the payment of principal and interest on outstanding bonds issued pursuant to the plan and payable from the tax increment revenues or to the extent the authority or municipality has incurred other obligations or made commitments dependent upon tax increment revenues.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981 ;-- Am. 1983, Act 148, Imd. Eff. July 18, 1983 ;-- Am. 1993, Act 322, Eff. Mar. 15, 1994
Popular Name: TIFA

125.1819 Notice to vacate.

Sec. 19. A person to be relocated under this act shall be given not less than 90 days' written notice to vacate unless modified by court order for good cause.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Popular Name: TIFA

125.1820 Development area citizens council; establishment; advisory body; appointment and qualifications of members.

Sec. 20. (1) A development area citizens council shall be established if the proposed development area has 100 or more persons residing within it and a change in zoning or a taking of property by eminent domain is necessary to accomplish the proposed development program. The council shall act as an advisory body to the authority and the governing body in the adoption of the development plan or tax increment financing plan.

(2) If a development area citizens council is required, the council shall be appointed by the governing body, and shall consist of not less than 9 members. Each member shall be at least 18 years of age and reside in the development area. The council shall be established at least 60 days before the public hearing on the development plan or the tax increment financing plan, or both.

(3) If a development area citizens council is required pursuant to subsection (1)

and if the authority was established pursuant to section 4(1)(a), (b), (c), or (d), a council established in conjunction with any of those boards or commissions, may serve in an advisory capacity to the authority, if the authority determines it is representative of the development area.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Popular Name: TIFA

125.1821 Consultation representative of authority and council.
Sec. 21. Periodically a representative of the authority responsible for preparation of a development or tax increment financing plan within the development area shall consult with and advise the development area citizens council regarding the aspects of a development plan, including the development of new housing for relocation purposes located either inside or outside of the development area. The consultation shall begin before any final decisions by the authority and the governing body regarding a development or tax increment financing plan. The consultation shall continue throughout the preparation and implementation of the development or tax increment financing plan.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Popular Name: TIFA

125.1822 Meetings of council; open to public; notice; hearing persons present at meeting; record; information and technical assistance; failures not precluding adoption of development plan.
Sec. 22. (1) Meetings of the council shall be open to the public. Notice of the time and place of the meetings shall be posted in at least 10 conspicuous places in the development area accessible to the public not less than 5 days before the dates set for meetings of the council. A person present at those meetings shall have reasonable opportunity to be heard.

(2) A record of the meetings of a council, including information and data presented, shall be maintained by the council.

(3) A council may request of and receive from the authority information and technical assistance relevant to the preparation of the development plan for the development area.

(4) Failure of a council to organize or to consult with and be advised by the

authority, or failure to advise the governing body, as provided in this act, shall not preclude the adoption of a development plan by a municipality if the municipality complies with the other provisions of this act.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Popular Name: TIFA

125.1823 Development plan; notice of findings and recommendations.
Sec. 23. Within 20 days after the public hearing on a development or tax increment financing plan, the council, if established, shall notify the governing body, in writing, of its findings and recommendations concerning a proposed development plan.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Popular Name: TIFA

125.1824 Development area citizens council; dissolution.
Sec. 24. A development area citizens council may not be required and, if formed, may be dissolved in any of the following situations:

(a) On petition of not less than 20% of the adult resident population of the development area by the last federal decennial or municipal census, a governing body, after public hearing with notice given in accordance with section 17 and by a 2/3 vote, may adopt a resolution eliminating the necessity of a council for the development area.

(b) If there are less than 18 residents located in the development area eligible to serve on the council.

(c) Upon termination of the authority by resolution of the governing body.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Popular Name: TIFA

125.1825 Budget; cost of handling and auditing funds.
Sec. 25. (1) The director of the authority shall prepare and submit for the approval of the board a budget for the operation of the authority for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. Before the budget may be adopted by the board, it shall be approved by the governing body. Funds of the municipality shall not be included in the budget of the authority except those

funds authorized in this act or by the governing body.

(2) The governing body may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed for designated purposes, which cost shall be paid annually by the board pursuant to an appropriate item in its budget.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Popular Name: TIFA

125.1826 Preservation of public facility, building, or structure having significant historical interest; review of proposed changes to exterior of historic site.

Sec. 26. (1) A public facility, building, or structure which is determined by the municipality to have significant historical interests shall be preserved in a manner as considered necessary by the municipality in accordance with laws relative to the preservation of historical sites.

(2) An authority shall refer all proposed changes to the exterior of sites listed on the state register of historic sites and the national register of historic places to the applicable historic district commission created under Act No. 169 of the Public Acts of 1970, as amended, being sections 399.201 to 399.212 of the Michigan Compiled Laws, or the secretary of state for review.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Popular Name: TIFA

125.1827 Dissolution of authority; resolution; disposition of property and assets.

Sec. 27. An authority which has completed the purposes for which it was organized shall be dissolved by resolution of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority shall belong to the municipality.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981
Popular Name: TIFA

125.1828 Authority district part of area annexed to or consolidated with another municipality; authority of annexing or consolidated municipality; status of obligations, agreements, and bonds.

Sec. 28. Notwithstanding the limitation provided by section 2(1) on having

more than 1 authority, if an authority district is part of an area annexed to or consolidated with another municipality, the authority managing that authority district shall become an authority of the annexing or consolidated municipality. All obligations of that authority incurred pursuant to development plans or tax increment plans, all agreements related to the plans, and bonds issued pursuant to this act shall remain in effect following the annexation or consolidation.

History: Add. 1983, Act 148, Imd. Eff. July 18, 1983
Popular Name: TIFA

125.1829 New authority or authority district and boundaries of authority district; prohibitions; validity of tax increment finance authority, authority district, development area, development plan, or tax increment financing plan established before December 30, 1986; development area created or expanded after December 29, 1986.
Sec. 29. (1) Beginning January 1, 1987, a new authority or authority district shall not be created and the boundaries of an authority district shall not be expanded to include additional land.

(2) A tax increment finance authority, authority district, development area, development plan, or tax increment financing plan established under this act before December 30, 1986 shall not be invalidated pursuant to a claim that based on the standards set forth in section 3(1), a governing body improperly determined that the necessary conditions existed for the establishment of a tax increment financing authority under this act, if, at the time the governing body established the authority, the governing body could have determined that establishment of an authority under this act would serve to create jobs or promote economic development growth.

(3) A development area created or expanded after December 29, 1986 shall be subject to the requirements of section 3(1).

History: Add. 1986, Act 280, Imd. Eff. Dec. 22, 1986
Popular Name: TIFA

125.1830 Proceedings to compel enforcement of act; rules.
Sec. 30. (1) The state tax commission may institute proceedings to compel enforcement of this act.
(2) The state tax commission may promulgate rules necessary for the administration of this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the

Michigan Compiled Laws.
History: Add. 1988, Act 420, Imd. Eff. Dec. 27, 1988
Compiler's Notes: Section 2 of Act 420 of 1988 provides: "This amendatory act is effective beginning with taxes levied in 1989."
Popular Name: TIFA

MICHIGAN URBAN LAND ASSEMBLY ACT
Act 171 of 1981

AN ACT to provide for the creation of an urban land assembly fund to assist eligible municipalities in the acquisition of certain real property for economic development purposes; to prescribe procedures and criteria for loan eligibility and for the issuance and repayment of loans; to transfer certain revenues, records, and the authority to receive certain loan repayments to the urban land assembly fund; and to prescribe the powers and duties of the department of commerce and of municipalities and certain administering agencies.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981

The People of the State of Michigan enact:

125.1851 Short title.
Sec. 1. This act shall be known and may be cited as the "Michigan urban land assembly act".

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981
Compiler's Notes: For transfer of powers and duties of department of commerce under Act 171 of 1981 to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.1852 Definitions.
Sec. 2. As used in this act:

(a) "Administering agency" means a municipality or nonprofit development organization designated by a municipality and authorized by the municipality to plan and implement a project.

(b) "Application" means an application for a loan from the fund.

(c) "Department" means the department of commerce.

(d) “Displacement” means the moving of persons from a project area to another sector of the municipality, another municipality, or another governmental unit.

(e) “Fund” means the urban land assembly fund created in section 3.

(f) “Loan” means a disbursement of money available from the fund to the administering agency for project purposes.

(g) “Municipality” means a city which meets funding eligibility requirements established by the department.

(h) “Project” means the assembly of urban parcels of real property within a municipality for economic development purposes, excluding land to be used by a public utility. Project may include, but is not limited to, the purchase, demolition, relocation, and site improvements required to make the land marketable.

(i) “Project area” means the boundaries of the real property to be purchased as described in the project plan.

(j) “Project plan” means the information required by the department for review of a proposed project.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981

125.1853 Urban land assembly loan fund; creation; administration; use; operation on revolving basis; total amount of loans.
Sec. 3. (1) An urban land assembly loan fund is created within the state treasury and shall be administered by the department.

(2) The fund shall be used in assembling parcels of real property within municipalities for economic development purposes for municipalities which meet the funding eligibility requirements set forth by the department.

(3) The fund shall operate on a revolving basis. Annual appropriations, repayments to the fund, and all interest earned by the fund shall be available for future urban land assembly projects.

(4) The total amount of loans of money from the fund which a municipality may receive in any 1 year shall not exceed 1/2 of the assets in the fund.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981
Compiler's Notes: For transfer of powers and duties of department of commerce under Act 171 of 1981 to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.1854 Disbursement of money from fund.

Sec. 4. The disbursement of money from the fund shall be determined by the department and provided to municipalities which file an application pursuant to section 6 and which meet the funding eligibility requirements established by the department consistent with criteria described in section 5.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981

125.1855 Eligibility; primary consideration to municipalities with high unemployment.

Sec. 5. To be eligible under this act for a loan for a project, a municipality shall meet eligibility criteria established by the department. The department shall give primary consideration to those municipalities with high unemployment.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981

125.1856 Application for loan; contents; guidelines for evaluating economic impact of proposed projects; system for ordering priority of projects.

Sec. 6. (1) An administering agency requesting a loan shall file an application with the department. The application shall include the following:

(a) Proof and certification that at least 1 of the funding eligibility requirements set forth by the department has been met.

(b) A demonstration that within the municipality a severe shortage of industrial real property parcels exists for new or expanded industrial development, or a demonstration that within the municipality a shortage of commercial real property parcels exists in the area under the jurisdiction of a downtown development authority pursuant to Act No. 197 of the Public Acts of 1975, as amended, being sections 125.1651 to 125.1680 of the Michigan Compiled Laws.

(c) A project plan.

(d) A description of the project's consistency with the municipality's plans for economic development and the municipality's master plan, if a master plan has been adopted.

(e) A description of the planned real property acquisition for industrial use of at least 10 contiguous acres, or a planned acquisition for industrial use of a critical parcel of less than 10 acres, if the department determines that the municipality making the application has presented sufficient documentation demonstrating the critical nature of obtaining the parcel for industrial development purposes, or in a downtown development authority area.

(f) A description of the planned industrial or commercial reuse of the project area and, if displacement is to occur, a plan for providing for the persons to be displaced.

(g) A description of the economic impact of the proposed project, including but not limited to the types of impact described in subsection (2).

(h) The administering agency shall certify to the department that at the time the project plan is approved by the department, the project shall not have the effect of transferring employment from a city of this state to the city in which the project is to be located. This restriction shall not prevent the approval of a project if the governing body of each city from which employment is to be transferred consents by resolution to the transfer.

(2) The department shall develop guidelines for evaluating the economic impact of the proposed projects and a system for ordering the priority of projects shall be implemented. The department shall give priority to those projects which:

(a) Yield the highest number of new jobs per loan fund dollar invested.

(b) Receive contributions equal to 1/2 of the project cost from the private sector, or from local or federal governments, or from both.

(c) Make long term contributions to the local tax base.

(d) Contribute significantly to neighborhood revitalization.

(e) Identify a potential immediate user for the property to be purchased.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981

125.1857 Loan document; contents; execution; changes to project; annual report.

Sec. 7. (1) A loan document shall be executed between the department and the applicant which shall include a description of the project, and provisions for repayment of the loan. Following the execution of the loan document, changes to the project shall not be made by the applicant without the written approval of the department.

(2) The administering agency shall submit an annual report to the department, which shall include those items required by the department.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981

125.1858 Repayment into fund of proceeds from sale or lease of land and improvements to industrial or commercial user; amount repaid; repayment of remainder of loan; sale of real property at less than cost of acquisition.

Sec. 8. (1) Upon sale or lease of the real property, the administering agency shall repay into the fund a portion of the proceeds from the sale or lease of land and improvements within a project to an industrial or commercial user. The amount repaid shall be in the same proportion to the total proceeds received from the sale or lease as the original contribution from the fund is to the total cost of the project.

(2) If repayment in accordance with subsection (1) does not fully repay the loan, the remainder of the loan shall be repaid pursuant to the provisions of the loan document. In determining the provisions of repayment of the remainder of the loan, the department shall take into consideration the economic impact criteria contained in section 6(2) and the demonstrated need to sell the land below total project cost in accordance with subsection (3). The remainder of the loan shall be repaid no later than 10 years after the sale or lease of the real property by the administering agency.

(3) The administering agency may sell real property to an industrial or commercial user at less than the administering agency's cost of acquisition, if the administering agency demonstrates to the department the need to lower the cost of the real property to make the land economically competitive with

similar parcels of real property, and if loan repayments to the fund are made in accordance with subsections (1) and (2).

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981

125.1859 Annual report.
Sec. 9. The department shall annually report to the legislature on the use of the fund. The report shall include the following:

(a) A list and description of approved projects.

(b) The number of jobs created by approved projects.

(c) Other accomplishments of the fund.

(d) The department's recommendations on the continuation or cessation of the fund as well as other recommendations for changes in the fund.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981

125.1860 Transfer of funds for urban land banking purposes, loan interest, authority to receive repayments, and related records to fund.
Sec. 10. All funds for urban land banking purposes, including unexpended appropriations made under Act No. 401 of the Public Acts of 1978, interest earned on loans and investments of funds for urban land banking purposes, and the authority to receive repayments of interest and principal on loans made of funds for urban land banking purposes, and all related records shall be transferred intact from the Michigan state housing development authority to the fund created by this act.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981

125.1861 Rules.
Sec. 11. The agency shall promulgate rules to implement this act. The rules shall be promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981

ENTERPRISE ZONE ACT
Act 224 of 1985

AN ACT to promote economic growth within economically distressed local governmental units; to provide for the creation of enterprise zones; to provide for the creation of an enterprise zone authority; to prescribe the powers and duties of officials and agencies of the state and certain local governmental units; to provide for the establishment of citizens' councils and to prescribe their powers and duties; to authorize the levy and collection of specific taxes; and to provide qualifications for certification of and incentives for certain businesses located in enterprise zones.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986

The People of the State of Michigan enact:

125.2101 Short title.

Sec. 1. This act shall be known and may be cited as the “enterprise zone act”.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986
Compiler's Notes: For transfer of powers and duties of Michigan enterprise authority to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.2102 Legislative findings.

Sec. 2. (1) The legislature finds that it is in the public interest to promote economic growth and to encourage private investment, job creation, and job upgrading for residents in local governmental units that are economically distressed.

(2) The legislature further finds that the present and future health, safety, right to gainful employment, business opportunities, and general welfare of the people of this state require, as a public purpose, that enterprise zones be created to encourage businesses to locate and expand in areas characterized by high unemployment, low income, high property tax rates, and blighted, obsolete, and underutilized residential, commercial, and industrial property.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986
Compiler's Notes: For transfer of powers and duties of Michigan enterprise authority to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.2103 Definitions.
Sec. 3. As used in this act:

(a) “Authority” means the Michigan enterprise zone authority created pursuant to section 4.

(b) “Citizens' council” means a council created pursuant to section 9 .

(c) “Comprehensive development plan” or “plan” means a physical improvement plan for an enterprise zone.

(d) “Enterprise zone” or “zone” means an area approved as an enterprise zone by the authority as provided in this act.

(e) “Facility” means real or personal industrial or commercial property located in an enterprise zone, excluding property used to provide rental housing.

(f) “General property tax act” means Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

(g) “Increased SEV” means the amount determined by subtracting the initial state equalized valuation of the property from the state equalized valuation of the property excluding the exemptions granted under this act.

(h) “Initial SEV” means the state equalized valuation of the property in the year immediately preceding the year in which the exemption granted under section 16 takes effect. For property exempted under section 20b, the initial SEV is 0.

(i) “Local governmental unit” means a city, village, or township.

(j) “New facility” means real or personal industrial or commercial property located in an enterprise zone, the construction, restoration, alteration, or renovation of which begins after the date on which the business applies with the local governmental unit for certification as a qualified business. Restoration, alteration, or renovation of existing property constitutes a new facility only if the increase in the combined true cash value of the restored, altered, or renovated real and personal property is equal to or greater than 50% of the combined true cash value of the real and personal property before restoration, alteration, or renovation as defined in the general property tax act, notwithstanding the exemptions granted by this act.

(k) “Qualified business” means either of the following, as applicable:

(i) A qualified new business or a qualified existing business located in an enterprise zone created before 1994.

(ii) A business located in an enterprise zone created after 1993.

(l) “Qualified business activity” means business activity in an enterprise zone established before 1994 of a qualified existing business attributable to a new facility or the business activity in an enterprise zone established before 1994 of a qualified new business.

(m) “Qualified existing business” means a business that is located in the area comprising an enterprise zone at the time the area is approved as an enterprise zone, that constructs a new facility, and that is certified by the authority as meeting the requirements of this act.

(n) “Qualified new business” means a business located within an enterprise zone that is not located in the area comprising the enterprise zone on the date on which the authority approves the enterprise zone, and that is certified by the authority as meeting the requirements of this act.

(o) “Tax increment finance authority” means an authority established under Act No. 197 of the Public Acts of 1975, being sections 125.1651 to 125.1681 of the Michigan Compiled Laws; the tax increment finance authority act, Act No. 450 of the Public Acts of 1980, being sections 125.1801 to 125.1830 of the Michigan Compiled Laws; or the local development financing act, Act No. 281 of the Public Acts of 1986, being sections 125.2151 to 125.2174 of the Michigan Compiled Laws.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1990, Act 80, Imd. Eff. May 24, 1990 ;-- Am. 1991, Act 185, Imd. Eff. Dec. 27, 1991 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994 ;-- Am. 1996, Act 444, Imd. Eff. Dec. 19, 1996
Compiler's Notes: Section 2 of Act 80 of 1990 provides: “This amendatory act applies to the 1990 tax year and tax years after the 1990 tax year.”For transfer of powers and duties of Michigan enterprise authority to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.2104 Michigan enterprise zone authority; creation; powers, duties, and functions; staff; appointment, qualifications, and terms of members; vacancy; designees; reimbursement of expenses.

Sec. 4. (1) The Michigan enterprise zone authority is created within the department of commerce. The authority shall exercise its powers, duties, and functions independently of the director of commerce as head of department of commerce. However, the department of commerce shall provide staff for the authority and shall carry out the administrative duties and functions as directed by the authority. The budgeting, procurement, and related functions of the authority shall be under the supervision of the director of commerce.

(2) The authority consists of the following 7 members:

(a) The director of the department of commerce, or the director's designee, as chairperson of the authority.

(b) The state treasurer or the treasurer's designee.

(c) Five other members appointed by the governor who have knowledge, skill, and experience in the academic, business, local government, labor, or financial fields.

(3) A member shall be appointed for a term of 4 years, except that of the members first appointed by the governor, 2 shall be appointed for a term of 2 years and 3 for a term of 4 years from the dates of their appointments. A vacancy shall be filled for the balance of the unexpired term in the same manner as an original appointment.

(4) The director of the department of commerce and the state treasurer each may appoint a designee to serve as a member of the authority in his or her absence. Except as otherwise provided by law, a member of the authority shall not receive compensation for services, but the authority may reimburse each member for expenses necessarily incurred in the performance of his or her duties.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994
Compiler's Notes: For transfer of powers and duties of Michigan enterprise authority to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.2105 Powers of authority vested in members; quorum; action by authority; meetings.

Sec. 5. (1) The powers of the authority shall be vested in the members in office. Regardless of the existence of a vacancy, a majority of the members of the

authority constitutes a quorum necessary for the transaction of business at a meeting or the exercise of a power or function of the authority. Action may be taken by the authority at a meeting upon a vote of the majority of the members present.

(2) The authority shall meet at the call of the chairperson or as may be provided in the bylaws of the authority. Meetings of the authority may be held anywhere within the state.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986
Compiler's Notes: For transfer of powers and duties of Michigan enterprise authority to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.2106 Powers and duties of authority generally.
Sec. 6. In addition to other powers and duties provided in this act, the authority shall administer this act and has all of the following powers and duties:

(a) To conduct a continuing evaluation program on enterprise zones.

(b) To promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, necessary to carry out the purposes of this act.

(c) To assist a qualified business in obtaining the benefits of an incentive or inducement program provided by law and the benefits of this act.

(d) To assist the citizens' council of an enterprise zone in obtaining assistance from any other agency of state government, including assistance in providing training and technical assistance to qualified businesses within an enterprise zone.

(e) To modify the boundaries of an enterprise zone if both of the following requirements are met:

(i) The property is within the corporate limits of the local governmental unit in which the enterprise zone is located. If the property is transferred to the local governmental unit in which the enterprise zone is located pursuant to a contract under Act No. 425 of the Public Acts of 1984, being sections 124.21 to 124.30 of the Michigan Compiled Laws, the transfer shall be from a local

governmental unit for a period of 30 years or more, and the revenue received by the transferring local governmental unit under the contract shall be not more than that local governmental unit would have received based upon its millage rate.

(ii) The procedures described in sections 11 through 13 are followed.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1987, Act 15, Imd. Eff. Apr. 14, 1987 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994
Compiler's Notes: For transfer of powers and duties of Michigan enterprise authority to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.2107 Analysis of economic impacts of enterprise zones; presentation to legislative committees; development and implementation of recommendations.

Sec. 7. (1) Beginning October 1, 1996 and every 3 years after that date, the authority shall present an analysis of the economic impacts of each enterprise zone. This analysis shall be presented to the standing committees of the legislature concerned with economic development, local governmental units, and taxation for their consideration of enterprise zone feasibility.

(2) The department of treasury and a local governmental unit in which an enterprise zone was approved before 1994 shall jointly develop recommendations for the fiscal management of the local governmental unit, and the local governmental unit shall implement those recommendations.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994

125.2108 Qualifying local governmental units.

Sec. 8. The authority shall determine which local governmental units qualify to apply to have enterprise zones approved within their boundaries. For an enterprise zone approved after 1993, a qualifying local governmental unit shall be a local governmental unit that has been designated an empowerment zone, rural enterprise community, or enterprise community by the United States department of housing and urban development or the United States department of agriculture.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994

125.2109 Citizens' council for potential enterprise zone; establishment; appointment, qualifications, and terms of members; staff; administrative duties and functions.

Sec. 9. (1) If a local governmental unit qualifies under the criteria of section 8 and wishes to apply for approval of an enterprise zone within its boundaries, the local governmental unit shall establish a citizens' council for the potential enterprise zone. A local governmental unit shall have only 1 citizens' council regardless of the number of enterprise zones within its boundaries. The citizens' council shall consist of 11 individuals nominated by the chief elected official of the local governmental unit and approved by the governing body of the local governmental unit. In the selection of the citizens' council members, preference shall be given to persons who reside, are located, or are doing business in that local governmental unit.

(2) A member shall serve for a term of 3 years, except that of the members first appointed, 3 shall serve for 1 year, 4 for 2 years, and 4 for 3 years. A vacancy on the citizens' council shall be filled for the remainder of the unexpired term in the same manner as the original appointment. For a local governmental unit establishing an enterprise zone after 1993, the citizens' council shall consist of persons who live, work, own property, or own a business that owns property in the local governmental unit. For a local governmental unit that established an enterprise zone before 1994, the citizens' council shall consist of all of the following:

(a) A representative of financial institutions.

(b) A representative of business.

(c) A person with expertise in land use.

(d) A person with expertise in economic development.

(e) An educator.

(f) A representative of labor organizations.

(g) A representative of neighborhood associations.

(h) An attorney.

(i) A homeowner.

(j) Two elected officials representing the residents of the enterprise zone.

(3) The governing body of the local governmental unit shall provide staff for the citizens' council and shall carry out the administrative duties and functions as directed by that governing body.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994

125.2110 Duties of citizens' council.
Sec. 10. A citizens' council shall perform all of the following duties:

(a) Advise the local governmental unit on all matters relating to enterprise zone activities.

(b) Advocate the promotion and development of business in the enterprise zone.

(c) Coordinate employer needs with available training programs and other services.

(d) Upon the request of a qualified business, assist in the recruitment of employees for existing or future jobs.

(e) Review each employer annually to ensure the employer's continuing status as a qualified business.

(f) Provide information, as requested, to the authority.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994

125.2111 Adoption of ordinance establishing proposed enterprise zone; public hearing; notice; vote; boundaries.
Sec. 11. (1) Beginning in 1994, the governing body of the local governmental unit shall hold a public hearing on the adoption of an ordinance establishing the proposed enterprise zone. Notice of the public hearing shall be published twice in a newspaper of general circulation in the local governmental unit, not less than 20 or more than 40 days before the date of the hearing. Notice shall also be mailed to the property owners of record in the proposed enterprise zone not less than 20 days before the hearing. Failure to receive the notice does not invalidate

the hearing. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed enterprise zone. A citizen, taxpayer, or property owner of the local governmental unit has the right to be heard in regard to the establishment of the enterprise zone and the proposed boundaries.

(2) After the public hearing required by subsection (2), if the governing body of the local governmental unit intends to proceed with the establishment of the enterprise zone, it shall adopt, by majority vote of its members elected and serving, an ordinance establishing the enterprise zone. The ordinance shall include the boundaries of the zone and a finding that the zone meets the requirements of this act.

(3) For an enterprise zone established after 1993, the boundaries of an enterprise zone established under this act shall be the same as the boundaries of the empowerment zone, rural enterprise community, or enterprise community.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994

125.2112 Application to have area approved as enterprise zone; filing; form; contents.

Sec. 12. If a local governmental unit qualifies under section 8 and its governing body approves the boundaries of a proposed enterprise zone, the local governmental unit may file with the authority an application, in a form provided by the authority, to have the area approved as an enterprise zone. The application shall contain all of the following:

(a) A description of the commitment by the local governmental unit to improve the efficiency of the local services provided, such as transportation, road improvement or maintenance, police protection, and other similar services and a description of the additional services that will be provided as a result of the area being designated an enterprise zone.

(b) A statement of commitment to apply local ordinances relative to zoning, construction, and safety in a manner that preserves and protects the health, safety, and welfare of residents of the local governmental unit.

(c) A commitment that the local governmental unit's economic development and land use planning resources will be provided to private entities involved with the area proposed as an enterprise zone.

(d) Sufficient evidence for a determination of eligibility by the authority pursuant to section 13.

(e) A map showing the proposed enterprise zone boundaries and the present land use of the area, and information concerning the present physical condition of buildings within the area.

(f) A general description of how approval of the enterprise zone will improve physical conditions in the area, will induce private investment in the area by businesses and industries, and will create jobs in the proposed enterprise zone.

(g) Evidence of support for approval of the enterprise zone by residents and businesses located within the local governmental unit and within the proposed enterprise zone.

(h) The identification of an individual from the local governmental unit who will serve as an enterprise zone contact with the authority.

(i) A general description of the structure, application process, responsibilities, and authority that will be used to manage all zone-related activities, including, but not limited to, how the zone will be promoted and any governing organizations that will be employed to manage the operation of the zone.

(j) Other relevant information from the local governmental unit as required by the authority.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994

125.2113 Review of application; approval or rejection; comprehensive development plan; contents; public hearing; notice; action by authority; spending tax revenue on physical improvements; revocation.
Sec. 13. (1) Upon receipt of an application from a local governmental unit, the authority shall review the application and, by resolution, shall approve or reject the application based upon criteria set forth in this act.

(2) If the authority rejects an application, the authority shall return the application to the local governmental unit along with the resolution of rejection that includes a statement of the reason for rejection. A local governmental unit may resubmit a rejected application.

(3) If the authority approves the application, the local governmental unit has 2 years from date of approval to prepare a comprehensive development plan for the enterprise zone. The comprehensive development plan shall address the needs of the zone and include a strategy for achieving the goals of the zone. The comprehensive development plan shall contain all of the following:

(a) A legal description of the enterprise zone, a description of the location and extent of existing streets and other public facilities within the zone, and a description of the location, character, and extent of the categories of public and private land uses existing and proposed for the enterprise zone, including residential, recreational, commercial, industrial, educational, and other uses.

(b) A description of desired zoning changes and changes in streets, street levels, intersections, and utilities to be made in the enterprise zone.

(c) A description of public improvements to be made in the enterprise zone, a description of any repairs and alterations necessary to make those improvements, and an estimate of the time by construction stage required for completion of the improvements.

(d) An estimate of the cost of the proposed physical improvements, a statement of the proposed method of financing, and the ability of the local governmental unit to arrange the financing.

(e) A description of any parts of the enterprise zone to be left as open space and the use contemplated for the space.

(f) An environmental evaluation of each proposed enterprise zone.

(g) A description of any real property in the enterprise zone that the local governmental unit desires to sell, donate, exchange, or lease to or from another entity and the proposed terms.

(h) Estimates of the number of persons residing in the enterprise zone and the number of families and individuals to be displaced, if any, as a result of improvements.

(i) Provision for the costs of relocating persons displaced by the zone improvements, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in

accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646, 84 Stat. 1894, as well as a plan for compliance with Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

(j) A strategy for addressing the pre-employment training needs and employment of residents in the zone.

(k) Other material that the local governmental unit or authority considers pertinent.

(4) The governing body of the local governmental unit, before adoption of a resolution approving a comprehensive development plan, shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the local governmental unit, the first of which shall not be less than 20 days before the date set for the hearing. Notice shall also be mailed to all property owners of record in the development area not less than 20 days before the hearing.

(5) After a public hearing on the comprehensive development plan, the governing body of the local governmental unit shall approve or reject the plan, or approve it with modification, by resolution. The local governmental unit shall then send the comprehensive development plan to the authority with a request for its approval.

(6) After receipt of the comprehensive development plan, the authority shall approve or reject the plan. However, the authority shall reject the plan if it includes a project for which the expenditure of the local unit's funds has been prohibited by initiative ordinance. The authority shall reject the plan if it includes any funding for the construction of or infrastructure related to a sports facility seating 30,000 or more in maximum capacity which can be sold, leased, rented, donated, or otherwise provided to an organization with a direct financial interest in a professional sports team. If the authority rejects the plan, the authority shall return it to the governing body of the local governmental unit with a written explanation of its rejection. A rejected plan may be resubmitted. If the authority approves the plan, the authority shall send a formal notification of its approval to the governing body of the local governmental unit.

(7) Upon plan approval by the authority, the local governmental unit may spend zone-related tax revenue on physical improvements within the zone.

(8) The authority may revoke the approval of an enterprise zone if the local governmental unit fails to comply with this act.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994

125.2114 Application for certification as qualified business; procedure.
Sec. 14. (1) This section applies only to a business that applies for certification as a qualified business in an enterprise zone that was created before 1994.

(2) A business that plans to meet the construction, restoration, alteration, or renovation requirements for, and that does meet the other conditions for, a qualified business prescribed in this act may apply to the local governmental unit in which the business will be located as a qualified business for certification as a qualified business.

(3) If a business applying under subsection (2) meets the conditions for a qualified business prescribed by this act, other than the construction, restoration, alteration, and renovation requirements, that local governmental unit shall certify the business as a qualified business, subject to final approval of the certification by the authority.

(4) If a local governmental unit approves a certification, the local governmental unit shall forward the application and certification to the authority. If a local governmental unit rejects an application, the local governmental unit shall return the application to the business with a written statement of the reasons for rejection.

(5) A business whose application for certification as a qualified business is rejected by a local governmental unit may submit another application to the local governmental unit or may appeal the rejection to the authority.

(6) If a business that is certified to or appeals to the authority meets the conditions for a qualified business prescribed by this act, other than the construction, restoration, alteration, and renovation requirements, the authority shall approve the certification of that business as a qualified business. If the authority rejects the application or appeal, the authority shall return the application or appeal to the business with a written statement of the reasons for

rejection. A business whose application is rejected by the authority may resubmit the application to the authority.

(7) A local governmental unit or the authority shall not certify a business as a qualified business after 10 years after the date on which the authority approves the first area as an enterprise zone.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1988, Act 129, Imd. Eff. May 24, 1988 ;-- Am. 1990, Act 80, Imd. Eff. May 24, 1990 ;-- Am. 1994, Act 230, Imd. Eff. June 30, 1994 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994
Compiler's Notes: Section 2 of Act 80 of 1990 provides: "This amendatory act applies to the 1990 tax year and tax years after the 1990 tax year."

125.2114a Certification as qualified business; application; eligibility; time period; revocation; limitation.

Sec. 14a. (1) This section applies only to a business that applies for certification as a qualified business in an enterprise zone that was created after 1993.

(2) The owner or lessee of a facility may file an application for certification as a qualified business within the enterprise zone with the clerk of the local governmental unit that established the zone. The application shall be filed in the manner and form prescribed by the authority. The application shall contain or be accompanied by a general description of the facility, a general description of the proposed use of the facility, and a time schedule for undertaking and completing renovation of the facility.

(3) Upon receipt of an application for certification as a qualified business, the clerk of the local governmental unit shall notify in writing the citizens' council and the assessor of the assessing unit in which the zone is located of the application.

(4) If the citizens' council does not take action to disapprove the application within 30 days after receipt of the application, the application is automatically approved. A copy of the approved application shall be filed with the authority.

(5) If the citizens' council rejects the application for certification of a business as a qualified business, the citizens' council shall notify that business and the authority of its rejection. A business whose application is rejected may submit another application to the clerk of the local governmental unit or may appeal the rejection to the authority.

(6) If a business appeals to the authority and meets the conditions for a qualified business prescribed by this act, the authority shall approve the certification of that business as a qualified business. If the authority rejects the application or appeal, the authority shall return the application or appeal to the business with a written explanation of the reasons for rejection. A business whose application is rejected by the authority may resubmit the application to the authority.

(7) A facility is not eligible for certification as a qualified business if the facility is to be built solely on property that has never had a structure on it.

(8) A local governmental unit or the authority shall not certify a business as a qualified business after 6 years after the date on which the authority approves the first area in that local governmental unit as an enterprise zone.

(9) A local governmental unit or the authority may revoke the certification of a qualified business for noncompliance with the act, including the failure to pay the tax levied under section 21a. Revocation by a local governmental unit may be appealed to the authority which shall then approve or disapprove the revocation.

(10) A local governmental unit shall not certify a business as a qualified business if that business employs more than 5 employees at an individual average annual base salary, excluding stock options, greater than $2,000,000.00.

History: Add. 1994, Act 311, Imd. Eff. July 20, 1994

125.2115 Condition to certification as qualified business.

Sec. 15. Before being entitled to certification as a qualified business, a business shall certify to the local governmental unit in writing at least all of the following:

(a) An estimate of the minimum number of new jobs that will be created by the business as a qualified business and the duration of those jobs.

(b) An estimate of the amount of investment that will be made in the enterprise zone on land, equipment, and building acquisition or construction.

(c) Each exemption, credit, or deduction to which the business will be entitled as a qualified business and the duration of each exemption, credit, or deduction.

(d) That the business is aware that violation of the terms of this act or the certification under this section may result in revocation of its certification as a qualified business.

(e) That, except as provided in section 16, location of the new facility or qualified new business in the enterprise zone will not have the effect of transferring employment from another local governmental unit or from an area in the local governmental unit to the enterprise zone located within that local governmental unit.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994

125.2116 Effect of transferring employment from 1 or more local governmental units.

Sec. 16. If the location of a new facility or qualified new business in an enterprise zone will have the effect of transferring employment from 1 or more other local governmental units, a business may be certified as a qualified business if the governing body of each local governmental unit from which employment will be transferred consents by resolution to the certification. The governing body of each local governmental unit from which employment is to be transferred or, if a business is moving within a local governmental unit to an enterprise zone, the governing body of that local governmental unit, shall by resolution either approve or deny the transfer. If denied, the reasons for denial shall be included in the resolution. A copy of the resolution shall be filed with the authority within 20 days after adoption.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994

125.2117 Allegations of noncompliance; procedure.

Sec. 17. (1) Except as provided in subsection (6), a resident of an enterprise zone, a business located within an enterprise zone, or the authority may allege to the local governmental unit noncompliance with this act, including, but not limited to, noncompliance by a qualified business with a certification made by the business under section 15 or noncompliance by the local governmental unit.

(2) A local governmental unit shall attempt to resolve allegations of noncompliance without formal proceedings. If an allegation is not resolved by

the local governmental unit within 120 days, the alleging party may request a hearing or may file the allegation with the authority.

(3) Within 30 days after holding a hearing concerning an allegation of noncompliance and subject to appeal to the authority, the local governmental unit shall take the action it considers necessary to remedy the noncompliance. This action may include, but is not limited to, the revocation of the certification of a qualified business. Unless the authority orders otherwise upon an appeal, revocation of certification by the local governmental unit is revocation by the authority.

(4) The authority shall attempt to resolve an allegation of noncompliance without formal proceedings. If the allegation is not resolved within 60 days after it is filed with the authority, the authority shall hold a hearing regarding the alleged noncompliance.

(5) Within 30 days after a hearing on an allegation, the authority shall render a decision regarding the allegation and may issue any order the authority considers necessary to remedy the noncompliance. The order may include, but is not limited to, revocation of the certification of a qualified business or, if a local governmental unit is in substantial noncompliance, revocation of approval of the enterprise zone.

(6) This section applies only to allegations of noncompliance by a qualified business located in an enterprise zone that was created before 1994.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994

125.2118 Eligibility for exemption, credit, or deduction.

Sec. 18. The qualified business activity of a qualified business is eligible for an exemption, credit, or deduction as provided by this act, another law of this state, or a law of the United States.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986

125.2119 Duration of exemption or credit.

Sec. 19. An exemption or credit granted to a qualified business shall continue until the certification of the qualified business is revoked, as provided in this act, or for 10 years from the date that the business is certified as a qualified business. Even if approval of an enterprise zone is revoked by the authority as

provided in this act, an exemption or credit granted to a qualified business located in that enterprise zone shall continue until revoked or until the 10-year or other specified period elapses.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994

125.2120 Exemption from ad valorem real and personal property taxes.
Sec. 20. (1) For a qualified business located in an enterprise zone that was created before 1994, unless the certification of the qualified business is revoked as provided in this act, for 10 years from the date on which construction, restoration, alteration, or renovation begins, or through December 31, 2004, whichever occurs first, a new facility owned by the qualified existing business or industrial or commercial property located in an enterprise zone owned by the qualified new business is exempt from ad valorem real and personal property taxes imposed under the general property tax act. For a qualified existing business certified after June 1, 1990 and for purposes of this subsection only, a new facility includes only the portion of the existing property attributable to the restoration, alteration, or renovation.

(2) Except as otherwise provided in this subsection, for a qualified business located in an enterprise zone that was created after 1993, unless the certification of the qualified business is revoked as provided in this act, and except as provided in section 21a(8), for 5 years from the date of certification, a facility owned by the qualified business is exempt from ad valorem real and personal property taxes.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1991, Act 185, Imd. Eff. Dec. 27, 1991 ;-- Am. 1994, Act 230, Imd. Eff. June 30, 1994 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994

125.2120a Exemption of commercial, industrial, or utility property from ad valorem real and personal property taxes; compliance required.
Sec. 20a. (1) Commercial, industrial, or utility property that is located in the area comprising an enterprise zone at the time the area is approved as an enterprise zone and that is not exempt under section 20 or 20b is exempt from ad valorem real and personal property taxes imposed through the year 2004 under the general property tax act.

(2) The exemption allowed by this section applies only to commercial, industrial, or utility property located in an enterprise zone that was created before 1994 and that is located in a local governmental unit that complies with all of the following:

(a) The governing body of the local governmental unit in cooperation with the local governmental unit's chief executive officer develops a comprehensive development plan that addresses the needs of the local governmental unit, that includes a strategy for achieving the goals of the local governmental unit and its residents and businesses, and that meets the requirements of section 13. The development plan shall contain a spending plan, approved by a resolution of the authority, for the additional money received as a result of the amendments to this act made by the amendatory act that added this section. Money included in the spending plan is also subject to the annual appropriation process of the local governmental unit as required by law.

(b) The local governmental unit creates and compensates the position of an enterprise zone assistant to oversee development of the spending plan required in subdivision (a) and to aid in other economic development efforts.

History: Add. 1990, Act 80, Imd. Eff. May 24, 1990 ;-- Am. 1991, Act 185, Imd. Eff. Dec. 27, 1991 ;-- Am. 1994, Act 230, Imd. Eff. June 30, 1994 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994
Compiler's Notes: Section 2 of Act 80 of 1990 provides: “This amendatory act applies to the 1990 tax year and tax years after the 1990 tax year.”

125.2120b Additional exemption from ad valorem real and personal property taxes.

Sec. 20b. Property that is located in the area comprising an enterprise zone at the time the area is approved as an enterprise zone and for which an exemption certificate under Act No. 198 of the Public Acts of 1974, being sections 207.551 to 207.571 of the Michigan Compiled Laws, is approved before January 1, 1992, and revoked after April 1, 1990, if the property is located in an enterprise zone that was created before 1994, or for which an exemption certificate is approved before January 1, 1995, and revoked after July 1, 1994, if the property is located in an enterprise zone that was created after 1993, at the request of the owner is exempt from ad valorem real and personal property taxes imposed under the general property tax act either for the balance of the period for which the exemption certificate under Act No. 198 of the Public Acts of 1974 had been issued or for a period of 10 years after the date of revocation, whichever is less.

History: Add. 1990, Act 80, Imd. Eff. May 24, 1990 ;-- Am. 1991, Act 185, Imd. Eff. Dec. 27, 1991 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994
Compiler's Notes: Section 2 of Act 80 of 1990 provides: “This amendatory act applies to the 1990 tax year and tax years after the 1990 tax year.”

125.2121 Enterprise zone created before 1994; levy of specific tax; amount; payment; disbursement; agreement; credit; lien; eligibility for credit; funding emergency dispatch services, senior citizen centers, and substance abuse rehabilitation services.

Sec. 21. (1) This section applies only to an owner of property located in an enterprise zone that was created before 1994.

(2) Except as provided in section 21c, a specific tax is levied in each year upon an owner of property exempted under section 20(1) or 20b, the amount of which is determined by multiplying 50% of the average rate of taxation levied upon other commercial, industrial, and utility property upon which ad valorem taxes are assessed as determined each year by the state board of assessors under section 13 of Act No. 282 of the Public Acts of 1905, being section 207.13 of the Michigan Compiled Laws, by the state equalized valuation of that property excluding the exemptions granted by this act.

(3) Except as provided in section 21c, a specific tax is levied in each year upon an owner of property exempted under section 20a, the amount of which is determined by multiplying the total millage levied as ad valorem real and personal property taxes for that year upon other commercial, industrial, and utility property by all taxing units within which the property is located by the state equalized valuation of that property excluding the exemptions granted by this act.

(4) The tax levied under subsection (2) is an annual tax payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act are payable. The officer or officers shall disburse the tax payments received each year under subsection (2), at the same times as taxes imposed under the general property tax act are disbursed, to the local governmental unit in which the property is located.

(5) The tax levied under subsection (3) is an annual tax payable to the same officer or officers as taxes imposed under the general property tax act with 1/2 of the tax levied on July 1 and 1/2 levied on December 1. The officer or officers shall disburse the tax payments received each year under subsection (3) to the same local governmental unit, school districts, county, and authorities at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act, except for the following:

(a) The amount that would otherwise be disbursed to a local school district for school operating purposes or to this state under the state education act, Act No. 331 of the Public Acts of 1993, being sections 211.901 to 211.906 of the Michigan Compiled Laws, shall be paid instead to the local governmental unit in which the property is located.

(b) There shall be paid to the local governmental unit in which the property is located a portion of the tax that would otherwise not be paid to the local governmental unit equal to the proportion of ad valorem property taxes levied on commercial and industrial property in the year before the exemption under section 20a first applies which proportion was captured under a tax increment financing plan.

(6) A local governmental unit that receives money under subsection (5) may enter into an agreement with any of the following:

(a) A downtown development authority or tax increment finance authority to share a portion of the money received by the local governmental unit under subsection (5) in not more than the same proportion that the authority would have received if the tax levied under subsection (3) could be captured under a tax increment financing plan.

(b) A taxing unit that receives revenue under subsection (5) to share a portion of the money received by the local governmental unit under subsection (5) not to exceed the taxing unit's net reduction in revenue pursuant to the exemption under section 20a.

(7) The owner of property subject to the tax under subsection (3) may claim a credit against the tax levied on December 1 under subsection (3) for the sum of all the following, but not more than the amount by which the tax levied for the year under subsection (3) exceeds the amount determined by multiplying the average rate of taxation levied upon other commercial, industrial, and utility property upon which ad valorem taxes are assessed as determined each year by the state board of assessors under section 13 of Act No. 282 of the Public Acts of 1905 by the state equalized valuation of that property excluding the exemptions granted by this act:

(a) The amount spent in the year to restore, alter, renovate, or improve real property located in the enterprise zone.

(b) Fifteen percent of wages paid during the year to residents of the enterprise zone who were hired by the owner after May 24, 1990 and who were employed at some time during the 6 months before being hired.

(c) Twenty-five percent of wages paid during the year to residents of the enterprise zone who were hired by the owner after May 24, 1990 and who were not employed at any time during the 6 months before being hired.

(d) Cash and in-kind contributions made by that owner during the year to and accepted by a local taxing unit located in the enterprise zone.

(8) The amount of the tax levied upon real property under subsection (2) or (3), until paid, is a lien upon the real property upon which the tax is levied. Only after the officer files a certificate of nonpayment of the tax, together with an affidavit of proof of service of the certificate of nonpayment upon the owner of the property by certified mail, with the register of deeds of the county in which the property is situated, may proceedings be had upon the lien in the same manner as provided by law for the foreclosure in the circuit court of mortgage liens upon real property.

(9) The owner of property who has failed to pay a tax levied under this section is not eligible to claim the credit under subsection (7).

(10) From the amount disbursed to the local governmental unit pursuant to subsection (5)(a) and (b), the local governmental unit shall disburse to the county in which that local governmental unit is located an amount equal to the product of the state equalized value of all property exempted under sections 20 and 20a(1) and the voter approved special millage rate levied by the county for emergency dispatch services, senior citizen centers, and substance abuse rehabilitation services. The county shall use the amount disbursed under this subsection only to fund emergency dispatch services, senior citizen centers, and substance abuse rehabilitation services.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1990, Act 80, Imd. Eff. May 24, 1990 ;-- Am. 1991, Act 185, Imd. Eff. Dec. 27, 1991 ;-- Am. 1994, Act 230, Imd. Eff. June 30, 1994 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994 ;-- Am. 1996, Act 444, Imd. Eff. Dec. 19, 1996
Compiler's Notes: Section 2 of Act 80 of 1990 provides: “This amendatory act applies to the 1990 tax year and tax years after the 1990 tax year.”

125.2121a Use of disbursement pursuant to MCL 125.2121 (4)(a) and (b).
Sec. 21a. (1) Except as otherwise provided in subsection (2) and section 21(9), the local governmental unit shall use the amount disbursed to the local governmental unit pursuant to section 21(4)(a) and (b) only to fund capital improvements identified in the spending plan that the local governmental unit submitted to the authority.

(2) Upon approval of the authority, the local governmental unit may utilize the funds described in subsection (1) for any purpose authorized under this act.

History: Add. 1994, Act 230, Imd. Eff. June 30, 1994

125.2121b Enterprise zone created after 1993; levy of specific tax; amount; payment; disbursement; lien; qualification as replacement facility; failure to pay tax; allocation to school district.
Sec. 21b. (1) This section applies only to an owner of property located in an enterprise zone that was created after 1993.

(2) Except as provided in section 21c, a specific tax is levied in each year upon an owner of property exempted under section 20(2) or 20b, the amount of which is the sum of the following:

(a) The product of 50% of the average rate of taxation levied upon other commercial, industrial, and utility property upon which ad valorem taxes are assessed in that local governmental unit, excluding ad valorem taxes levied under the state education tax act, Act No. 331 of the Public Acts of 1993, being sections 211.901 to 211.906 of the Michigan Compiled Laws, multiplied by the increased state equalized valuation of that property excluding the exemptions granted by this act.

(b) The product of the millage levied under Act No. 331 of the Public Acts of 1993, multiplied by the increased state equalized valuation of that property, excluding the exemptions granted by this act.

(c) The product of the total millage levied as ad valorem real and personal property taxes for that year by all local taxing units within which the property is located multiplied by the initial state equalized valuation of that property excluding the exemptions granted by this act.

(3) The tax levied under subsection (2) is an annual tax payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act are payable.

(4) The officer or officers shall disburse the portion of the tax payments received each year calculated under subsection (2)(a), at the same times as taxes imposed under the general property tax act are disbursed, to the local governmental unit in which the property is located to be used solely to make public improvements within the enterprise zone or to repay obligations of which the proceeds are used to make public improvements within the enterprise zone.

(5) The officer or officers shall disburse the portion of the tax payments received each year calculated under subsection (2)(b) and (c) to the same governmental unit, school districts, county, and authorities at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act. However, if the property is located in a tax increment financing district, the officer or officers shall pay to the tax increment financing authority a portion of the taxes paid equal to the proportion of ad valorem property taxes levied on commercial and industrial property in the enterprise zone in the year before the exemption under section 20(2) first applies which proportion was captured under a tax increment financing plan.

(6) The amount of the tax levied upon real property under subsection (2), until paid, is a lien upon the real property upon which the tax is levied. Only after the officer files a certificate of nonpayment of the tax, together with an affidavit of proof of service of the certificate of nonpayment upon the owner of the property by certified mail, with the register of deeds of the county in which the property is situated, may proceedings be had upon the lien in the same manner as provided by law for the foreclosure in the circuit court of mortgage liens upon real property.

(7) A local governmental unit, in its action establishing the boundaries of its enterprise zones, may waive the portion of the tax calculated under subsection (2)(a) and (b) on the real property that would qualify as a replacement facility under section 2(3) of Act No. 198 of the Public Acts of 1974, being section 207.552 of the Michigan Compiled Laws.

(8) The owner of property who has failed to pay a tax levied under this section is not eligible for the exemption under section 20(2) for the succeeding tax years.

(9) If a local or intermediate school district receives state aid under section 20, 56, 62, or 81 of the state school aid act of 1979, Act No. 94 of the Public Acts of 1979, being sections 388.1620, 388.1656, 388.1662, and 388.1681 of the Michigan Compiled Laws, of the amount that would otherwise be disbursed under subsection (5) to a local or intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of state aid, shall be paid to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963. If and for the period that the state school aid act of 1979, Act No. 94 of the Public Acts of 1979, being sections 388.1601 to 388.1772 of the Michigan Compiled Laws, is amended or its successor act is enacted or amended to include a provision that provides for adjustments in state school aid to account for the receipt of revenues provided under this act in place of exempted ad valorem property tax, revenues required to be remitted or returned to the state treasury to the credit of the state school aid fund shall be distributed instead to the local school districts. If the sum of any industrial facility tax levied under Act No. 198 of the Public Acts of 1974, being sections 207.551 to 207.572 of the Michigan Compiled Laws, the commercial facilities tax levied under the commercial redevelopment act, Act No. 255 of the Public Acts of 1978, being sections 207.651 to 207.668 of the Michigan Compiled Laws, the neighborhood enterprise zone tax levied under the neighborhood enterprise zone act, Act No. 147 of the Public Acts of 1992, being sections 207.771 to 207.787 of the Michigan Compiled Laws, and the tax levied under this act paid to the state treasury to the credit of the state school aid fund that would otherwise be disbursed to the local or intermediate school district exceeds the amount received by the local or intermediate school district under section 20, 56, 62, or 81 of Act No. 94 of the Public Acts of 1979, the department of treasury shall allocate to each eligible local or intermediate school district an amount equal to the difference between the sum of the industrial facility tax, the commercial facilities tax, the neighborhood enterprise zone tax, and the tax levied under this act paid to the state treasury to the credit of the state school aid fund and the amount the local or intermediate school district received under section 20, 56, 62, or 81 of Act No. 94 of the Public Acts of 1979.

History: Add. 1994, Act 311, Imd. Eff. July 20, 1994 ;-- Am. 1996, Act 444, Imd. Eff. Dec. 19, 1996

125.2121c Property located in renaissance zone.
Sec. 21c. Property, except a casino, exempted under sections 20(1) and (2), 20a, and 20b that is located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the specific taxes levied under this act to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except for that portion of the specific tax levied under this act attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. The specific tax calculated under this section shall be disbursed proportionately to the local taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. As used in this section, "casino" means a casino or a parking lot, hotel, motel, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.216.

History: Add. 1996, Act 444, Imd. Eff. Dec. 19, 1996 ;-- Am. 1998, Act 242, Imd. Eff. July 3, 1998

125.2122 Neglecting or failing to pay tax; seizure and sale of property; civil action; jeopardy assessment; collection of delinquent tax; remedies; disbursement of amount of tax and interest on tax.
Sec. 22. (1) If the tax applicable to personal or real property levied under section 21 or 21b, as applicable, is not paid within the time permitted by law for payment without penalty of taxes imposed under the general property tax act, the officer to whom the tax is first payable may in his or her own name, or in the name of the city, village, township, or county of which he or she is an officer, seize and sell personal property of the owner who has neglected or refused to pay the tax, to an amount sufficient to pay the tax, the expenses of sale, and interest on the tax at the rate of 9% per annum from the date the tax was first payable; or the officer, in his or her own name or in the name of the city, village, township, or county of which he or she is an officer, may institute a civil action against the owner in the circuit court for the county in which the facility is located or in the circuit court for the county in which the owner resides or has a principal place of business, and in that civil action recover the amount of the tax and interest on the tax at the rate of 9% per annum from the date the tax was first payable plus the costs of collecting the tax and interest, including reasonable attorney fees.

(2) The officer may proceed to make a jeopardy assessment, in the manner and under the circumstances provided by Act No. 55 of the Public Acts of 1956, being sections 211.691 to 211.697 of the Michigan Compiled Laws, as an additional means of collecting the amount of the tax.

(3) If a specific tax levied under this act is not paid within the time permitted by law for payment, without penalty, of taxes imposed under the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, the specific tax may be collected in the same manner as delinquent taxes are collected under the general property tax act.

(4) The officer may pursue 1 or more of the remedies provided in this section until the officer receives the amount of the tax, interest on the tax, and costs allowed by this act or by law governing the proceedings of civil actions in the circuit court. The amount of the tax and interest on the tax shall be disbursed by the officer in the same manner as the tax levied under section 21 or 21b, as applicable, is disbursed when first payable.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986 ;-- Am. 1994, Act 311, Imd. Eff. July 20, 1994 ;-- Am. 1996, Act 444, Imd. Eff. Dec. 19, 1996

125.2123 Revenue lost as result of reduced taxes; appropriation and distribution to local government; amount.

Sec. 23. (1) If the amount of specific tax revenue under this act lost as a result of the reduction of taxes levied by a local school district for school operating purposes required by millage limitations under section 1211 of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1211 of the Michigan Compiled Laws, results in collections of the specific tax revenue under this act disbursed to the local governmental unit in 1994 that are less than the collections that would have been disbursed in 1994 if the mills levied for school operating purposes had been levied at the 1993 rate, the legislature shall appropriate and distribute to the local governmental unit administering the specific tax under this act an amount equal to the difference attributable to that reduction.

(2) For fiscal years 1995 through 2003, the legislature shall appropriate and distribute to the local governmental unit described in subsection (1) the amount determined in subsection (1), reduced each year by 10% of the amount determined in subsection (1).

History: Add. 1994, Act 230, Imd. Eff. June 30, 1994

THE LOCAL DEVELOPMENT FINANCING ACT
Act 281 of 1986

AN ACT to encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by an authority; to prescribe powers and duties of certain public entities and state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing.

History: 1986, Act 281, Eff. Feb. 1, 1987 ;-- Am. 1993, Act 333, Eff. Mar. 15, 1994 ;-- Am. 2000, Act 248, Imd. Eff. June 29, 2000

The People of the State of Michigan enact:

125.2151 Legislative findings; short title.
Sec. 1. (1) The legislature finds all of the following:

(a) That there exists in this state conditions of unemployment, underemployment, and joblessness detrimental to the state economy and the economic growth of the state economy.

(b) That government programs are desirable and necessary to eliminate the causes of unemployment, underemployment, and joblessness therefore benefiting the economic growth of the state.

(c) That it is appropriate to finance these government programs by means available to the state and local units of government, including tax increment financing.

(d) That tax increment financing is a government financing program which contributes to economic growth and development by dedicating a portion of the tax base resulting from the economic growth and development to certain public facilities and structures or improvements of the type designed and dedicated to

public use and thereby facilitate certain projects which create economic growth and development.

(e) That it is necessary for the legislature to exercise the sovereign power to legislate tax increment financing as authorized in this act and in the exercise of this sovereign power to mandate the transfer of tax increment revenues by city, village, township, school district, and county treasurers to authorities created under this act in order to effectuate the legislated government programs to eliminate the conditions of unemployment, underemployment, and joblessness and to promote state economic growth.

(f) That the creation of jobs and the promotion of economic growth in the state are essential governmental functions and constitute essential public purposes.

(g) That the creation of jobs and the promotion of economic growth stabilize and strengthen the tax bases upon which local units of government rely and that government programs to eliminate causes of unemployment, underemployment, and joblessness benefit local units of government and are for the use of those local units of government.

(h) That the provisions of this act are enacted to provide a means for local units of government to eliminate the conditions of unemployment, underemployment, and joblessness and to promote economic growth in the communities served by these local units of government.

(2) This act shall be known and may be cited as “the local development financing act”.

History: 1986, Act 281, Eff. Feb. 1, 1987
Constitutionality: The capture of tax increment revenue by a local development finance authority and the use of the revenues by the authority for purposes authorized by the Local Development Financing Act are not unconstitutional diversions of tax revenues from the taxing entity or unconstitutional lendings of credit by the state or a municipality. Advisory Opinion on 1986 PA 281, 430 Mich 93; 422 NW2d 186 (1988).

125.2152 Definitions.
Sec. 2. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not

limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

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

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

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

(c) "Authority" means a local development finance authority created pursuant to this act.

(d) "Authority district" means an area or areas within which an authority exercises its powers.

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

(f) "Business development area" means an area designated as a certified industrial park under this act prior to the effective date of the amendatory act that added this subdivision, or an area designated in the tax increment financing plan that meets all of the following requirements:

(i) The area is zoned to allow its use for eligible property.

(ii) The area has a site plan or plat approved by the city, village, or township in which the area is located.

(g) "Business incubator" means real and personal property that meets all of the following requirements:

(i) Is located in a certified technology park.

(ii) Is subject to an agreement under section 12a.

(iii) Is developed for the primary purpose of attracting 1 or more owners or tenants who will engage in activities that would each separately qualify the property as eligible property under subdivision (p)(iii).

(h) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park, the real and personal property included in the tax increment financing plan, including the current assessed value of property for which specific local taxes are paid in lieu of property taxes as determined pursuant to subdivision (cc), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(i) "Certified business park" means a business development area that has been designated by the Michigan economic development corporation as meeting criteria established by the Michigan economic development corporation. The criteria shall establish standards for business development areas including, but not limited to, use, types of building materials, landscaping, setbacks, parking, storage areas, and management.

(j) "Certified technology park" means that portion of the authority district designated by a written agreement entered into pursuant to section 12a between the authority, the municipality, and the Michigan economic development corporation.

(k) "Chief executive officer" means the mayor or city manager of a city, the president of a village, or, for other local units of government or school districts, the person charged by law with the supervision of the functions of the local unit of government or school district.

(l) "Development plan" means that information and those requirements for a development set forth in section 15.

(m) "Development program" means the implementation of a development plan.

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

(o) "Eligible obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19, 1993 and its subsequent refunding by a qualified refunding obligation. Eligible obligation

includes an authority's written agreement entered into before August 19, 1993 to pay an obligation issued after August 18, 1993 and before December 31, 1996 by another entity on behalf of the authority.

(p) "Eligible property" means land improvements, buildings, structures, and other real property, and machinery, equipment, furniture, and fixtures, or any part or accessory thereof whether completed or in the process of construction comprising an integrated whole, located within an authority district, of which the primary purpose and use is or will be 1 of the following:

(i) The manufacture of goods or materials or the processing of goods or materials by physical or chemical change.

(ii) Agricultural processing.

(iii) A high technology activity.

(iv) The production of energy by the processing of goods or materials by physical or chemical change by a small power production facility as defined by the federal energy regulatory commission pursuant to the public utility regulatory policies act of 1978, Public Law 95-617, which facility is fueled primarily by biomass or wood waste. This act does not affect a person's rights or liabilities under law with respect to groundwater contamination described in this subparagraph. This subparagraph applies only if all of the following requirements are met:

(A) Tax increment revenues captured from the eligible property will be used to finance, or will be pledged for debt service on tax increment bonds used to finance, a public facility in or near the authority district designed to reduce, eliminate, or prevent the spread of identified soil and groundwater contamination, pursuant to law.

(B) The board of the authority exercising powers within the authority district where the eligible property is located adopted an initial tax increment financing plan between January 1, 1991 and May 1, 1991.

(C) The municipality that created the authority establishes a special assessment district whereby not less than 50% of the operating expenses of the public facility described in this subparagraph will be paid for by special assessments. Not less than 50% of the amount specially assessed against all parcels in the

special assessment district shall be assessed against parcels owned by parties potentially responsible for the identified groundwater contamination pursuant to law.

(v) A business incubator.

(q) "Fiscal year" means the fiscal year of the authority.

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

(s) "High technology activity" means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(t) "Initial assessed value" means the assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park, the assessed value of any real and personal property included in the tax increment financing plan, at the time the resolution establishing the tax increment financing plan is approved as shown by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted or, for property that becomes eligible property in other than a certified technology park after the date the plan is approved, at the time the property becomes eligible property. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. Property for which a specific local tax is paid in lieu of property tax shall not be considered exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of property tax shall be determined as provided in subdivision (cc).

(u) "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 development corporation is unable for any reason to perform its duties under this act, those duties may be exercised by the Michigan strategic fund.

(v) "Michigan strategic fund" means the Michigan strategic fund as described in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

(w) "Municipality" means a city, village, or urban township.

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

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

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

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

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

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

(y) "On behalf of an authority", in relation to an eligible advance made by a municipality or an eligible obligation or other protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by a municipality, or eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

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

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

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

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

(z) "Other protected obligation" means:

(i) A qualified refunding obligation issued to refund an obligation described in subparagraph (ii) or (iii), an obligation that is not a qualified refunding obligation that is issued to refund an eligible obligation, or a qualified refunding obligation issued to refund an obligation described in this subparagraph.

(ii) An obligation issued or incurred by an authority or by a municipality on behalf of an authority after August 19, 1993, but before December 31, 1994, to finance a project described in a tax increment finance plan approved by the municipality in accordance with this act before August 19, 1993, for which a contract for final design is entered into by the municipality or authority before March 1, 1994.

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

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

(aa) "Public facility" means 1 or more of the following:

(i) A street, road, bridge, storm water or sanitary sewer, sewage treatment facility, facility designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, retention basin, pretreatment facility, waterway, waterline, water storage facility, rail line, electric, gas, telephone or other communications, or any other type of utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement. Except for rail lines, utility lines, or pipelines, the structures or improvements described in this subparagraph shall be either owned or used by a public agency, functionally connected to similar or supporting facilities owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity. Any road, street, or bridge shall be continuously open to public access. A public facility shall be located on public property or in a public, utility, or transportation easement or right-of-way.

(ii) The acquisition and disposal of land that is proposed or intended to be used in the development of eligible property or an interest in that land, demolition of structures, site preparation, and relocation costs.

(iii) All administrative and real and personal property acquisition and disposal costs related to a public facility described in subparagraphs (i) and (iv), including, but not limited to, architect's, engineer's, legal, and accounting fees as permitted by the district's development plan.

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

(v) All of the following costs approved by the Michigan economic development corporation:

(A) Operational costs and the costs related to the acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that are or may become eligible for depreciation under the internal revenue code of 1986 for a business incubator located in a certified technology park.

(B) Costs related to the acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that, if privately owned, would be eligible for depreciation under the internal revenue code of 1986 for laboratory facilities, research and development facilities, conference facilities, teleconference facilities, testing, training facilities, and quality control facilities that are or that support eligible property under subdivision (p)(iii), that are owned by a public entity, and that are located within a certified technology park.

(vi) Operating and planning costs included in a plan pursuant to section 12(1)(f), including costs of marketing property within the district and attracting development of eligible property within the district.

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

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

(ii) The net present value of the sum of the tax increment revenues described in subdivision (ee)(ii) and the distributions under section 11a to repay the refunding obligation will not be greater than the net present value of the sum of the tax increment revenues described in subdivision (ee)(ii) and the distributions under section 11a to repay the obligation being refunded, as calculated using a method approved by the department of treasury.

(cc) "Specific local taxes" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123, 1953 PA 189, MCL 211.181 to 211.182, and the technology park development act, 1984 PA 385, MCL 207.701 to 207.718. The initial assessed value or current assessed value of property subject to a specific local tax is the quotient of the specific local tax paid divided by the ad valorem millage rate. However, after 1993, the state tax commission shall prescribe the

method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

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

(ee) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of eligible property within the district or, for purposes of a certified technology park, real or personal property that is located within the certified technology park and included within the tax increment financing plan, subject to the following requirements:

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

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

(A) To repay eligible advances, eligible obligations, and other protected obligations.

(B) To fund or to repay an advance or obligation issued by or on behalf of an authority to fund the cost of public facilities related to or for the benefit of eligible property located within a certified technology park to the extent the public facilities have been included in an agreement under section 12a(3), not to exceed 50%, as determined by the state treasurer, of the amounts levied by the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local and intermediate school districts for a period not to exceed 15 years, as determined by the state treasurer, if the state treasurer determines that the capture under this subparagraph is necessary to reduce unemployment, promote economic growth, and increase capital investment in the municipality.

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

(A) Ad valorem property taxes or specific local taxes that are excluded from and not made part of the tax increment financing plan.

(B) Ad valorem property taxes and specific local taxes attributable to ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority.

(C) Ad valorem property taxes exempted from capture under section 4(3) or specific local taxes attributable to such ad valorem property taxes.

(D) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific local taxes attributable to such ad valorem property taxes.

(E) The amount of ad valorem property taxes or specific taxes captured by a downtown development authority under 1975 PA 197, MCL 125.1651 to 125.1681, tax increment financing authority under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or brownfield redevelopment authority under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, if those taxes were captured by these other authorities on the date that the initial assessed value of a parcel of property was established under this act.

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

(A) The percentage that the total ad valorem taxes and specific local taxes available for distribution by law to the state, local school district, or intermediate school district, respectively, bears to the aggregate amount of ad

valorem millage taxes and specific taxes available for distribution by law to the state, each local school district, and each intermediate school district.

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

(ff) "Urban township" means a township that meets 1 or more of the following:

(i) Meets all of the following requirements:

(A) Has a population of 20,000 or more, or has a population of 10,000 or more but is located in a county with a population of 400,000 or more.

(B) Adopted a master zoning plan before February 1, 1987.

(C) Provides sewer, water, and other public services to all or a part of the township.

(ii) Meets all of the following requirements:

(A) Has a population of less than 20,000.

(B) Is located in a county with a population of 250,000 or more but less than 400,000, and that county is located in a metropolitan statistical area.

(C) Has within its boundaries a parcel of property under common ownership that is 800 acres or larger and is capable of being served by a railroad, and located within 3 miles of a limited access highway.

(D) Establishes an authority before December 31, 1998.

(iii) Meets all of the following requirements:

(A) Has a population of less than 20,000.

(B) Has a state equalized valuation for all real and personal property located in the township of more than $200,000,000.00.

(C) Adopted a master zoning plan before February 1, 1987.

(D) Is a charter township under the charter township act, 1947 PA 359, MCL 42.1 to 42.34.

(E) Has within its boundaries a combination of parcels under common ownership that is 800 acres or larger, is immediately adjacent to a limited access highway, is capable of being served by a railroad, and is immediately adjacent to an existing sewer line.

(F) Establishes an authority before March 1, 1999.

(iv) Meets all of the following requirements:

(A) Has a population of 13,000 or more.

(B) Is located in a county with a population of 150,000 or more.

(C) Adopted a master zoning plan before February 1, 1987.

(v) Meets all of the following requirements:

(A) Is located in a county with a population of 1,000,000 or more.

(B) Has a written agreement with an adjoining township to develop 1 or more public facilities on contiguous property located in both townships.

(C) Has a master plan in effect.

(vi) Meets all of the following requirements:

(A) Has a population of less than 10,000.

(B) Has a state equalized valuation for all real and personal property located in the township of more than $280,000,000.00.

(C) Adopted a master zoning plan before February 1, 1987.

(D) Has within its boundaries a combination of parcels under common ownership that is 199 acres or larger, is located within 1 mile of a limited access highway, and is located within 1 mile of an existing sewer line.

(E) Has rail service.

(F) Establishes an authority before May 7, 2009.

History: 1986, Act 281, Eff. Feb. 1, 1987 ;-- Am. 1991, Act 101, Imd. Eff. Aug. 21, 1991 ;-- Am. 1992, Act 287, Imd. Eff. Dec. 18, 1992 ;-- Am. 1993, Act 333, Eff. Mar. 15, 1994 ;-- Am. 1994, Act 282, Imd. Eff. July 11, 1994 ;-- Am. 1994, Act 331, Imd. Eff. Oct. 14, 1994 ;-- Am. 1996, Act 270, Imd. Eff. June 12, 1996 ;-- Am. 1998, Act 1, Imd. Eff. Jan. 30, 1998 ;-- Am. 1998, Act 92, Imd. Eff. May 14, 1998 ;-- Am. 2000, Act 248, Imd. Eff. June 29, 2000 ;-- Am. 2003, Act 20, Imd. Eff. June 20, 2003 ;-- Am. 2004, Act 17, Imd. Eff. Mar. 4, 2004 ;-- Am. 2007, Act 200, Imd. Eff. Dec. 27, 2007

125.2153 Authority; establishment; powers.

Sec. 3. (1) Except as otherwise provided by subsection (2), a municipality may establish not more than 1 authority under the provisions of this act. An authority established under this subsection shall exercise its powers in all authority districts.

(2) In addition to an authority established under subsection (1), a municipality may join with 1 or more other municipality located within the same county to establish an authority under this act. An authority created under this subsection may only exercise its powers in a certified technology park designated in an agreement made under section 12a. A municipality shall not establish more than 1 authority under this subsection.

(3) The authority shall be a public body corporate which may sue and be sued in any court of this state. The authority possesses all the powers necessary to carry out the purpose of its incorporation. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of the authority. The powers granted in this act to an authority may be exercised notwithstanding that bonds are not issued by the authority.

History: 1986, Act 281, Eff. Feb. 1, 1987 ;-- Am. 2000, Act 248, Imd. Eff. June 29, 2000

125.2154 Resolution of intent; notice of public hearing; hearing; resolution exempting taxes from capture; resolution establishing authority and designating boundaries; filing and publication; alteration or amendment of boundaries; validity of proceedings; establishment of authority by 2 or more municipalities.

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

(2) In the resolution of intent, the governing body proposing to create the authority shall set a date for holding a public hearing on the adoption of a proposed resolution creating the authority and designating the boundaries of the authority district or districts. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 nor more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in a proposed authority district and, for a public hearing to be held after February 15, 1994, to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice shall not invalidate these proceedings. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed authority district or districts. At that hearing, a resident, taxpayer, or property owner from a taxing jurisdiction in which the proposed district is located or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of that proposed authority district. The governing body of the municipality in which a proposed district is to be located shall not incorporate land into an authority district not included in the description contained in the notice of public hearing, but it may eliminate lands described in the notice of public hearing from an authority district in the final determination of the boundaries.

(3) Not more than 60 days after a public hearing held after February 15, 1994, the governing body of a taxing jurisdiction with millage that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. However, a resolution by a governing body of a taxing jurisdiction to exempt its taxes from capture is not effective for the capture of taxes that are used for a certified technology park. The resolution

takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

(4) Not less than 60 days after the public hearing, if the governing body creating the authority intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members elected and serving, a resolution establishing the authority and designating the boundaries of the authority district or districts within which the authority shall exercise its powers. The adoption of the resolution is subject to any applicable statutory or charter provisions with respect to the approval or disapproval of resolutions by the chief executive officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(5) The governing body may alter or amend the boundaries of an authority district to include or exclude lands from that authority district or create new authority districts pursuant to the same requirements prescribed for adopting the resolution creating the authority.

(6) The validity of the proceedings establishing an authority shall be conclusive unless contested in a court of competent jurisdiction within 60 days after the last of the following takes place:

(a) Publication of the resolution creating the authority as adopted.

(b) Filing of the resolution creating the authority with the secretary of state.

(7) Except as otherwise provided by this subsection, if 2 or more municipalities desire to establish an authority under section 3(2), each municipality in which the authority district will be located shall comply with the procedures prescribed by this act. The notice required by subsection (2) may be published jointly by the municipalities establishing the authority. The resolutions establishing the authority shall include, or shall approve an agreement including, provisions governing the number of members on the board, the method of appointment, the members to be represented by governmental units or agencies, the terms of initial and subsequent appointments to the board, the manner in which a member of the board may be removed for cause before the expiration of his or her term, the manner in which the authority may be dissolved, and the disposition of assets upon dissolution. An authority described

in this subsection shall not be considered established unless all of the following conditions are satisfied:

(a) A resolution is approved and filed with the secretary of state by each municipality in which the authority district will be located.

(b) The same boundaries have been approved for the authority district by the governing body of each municipality in which the authority district will be located.

(c) The governing body of the county in which a majority of the authority district will be located has approved by resolution the creation of the authority.

History: 1986, Act 281, Eff. Feb. 1, 1987 ;-- Am. 1993, Act 333, Eff. Mar. 15, 1994 ;-- Am. 2000, Act 248, Imd. Eff. June 29, 2000 ;-- Am. 2005, Act 15, Imd. Eff. May 4, 2005

125.2155 Board; appointment, qualification, and terms of members; vancancy; reimbursement for expenses; chairperson; oath of office; rules; procedure; meetings; removal of member; publicizing expense items; financial records open to public.

Sec. 5. (1) The authority shall be under the supervision and control of a board of 7 members appointed by the chief executive officer of the city, village, or urban township creating the authority subject to the approval of the governing body creating the authority. The board shall include 1 member appointed by the county board of commissioners of the county in which the authority is located. The board shall include 1 member representing a community or junior college in whose district the authority is located appointed by the chief executive officer of that community or junior college. The board shall also include 2 members appointed by the chief executive officer of each local governmental unit, other than the city, village, or urban township creating the authority, which levied 20% or more of the ad valorem property taxes levied against all property located in an authority district in the year before the year in which the authority district is established. However, those additional members shall only vote on matters relating to authority districts located within their respective local unit of government. Of the members first appointed, an equal number, as near as possible, shall have terms designated by the governing body creating the authority of 1 year, 2 years, 3 years, and 4 years. However, a member shall hold office until the member's successor is appointed. After the first appointment, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made in the same manner as the original appointment. An appointment to fill an unexpired term shall be for the unexpired portion of the term only.

Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

(2) The chairperson of the board shall be elected by the board.

(3) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(4) The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held when called in the manner provided in the rules of the board. Meetings of the board shall be open to the public, in accordance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(5) Subject to notice and an opportunity to be heard, a member of the board may be removed before the expiration of his or her term for cause by the governing body. Removal of a member is subject to review by the circuit court.

(6) All expense items of the authority shall be publicized annually and the financial records shall be open to the public pursuant to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1986, Act 281, Eff. Feb. 1, 1987

125.2156 Director, employment; compensation; term; oath of office; bond; chief executive officer; duties; acting director; appointment or employment, compensation, and duties of treasurer; appointment or employment, compensation, and duties of secretary; legal counsel; employment of other personnel; municipal retirement and insurance programs.

Sec. 6. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body creating the authority. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before entering upon the duties of the office, the director shall take and subscribe to the constitutional oath of office and shall furnish bond by posting a bond in the penal sum determined in the resolution establishing the authority. The bond shall be payable to the authority for the use and benefit of the authority, approved by the board, and filed with

the clerk of the municipality. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall render to the board and to the governing body a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of the office, the acting director shall take and subscribe to the constitutional oath of office and furnish bond as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may appoint or employ and fix the compensation of a treasurer who shall keep the financial records of the authority and who, together with the director, if a director is appointed, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform other duties as may be delegated by the board and shall furnish bond in an amount as prescribed by the board.

(3) The board may appoint or employ and fix the compensation of a secretary who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties as may be delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel may represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel considered necessary by the board.

(6) The employees of an authority may be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees on the same basis as civil service employees.

History: 1986, Act 281, Eff. Feb. 1, 1987

125.2157 Powers of board generally.
Sec. 7. The board may:

(a) Study and analyze unemployment, underemployment, and joblessness and the impact of growth upon the authority district or districts.

(b) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility.

(c) Develop long-range plans, in cooperation with the agency which is chiefly responsible for planning in the municipality, to promote the growth of the authority district or districts, and take the steps that are necessary to implement the plans to the fullest extent possible to create jobs, and promote economic growth.

(d) Implement any plan of development necessary to achieve the purposes of this act in accordance with the powers of the authority as granted by this act.

(e) Make and enter into contracts necessary or incidental to the exercise of the board's powers and the performance of its duties.

(f) Acquire by purchase or otherwise on terms and conditions and in a manner the authority considers proper, own or lease as lessor or lessee, convey, demolish, relocate, rehabilitate, or otherwise dispose of real or personal property, or rights or interests in that property, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect to the property.

(g) Improve land, prepare sites for buildings, including the demolition of existing structures, and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, or operate a building, and any necessary or desirable appurtenances to a building, as provided in section 12(2) for the use, in whole or in part, of a public or private person or corporation, or a combination thereof.

(h) Fix, charge, and collect fees, rents, and charges for the use of a building or property or a part of a building or property under the board's control, or a facility in the building or on the property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(i) Lease a building or property or part of a building or property under the board's control.

(j) Accept grants and donations of property, labor, or other things of value from a public or private source.

(k) Acquire and construct public facilities.

(l) Incur costs in connection with the performance of the board's authorized functions including, but not limited to, administrative costs, and architects, engineers, legal, and accounting fees.

(m) Plan, propose, and implement an improvement to a public facility on eligible property to comply with the barrier free design requirements of the state construction code promulgated under the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being sections 125.1501 to 125.1531 of the Michigan Compiled Laws.

History: 1986, Act 281, Eff. Feb. 1, 1987 ;-- Am. 1993, Act 333, Eff. Mar. 15, 1994
Admin Rule: R 408.30401 et seq. of the Michigan Administrative Code.

125.2158 Authority as instrumentality of political subdivision.
Sec. 8. The authority shall be considered an instrumentality of a political subdivision for purposes of Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

History: 1986, Act 281, Eff. Feb. 1, 1987

125.2159 Taking, transfer, and use of private property.
Sec. 9. A municipality may take private property under the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws, for the purpose of transfer to the authority, and may transfer the property to the authority for use as authorized in the development plan, on terms and conditions it considers appropriate. The taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

History: 1986, Act 281, Eff. Feb. 1, 1987

125.2160 Financing activities of authority.
Sec. 10. The activities of the authority shall be financed from 1 or more of the following sources:

(a) Contributions to the authority for the performance of its functions.

(b) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(c) Tax increment revenues received pursuant to a tax increment financing plan established under sections 12 to 14.

(d) Proceeds of tax increment bonds issued pursuant to section 14.

(e) Proceeds of revenue bonds issued pursuant to section 11.

(f) Money obtained from any other legal source approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.

(g) Money obtained pursuant to section 11a.

(h) Loans from the Michigan strategic fund or the Michigan economic development corporation.

History: 1986, Act 281, Eff. Feb. 1, 1987 ;-- Am. 1993, Act 333, Eff. Mar. 15, 1994 ;-- Am. 2000, Act 248, Imd. Eff. June 29, 2000

125.2161 Revenue bonds.
Sec. 11. (1) The authority may borrow money and issue its negotiable revenue bonds pursuant to the revenue bond act of 1933, Act No. 94 of the Public Acts of 1933, being sections 141.101 to 141.139 of the Michigan Compiled Laws. Except as provided in subsection (2), revenue bonds issued by the authority shall not be considered a debt of the municipality or of the state.

(2) The municipality by a majority vote of the members of its governing body may make a limited tax pledge to support the authority's revenue bonds or, if authorized by the voters of the municipality, may pledge its full faith and credit to support the authority's revenue bonds.

History: 1986, Act 281, Eff. Feb. 1, 1987

125.2161a Insufficient tax increment revenues for repayment of advance or payment of obligation; appropriation; filing claim; information required in claim; distributions; determination of amounts; limitations; distribution subject to lien; indebtedness, liability, or obligation; certification of distribution amount; basis for calculation of distributions and claims reports; use of 12-month debt payment period.

Sec. 11a. (1) If the amount of tax increment revenues lost as a result of the reduction of taxes levied by local school districts for school operating purposes required by the millage limitations under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, reduced by the amount of tax increment revenues received from the capture of taxes levied under or attributable to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, will cause the tax increment revenues received in a fiscal year by an authority under section 13 to be insufficient to repay an eligible advance or to pay an eligible obligation, the legislature shall appropriate and distribute to the authority the amount described in subsection (5).

(2) Not less than 30 days before the first day of a fiscal year, an authority eligible to retain tax increment revenues from taxes levied by a local or intermediate school district or this state or to receive a distribution under this section for that fiscal year shall file a claim with the department of treasury. The claim shall include the following information:

(a) The property tax millage rates levied in 1993 by local school districts within the jurisdictional area of the authority for school operating purposes.

(b) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(c) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority plus any tax increment revenues the authority would have received for the fiscal year from property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated.

(d) The tax increment revenues the authority estimates it would have received for that fiscal year if property taxes were levied by local school districts within the jurisdictional area of the authority for school operating purposes at the millage rates described in subdivision (a) and if no property taxes were levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(e) A list and documentation of eligible obligations and eligible advances and the payments due on each of those eligible obligations or eligible advances in that fiscal year, and the total amount of all the payments due on those eligible obligations and eligible advances in that fiscal year.

(f) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation or the repayment of an eligible advance. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development project.

(g) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(h) A list and documentation of other protected obligations and the payments due on each of those other protected obligations in that fiscal year, and the total amount of all the payments due on those other protected obligations in that fiscal year.

(3) For the fiscal year that commences after September 30, 1993 and before October 1, 1994, an authority may make a claim with all information required by subsection (2) at any time after March 15, 1994.

(4) After review and verification of claims submitted pursuant to this section, amounts appropriated by the state in compliance with this act shall be distributed as 2 equal payments on March 1 and September 1 after receipt of a claim. An authority shall allocate a distribution it receives for an eligible obligation issued on behalf of a municipality to the municipality.

(5) Subject to subsections (6) and (7), the aggregate amount to be appropriated and distributed pursuant to this section to an authority shall be the sum of the amounts determined pursuant to subdivisions (a) and (b) minus the amount determined pursuant to subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received for the fiscal year, if property taxes were levied by local school districts on property, including property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated, for school operating purposes at the millage rates described in subsection (2)(a) and if no property taxes were levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, exceed the sum of tax increment revenues the authority actually received for the fiscal year plus any tax increment revenues the authority would have received for the fiscal year from property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated.

(b) A shortfall required to be reported pursuant to subsection (2)(g) that had not previously increased a distribution.

(c) An excess amount required to be reported pursuant to subsection (2)(g) that had not previously decreased a distribution.

(6) The amount distributed under subsection (5) shall not exceed the difference between the amount described in subsection (2)(e) and the sum of the amounts described in subsection (2)(c) and (f).

(7) If, based upon the tax increment financing plan in effect on August 19, 1993, the payment due on eligible obligations or eligible advances anticipates the use of excess prior year tax increment revenues permitted by law to be retained by the authority, and if the sum of the amounts described in subsection (2)(c) and (f) plus the amount to be distributed under subsections (5) and (6) is less than the amount described in subsection (2)(e), the amount to be distributed under subsections (5) and (6) shall be increased by the amount of the shortfall. However, the amount authorized to be distributed pursuant to this section shall not exceed that portion of the cumulative difference, for each preceding fiscal year, between the amount that could have been distributed pursuant to

subsection (5) and the amount actually distributed pursuant to subsections (5) and (6) and this subsection.

(8) A distribution under this section replacing tax increment revenues pledged by an authority or a municipality is subject to the lien of the pledge, whether or not there has been physical delivery of the distribution.

(9) Obligations for which distributions are made pursuant to this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(10) Not later than July 1 of each year, the authority shall certify to the local tax collecting treasurer the amount of the distribution required under subsection (5), calculated without regard to the receipt of tax increment revenues attributable to local or intermediate school district operating taxes or attributable to taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(11) Calculations of distributions under this section and claims reports required to be made under subsection (2) shall be made on the basis of each development area of the authority.

(12) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

History: Add. 1993, Act 333, Eff. Mar. 15, 1994 ;-- Am. 1994, Act 282, Imd. Eff. July 11, 1994 ;-- Am. 1996, Act 270, Imd. Eff. June 12, 1996 ;-- Am. 1996, Act 452, Imd. Eff. Dec. 19, 1996 ;-- Am. 1998, Act 1, Imd. Eff. Jan. 30, 1998

125.2161b Retention and payment of taxes levied under state education tax act; conditions; application by authority for approval; information to be included; approval, modification, or denial of application by department of treasury; appropriation and distribution of amount; calculation of aggregate amount; lien; reimbursement calculations; legislative intent.
Sec. 11b. (1) If the amount of tax increment revenues lost as a result of the personal property tax exemptions provided by section 1211(4) of the revised

school code, 1976 PA 451, MCL 380.1211, section 3 of the state education tax act, 1993 PA 331, MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will reduce the allowable school tax capture received in a fiscal year, then, notwithstanding any other provision of this act, the authority, with approval of the department of treasury under subsection (3), may request the local tax collecting treasurer to retain and pay to the authority taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used for the following:

(a) To repay an eligible advance.

(b) To repay an eligible obligation.

(c) To repay an other protected obligation.

(d) To pay an advance or an obligation identified in a development plan, or an amendment to that plan for property located in a certified technology park approved by board of the authority not later than 90 days after the effective date of the amendatory act that added this section if the plan contains all of the following and the plan for the capture of school taxes has been approved within 1 year after the effective date of the amendatory act that added this section:

(i) A detailed description of the project.

(ii) A statement of the estimated cost of the project.

(iii) The specific location of the project.

(iv) The name of any developer of the project.

(2) Not later than June 15 of 2008 and not later than June 1 of each subsequent year, an authority eligible under subsection (1) to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section, shall apply for approval with the department of treasury. The application for approval shall include the following information:

(a) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(b) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(c) The tax increment revenues the authority estimates it would have received for that fiscal year if the personal property tax exemptions described in subsection (1) were not in effect.

(d) A list of eligible obligations, eligible advances, other protected obligations, and advances and obligations described in subsection (1)(d) for expenditures authorized in a certified technology park; the payments due on each of those in that fiscal year; and the total amount of payments due on all of those in that fiscal year.

(e) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation, the repayment of an eligible advance, the payment of another protected obligation, or the payment of obligations or advances described in subsection (1)(d) for expenditures authorized in a certified technology park. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development plan.

(f) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(3) Not later than August 15, based on the calculations under subsection (5), the department of treasury shall approve, modify, or deny the application for approval to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section. If the application for approval contains the information required under subsection (2)(a) through (f) and appears to be in substantial compliance with

the provisions of this section, then the department of treasury shall approve the application. If the application is denied by the department of treasury, then the department of treasury shall provide the opportunity for a representative of the authority to discuss the denial within 21 days after the denial occurs and shall sustain or modify its decision within 30 days after receiving information from the authority. If the application for approval is approved or modified by the department of treasury, the local tax collecting treasurer shall retain and pay to the authority the amount described in subsection (5) as approved by the department. If the department of treasury denies the authority's application for approval, the local tax collecting treasurer shall not retain or pay to the authority the taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the department does not prohibit a subsequent audit of taxes retained in accordance with the procedures currently authorized by law.

(4) Each year, the legislature shall appropriate and distribute an amount sufficient to pay each authority the following:

(a) If the amount to be retained and paid under subsection (3) is less than the amount calculated under subsection (5), the difference between those amounts.

(b) If the application for approval is denied by the department of treasury, an amount verified by the department equal to the amount calculated under subsection (5).

(5) Subject to subsection (6), the aggregate amount under this section shall be the sum of the amounts determined under subdivisions (a) and (b) minus the amount determined under subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received and retained for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax exemptions described in subsection (1) were not in effect, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported under subsection (2)(f) that had not previously increased a distribution.

(c) An excess amount required to be reported under subsection (2)(f) that had not previously decreased a distribution.

(6) A distribution or taxes retained under this section replacing tax increment revenues pledged by an authority or a municipality are subject to any lien of the pledge described in subsection (1), whether or not there has been physical delivery of the distribution.

(7) Obligations for which distributions are made under this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(8) Not later than September 15 of each year, the authority shall provide a copy of the application for approval approved by the department of treasury to the local tax collecting treasurer and provide the amount of the taxes retained and paid to the authority under subsection (5).

(9) Calculations of amounts retained and paid and appropriations to be distributed under this section shall be made on the basis of each development area of the authority.

(10) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

(11) It is the intent of the legislature that, to the extent that the total amount of taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be retained under this section and section 15a of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2665a, section 12b of the tax increment financing act, 1980 PA 450, MCL 125.1812b, and section 13c of 1975 PA 197, MCL 125.1663c, exceeds the difference of the total school aid fund revenue for the tax year minus the estimated amount of revenue the school aid fund would have received for the tax year had the tax exemptions described in subsection (1) and the earmark created by section 515 of the Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken effect, the general fund shall reimburse the school aid fund the difference.

History: Add. 2008, Act 155, Imd. Eff. June 5, 2008

125.2162 Tax increment financing plan generally.
Sec. 12. (1) If the board determines that it is necessary for the achievement of the purposes of this act, the board shall prepare and submit a tax increment financing plan to the governing body. The plan shall be in compliance with section 13 and shall include a development plan as provided in section 15. The plan shall also contain the following:

(a) A statement of the reasons that the plan will result in the development of captured assessed value that could not otherwise be expected. The reasons may include, but are not limited to, activities of the municipality, authority, or others undertaken before formulation or adoption of the plan in reasonable anticipation that the objectives of the plan would be achieved by some means.

(b) An estimate of the captured assessed value for each year of the plan. The plan may provide for the use of part or all of the captured assessed value or, subject to subsection (3), of the tax increment revenues attributable to the levy of any taxing jurisdiction, but the portion intended to be used shall be clearly stated in the plan. The board or the municipality creating the authority may exclude from captured assessed value a percentage of captured assessed value as specified in the plan or growth in property value resulting solely from inflation. If excluded, the plan shall set forth the method for excluding growth in property value resulting solely from inflation.

(c) The estimated tax increment revenues for each year of the plan.

(d) A detailed explanation of the tax increment procedure.

(e) The maximum amount of note or bonded indebtedness to be incurred, if any.

(f) The amount of operating and planning expenditures of the authority and municipality, the amount of advances extended by or indebtedness incurred by the municipality, and the amount of advances by others to be repaid from tax increment revenues.

(g) The costs of the plan anticipated to be paid from tax increment revenues as received.

(h) The duration of the development plan and the tax increment plan.

(i) An estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions in which the eligible property is or is anticipated to be located.

(j) A legal description of the eligible property to which the tax increment financing plan applies or shall apply upon qualification as eligible property.

(k) An estimate of the number of jobs to be created as a result of implementation of the tax increment financing plan.

(l) The proposed boundaries of a certified technology park to be created under an agreement proposed to be entered into pursuant to section 12a, an identification of the real property within the certified technology park to be included in the tax increment financing plan for purposes of determining tax increment revenues, and whether personal property located in the certified technology park is exempt from determining tax increment revenues.

(2) Except as provided in subsection (7), a tax increment financing plan shall provide for the use of tax increment revenues for public facilities for eligible property whose captured assessed value produces the tax increment revenues or, to the extent the eligible property is located within a business development area, for other eligible property located in the business development area. Public facilities for eligible property include the development or improvement of access to and around, or within the eligible property, of road facilities reasonably required by traffic flow to be generated by the eligible property, and the development or improvement of public facilities that are necessary to service the eligible property, whether or not located on that eligible property. If the eligible property identified in the tax increment financing plan is property to which section 2(p)(iv) applies, the tax increment financing plan shall not provide for the use of tax increment revenues for public facilities other than those described in the development plan as of April 1, 1991. Whether or not provided in the tax increment financing plan, if the eligible property identified in the tax increment financing plan is property to which section 2(p)(iv) applies, then to the extent that captured tax increment revenues are utilized for the costs of cleanup of identified soil and groundwater contamination, the captured tax increment revenues shall be first credited against the shares of responsibility for the total costs of cleanup of uncollectible parties who are responsible for the identified soil and groundwater contamination pursuant to law, and then shall be credited on a pro rata basis against the shares of responsibility for the total

costs of cleanup of other parties who are responsible for the identified soil and groundwater contamination pursuant to law.

(3) The percentage of taxes levied for school operating purposes that is captured and used by the tax increment financing plan and the tax increment financing plans under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, and the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, shall not be greater than the percentage capture and use of taxes levied by a municipality or county for operating purposes under the tax increment financing plan and tax increment financing plans under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, and the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672. For purposes of the previous sentence, taxes levied by a county for operating purposes include only millage allocated for county or charter county purposes under the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a.

(4) Except as otherwise provided by this subsection, approval of the tax increment financing plan shall be in accordance with the notice, hearing, disclosure, and approval provisions of sections 16 and 17. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together. For a plan submitted by an authority established by 2 or more municipalities under sections 3(2) and 4(7), the notice required by section 16 may be published jointly by the municipalities in which the authority district is located. The plan shall not be considered approved unless each governing body in which the authority district is located makes the determinations required by section 17 and approves the same plan, including the same modifications, if any, made to the plan by any other governing body.

(5) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to express their views and recommendations regarding the tax increment financing plan. The authority shall fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed tax increment financing plan. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the authority district is located to

share a portion of the captured assessed value of the district or to distribute tax increment revenues among taxing jurisdictions. Upon adoption of the plan, the collection and transmission of the amount of tax increment revenues, as specified in this act, shall be binding on all taxing units levying ad valorem property taxes or specific local taxes against property located in the authority district.

(6) Property qualified as a public facility under section 2(aa)(ii) that is acquired by an authority may be sold, conveyed, or otherwise disposed to any person, public or private, for fair market value or reasonable monetary consideration established by the authority with the concurrence of the Michigan economic development corporation and the municipality in which the eligible property is located based on a fair market value appraisal from a fee appraiser only if the property is sold for fair market value. Unless the property acquired by an authority was located within a certified business park or a certified technology park at the time of disposition, an authority shall remit all monetary proceeds received from the sale or disposition of property that qualified as a public facility under section 2(aa)(ii) and was purchased with tax increment revenues to the taxing jurisdictions. Proceeds distributed to taxing jurisdictions shall be remitted in proportion to the amount of tax increment revenues attributable to each taxing jurisdiction in the year the property was acquired. If the property was acquired in part with funds other than tax increment revenues, only that portion of the monetary proceeds received upon disposition that represent the proportion of the cost of acquisition paid with tax increment revenues is required to be remitted to taxing jurisdictions. If the property is located within a certified business park or certified technology park at the time of disposition, the monetary proceeds received from the sale or disposition of that property may be retained by the authority for any purpose necessary to further the development program for the certified business park or certified technology park in accordance with the tax increment financing plan.

(7) The tax increment financing plan may provide for the use of tax increment revenues from a certified technology park for public facilities for any eligible property located in the certified technology park.

(8) If title to property qualified as a public facility under section 2(aa)(ii) and acquired by an authority with tax increment revenues is sold, conveyed, or otherwise disposed of pursuant to subsection (6) for less than fair market value, the authority shall enter into an agreement relating to the use of the property with the person to whom the property is sold, conveyed, or disposed of, which

agreement shall include a penalty provision addressing repayment to the authority if any interest in the property is sold, conveyed, or otherwise disposed of by the person within 12 years after the person received title to the property from the authority. This subsection shall not require enforcement of a penalty provision for a conveyance incident to a merger, acquisition, reorganization, sale-lease back transaction, employee stock ownership plan, or other change in corporate or business form or structure.

(9) The penalty provision described in subsection (8) shall not be less than an amount equal to the difference between the fair market value of the property when originally sold, conveyed, or otherwise disposed of and the actual consideration paid by the person to whom the property was originally sold, conveyed, or otherwise disposed of.

History: 1986, Act 281, Eff. Feb. 1, 1987 ;-- Am. 1991, Act 101, Imd. Eff. Aug. 21, 1991 ;-- Am. 1993, Act 333, Eff. Mar. 15, 1994 ;-- Am. 2000, Act 248, Imd. Eff. June 29, 2000

125.2162a Designation as certified technology park; application to Michigan economic development corporation; agreement; determination of sale price or rental value for public facilities; inclusion of legal and equitable remedies and rights; marketing services; additional certified technology parks; priority to certain applications; duties of state.
Sec. 12a. (1) A municipality that has created an authority may apply to the Michigan economic development corporation for designation of all or a portion of the authority district as a certified technology park and to enter into an agreement governing the terms and conditions of the designation. The form of the application shall be in a form specified by the Michigan economic development corporation and shall include information the Michigan economic development corporation determines necessary to make the determinations required under this section.

(2) After receipt of an application, the Michigan economic development corporation may designate, pursuant to an agreement entered into under subsection (3), a certified technology park that is determined by the Michigan economic development corporation to satisfy 1 or more of the following criteria based on the application:

(a) A demonstration of significant support from an institution of higher education or a private research-based institute located within the proximity of the proposed certified technology park, as evidenced by, but not limited to, the following types of support:

(i) Grants of preferences for access to and commercialization of intellectual property.

(ii) Access to laboratory and other facilities owned by or under control of the institution of higher education or private research-based institute.

(iii) Donations of services.

(iv) Access to telecommunication facilities and other infrastructure.

(v) Financial commitments.

(vi) Access to faculty, staff, and students.

(vii) Opportunities for adjunct faculty and other types of staff arrangements or affiliations.

(b) A demonstration of a significant commitment on behalf of the institution of higher education or private research-based institute to the commercialization of research produced at the certified technology park, as evidenced by the intellectual property and, if applicable, tenure policies that reward faculty and staff for commercialization and collaboration with private businesses.

(c) A demonstration that the proposed certified technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area in which the proposed certified technology park will be located.

(d) The existence of or proposed development of a business incubator within the proposed certified technology park that exhibits the following types of resources and organization:

(i) Significant financial and other types of support from the public or private resources in the area in which the proposed certified technology park will be located.

(ii) A business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises.

(iii) A commitment to the employment of a qualified full-time manager to supervise the development and operation of the business incubator.

(e) The existence of a business plan for the proposed certified technology park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:

(i) A commitment to new business formation.

(ii) The clustering of businesses, technology, and research.

(iii) The opportunity for and costs of development of properties under common ownership or control.

(iv) The availability of and method proposed for development of infrastructure and other improvements, including telecommunications technology, necessary for the development of the proposed certified technology park.

(v) Assumptions of costs and revenues related to the development of the proposed certified technology park.

(f) A demonstrable and satisfactory assurance that the proposed certified technology park can be developed to principally contain eligible property as defined by section 2(p)(iii) and (v).

(3) An authority and a municipality that incorporated the authority may enter into an agreement with the Michigan economic development corporation establishing the terms and conditions governing the certified technology park. Upon designation of the certified technology park pursuant to the terms of the agreement, the subsequent failure of any party to comply with the terms of the agreement shall not result in the termination or rescission of the designation of the area as a certified technology park. The agreement shall include, but is not limited to, the following provisions:

(a) A description of the area to be included within the certified technology park.

(b) Covenants and restrictions, if any, upon all or a portion of the properties contained within the certified technology park and terms of enforcement of any covenants or restrictions.

(c) The financial commitments of any party to the agreement and of any owner or developer of property within the certified technology park.

(d) The terms of any commitment required from an institution of higher education or private research-based institute for support of the operations and activities at eligible properties within the certified technology park.

(e) The terms of enforcement of the agreement, which may include the definition of events of default, cure periods, legal and equitable remedies and rights, and penalties and damages, actual or liquidated, upon the occurrence of an event of default.

(f) The public facilities to be developed for the certified technology park.

(g) The costs approved for public facilities under section 2(aa).

(4) If the Michigan economic development corporation has determined that a sale price or rental value at below market rate will assist in increasing employment or private investment in the certified technology park, the authority and municipality have authority to determine the sale price or rental value for public facilities owned or developed by the authority and municipality in the certified technology park at below market rate.

(5) If public facilities developed pursuant to an agreement entered into under this section are conveyed or leased at less than fair market value or at below market rates, the terms of the conveyance or lease shall include legal and equitable remedies and rights to assure the public facilities are used as eligible property. Legal and equitable remedies and rights may include penalties and actual or liquidated damages.

(6) Except as otherwise provided in this section, an agreement designating a certified technology park may not be made after December 31, 2002, but any agreement made on or before December 31, 2002 may be amended after that date. However, the Michigan economic development corporation may enter into an agreement with a municipality after December 31, 2002 and on or before December 31, 2005 if that municipality has adopted a resolution of interest to create a certified technology park before December 31, 2002.

(7) The Michigan economic development corporation shall market the certified technology parks and the certified business parks. The Michigan economic

development corporation and an authority may contract with each other or any third party for these marketing services.

(8) Except as otherwise provided in subsections (9) and (10), the Michigan economic development corporation shall not designate more than 10 certified technology parks. For purposes of this subsection only, 2 certified technology parks located in a county that contains a city with a population of more than 750,000, shall be counted as 1 certified technology park. Not more than 7 of the certified technology parks designated under this section may not include a firm commitment from at least 1 business engaged in a high technology activity creating a significant number of jobs.

(9) The Michigan economic development corporation may designate an additional 5 certified technology parks after November 1, 2002 and before December 31, 2007. The Michigan economic development corporation shall not accept applications for the additional certified technology parks under this subsection until after November 1, 2002.

(10) The Michigan economic development corporation may designate an additional 3 certified technology parks after February 1, 2008 and before December 31, 2008. The Michigan economic development corporation shall not accept applications for the additional certified technology parks under this subsection until after February 1, 2008.

(11) The Michigan economic development corporation shall give priority to applications that include new business activity.

(12) For an authority established by 2 or more municipalities under sections 3(2) and 4(7), each municipality in which the authority district is located by a majority vote of the members of its governing body may make a limited tax pledge to support the authority's tax increment bonds issued under section 14 or, if authorized by the voters of the municipality, may pledge its full faith and credit for the payment of the principal of and interest on the bonds. The municipalities that have made a pledge to support the authority's tax increment bonds may approve by resolution an agreement among themselves establishing obligations each may have to the other party or parties to the agreement for reimbursement of all or any portion of a payment made by a municipality related to its pledge to support the authority's tax increment bonds.

(13) Not including certified technology parks designated under subsection (8), but for certified technology parks designated under subsections (9) and (10) only, this state shall do all of the following:

(a) Reimburse intermediate school districts each year for all tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after October 3, 2002.

(b) Reimburse local school districts each year for all tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after October 3, 2002.

(c) Reimburse the school aid fund from funds other than those appropriated in section 11 of the state school aid act of 1979, 1979 PA 94, MCL 388.1611, for an amount equal to the reimbursement calculations under subdivisions (a) and (b) and for all revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after October 3, 2002. Foundation allowances calculated under section 20 of the state school aid act of 1979, 1979 PA 94, MCL 388.1620, shall not be reduced as a result of tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation under subsection (9) or (10) after October 3, 2002.

History: Add. 2000, Act 248, Imd. Eff. June 29, 2000 ;-- Am. 2002, Act 575, Imd. Eff. Oct. 3, 2002 ;-- Am. 2004, Act 365, Imd. Eff. Oct. 7, 2004 ;-- Am. 2008, Act 105, Imd. Eff. Apr. 23, 2008

125.2162b Creation of authority in which certified technology park designated; agreement with another authority; designation of distinct geographic area; consideration of advantages and benefits.

Sec. 12b. A municipality that has created an authority in which a certified technology park has been designated under this act may enter into an agreement with another authority that does not contain a certified technology park to designate a distinct geographic area within the authority district as a certified technology park. The authority shall consider the advantages of the unique characteristics and specialties offered by the public and private resources available in the distinct geographic area, shall consider the benefits to regional cooperation and collaboration, and shall consider whether designating the additional distinct geographic area adds value to the mission of the designated certified technology park. The distinct geographic area is subject to the provisions of section 12a(3), (4), and (5). The state treasurer shall not approve

the capture of amounts levied by the state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and by local and intermediate school districts as permitted in section 2(ee)(ii)(B) for more than 3 distinct geographic areas designated under this section. A copy of the designation shall be filed with the Michigan economic development corporation.

History: Add. 2008, Act 104, Imd. Eff. Apr. 23, 2008

125.2163 Tax increment revenues transmitted to authority; expenditure of tax increment revenues; retention or reversion of excess revenue; prohibition; abolition of tax increment financing plan; annual financial report.

Sec. 13. (1) The city, village, township, school district, and county treasurers shall transmit to the authority tax increment revenues.

(2) The authority shall expend the tax increment revenues received for the development program only in accordance with the tax increment financing plan. Tax increment revenues in excess of the estimated tax increment revenues or of the actual costs of the plan to be paid by the tax increment revenues may be retained by the authority only for purposes, that by resolution of the board, are determined to further the development program in accordance with the tax increment financing plan. The excess tax increment revenues not so used shall revert proportionately to the respective taxing jurisdictions. These revenues shall not be used to circumvent existing property tax laws or a local charter that provides a maximum authorized rate for the levy of property taxes. The governing body may abolish the tax increment financing plan if it finds that the purposes for which the plan was established are accomplished. However, the tax increment financing plan may not be abolished until the principal of and interest on bonds issued pursuant to section 14 have been paid or funds sufficient to make that payment have been segregated and placed in an irrevocable trust for the benefit of the holders of the bonds.

(3) The authority shall submit annually to the governing body and the state tax commission a financial report on the status of the tax increment financing plan. The report shall include the following:

(a) The amount and source of tax increment revenues received.

(b) The amount in any bond reserve account.

(c) The amount and purpose of expenditures of tax increment revenues.

(d) The amount of principal and interest on any outstanding bonded indebtedness of the authority.

(e) The initial assessed value of the eligible property.

(f) The captured assessed value of the eligible property retained by the authority.

(g) The number of jobs created as a result of the implementation of the tax increment financing plan.

(h) Any additional information the governing body or the state tax commission considers necessary.

History: 1986, Act 281, Eff. Feb. 1, 1987 ;-- Am. 1993, Act 333, Eff. Mar. 15, 1994

125.2164 Tax increment bonds; qualified refunding obligation.
Sec. 14. (1) By resolution of its board and subject to the limitations set forth in this section, the authority may authorize, issue, and sell its tax increment bonds to finance a development program. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The authority may pledge for debt service requirements the tax increment revenues to be received from an eligible property. The bonds issued under this section shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The municipality by majority vote of the members of its governing body may make a limited tax pledge to support the authority's tax increment bonds or, if authorized by the voters of the municipality, pledge its full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality pursuant to section 10.

(3) Bonds and notes issued by the authority and the interest on and income from those bonds and notes are exempt from taxation by the state or a political subdivision of this state.

(4) Notwithstanding any other provision of this act, if the state treasurer determines that an authority or municipality can issue a qualified refunding obligation and the authority or municipality does not make a good faith effort to issue the qualified refunding obligation as determined by the state treasurer, the state treasurer may reduce the amount claimed by the authority or municipality under section 11a by an amount equal to the net present value saving that would have been realized had the authority or municipality refunded the obligation or the state treasurer may require a reduction in the capture of tax increment revenues from taxes levied by a local or intermediate school district or this state by an amount equal to the net present value savings that would have been realized had the authority or municipality refunded the obligation. This subsection does not authorize the state treasurer to require the authority or municipality to pledge security greater than the security pledged for the obligation being refunded.

History: 1986, Act 281, Eff. Feb. 1, 1987 ;-- Am. 1993, Act 333, Eff. Mar. 15, 1994 ;-- Am. 1996, Act 270, Imd. Eff. June 12, 1996 ;-- Am. 2002, Act 235, Imd. Eff. Apr. 29, 2002

125.2165 Development plan generally.

Sec. 15. (1) If a board decides to finance a project under this act, it shall prepare a development plan.

(2) To the extent necessary to accomplish the proposed development program the development plan shall contain:

(a) A description of the property to which the plan applies in relation to the boundaries of the authority district and a legal description of the property.

(b) The designation of boundaries of the property to which the plan applies in relation to highways, streets, or otherwise.

(c) The location and extent of existing streets and other public facilities in the vicinity of the property to which the plan applies; the location, character, and extent of the categories of public and private land uses then existing and proposed for the property to which the plan applies, including residential, recreational, commercial, industrial, educational, and other uses.

(d) A description of public facilities to be acquired for the property to which the plan applies, a description of any repairs and alterations necessary to make

those improvements, and an estimate of the time required for completion of the improvements.

(e) The location, extent, character, and estimated cost of the public facilities for the property to which the plan applies, and an estimate of the time required for completion.

(f) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(g) A description of any portions of the property to which the plan applies, which the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

(h) A description of desired zoning changes and changes in streets, street levels, intersections, and utilities.

(i) An estimate of the cost of the public facility or facilities, a statement of the proposed method of financing the public facility or facilities, and the ability of the authority to arrange the financing.

(j) Designation of the person or persons, natural or corporate, to whom all or a portion of the public facility or facilities is to be leased, sold, or conveyed and for whose benefit the project is being undertaken, if that information is available to the authority.

(k) The procedures for bidding for the leasing, purchasing, or conveying of all or a portion of the public facility or facilities upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed to those persons.

(l) Estimates of the number of persons residing on the property to which the plan applies and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, a development plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-

occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(m) A plan for establishing priority for the relocation of persons displaced by the development.

(n) Provision for the costs of relocating persons displaced by the development, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the federal uniform relocation assistance and real property acquisition policies act of 1970, 42 U.S.C. 4601 to 4655.

(o) A plan for compliance with Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

(p) Other material which the authority or governing body considers pertinent.

(3) It shall not be necessary for the board to prepare a development plan pursuant to this section if a development plan that adequately provides for accomplishing the proposed development program has already been prepared and where the development plan has been approved by the board and governing body pursuant to sections 16 and 17.

History: 1986, Act 281, Eff. Feb. 1, 1987

125.2166 Adoption of resolution approving development plan or tax increment financing plan; public hearing; notice; record.

Sec. 16. (1) Before adoption of a resolution approving or amending a development plan or approving or amending a tax increment financing plan, the governing body shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall not be less than 20 days before the date set for the hearing. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the development plan or the tax increment financing plan is approved or amended.

(2) Notice of the time and place of hearing on a development plan shall contain the following:

(a) A description of the property to which the plan applies in relation to highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice, and that all aspects of the development plan will be open for discussion at the public hearing.

(c) Other information that the governing body considers appropriate.

(3) At the time set for hearing, the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the matter. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented at that time.

History: 1986, Act 281, Eff. Feb. 1, 1987 ;-- 2005, Act 15, Imd. Eff. May 4, 2005

125.2167 Development plan or tax increment financing plan as constituting public purpose; approval or rejection; considerations; amendments; procedure, notice, findings, and amendment as conclusive; contest.
Sec. 17. (1) After a public hearing on the development plan or the tax increment financing plan, or both, with notice of the hearing given pursuant to section 16, the governing body shall determine whether the development plan or tax increment financing plan, or both, constitutes a public purpose. If the governing body determines that the development plan or tax increment financing plan, or both, constitutes a public purpose, the governing body may then approve or reject the plan, or approve it with modification, by resolution, based on the following considerations:

(a) Whether the development plan meets the requirements set forth in section 15(2) and the tax increment financing plan meets the requirements set forth in section 12(1), (2), and (3).

(b) Whether the proposed method of financing the public facility or facilities is feasible and the authority has the ability to arrange the financing.

(c) Whether the development is reasonable and necessary to carry out the purposes of this act.

(d) Whether the amount of captured assessed value estimated to result from adoption of the plan is reasonable.

(e) Whether the land to be acquired under the development plan is reasonably necessary to carry out the purposes of the plan and the purposes of this act.

(f) Whether the development plan is in reasonable accord with the approved master plan of the municipality, if an approved master plan exists.

(g) Whether public services, such as fire and police protection and utilities, are or will be adequate to service the property.

(h) Whether changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

(2) Except as provided in this subsection, amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection following the same notice and public hearing provisions that are necessary for approval or rejection of the original plan. Notice and hearing shall not be necessary for revisions in the estimates of captured assessed value and tax increment revenues.

(3) The procedure, adequacy of notice, and findings with respect to purpose and captured assessed value shall be conclusive unless contested in a court of competent jurisdiction within 60 days after adoption of the resolution adopting the plan. An amendment, adopted by resolution, to a conclusive plan shall likewise be conclusive unless contested within 60 days after adoption of the resolution adopting the amendment. If a resolution adopting an amendment to the plan is contested, the resolution adopting the plan is not open to contest.

History: 1986, Act 281, Eff. Feb. 1, 1987 ;-- Am. 1993, Act 333, Eff. Mar. 15, 1994

125.2168 Relocation of person; notice to vacate.
Sec. 18. A person to be relocated under this act shall be given not less than 90 days' written notice to vacate unless modified by court order for good cause.

History: 1986, Act 281, Eff. Feb. 1, 1987

125.2169 Preparation and submission of budget; manner; approval; cost of handling and auditing funds.
Sec. 19. (1) The director of the authority shall prepare and submit for the approval of the board a budget for the operation of the authority for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. Before the budget may be adopted by the board, it shall be approved by the governing body. Funds of the municipality shall not be included in the budget of the authority except those funds authorized in this act or by the governing body.

(2) The governing body may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed for designated purposes, which cost shall be paid annually by the board pursuant to an appropriate item in its budget.

History: 1986, Act 281, Eff. Feb. 1, 1987 ;-- Am. 1991, Act 101, Imd. Eff. Aug. 21, 1991 ;-- Am. 1993, Act 333, Eff. Mar. 15, 1994 ;-- Am. 2008, Act 522, Imd. Eff. Jan. 13, 2009

125.2170 Dissolution of authority; resolution; disposition of property and assets.
Sec. 20. An authority that completes the purposes for which it was organized shall be dissolved by resolution of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority shall belong to the municipality or to an agency or instrumentality designated by resolution of the municipality.

History: 1986, Act 281, Eff. Feb. 1, 1987

125.2171 Proceedings to enforce act.
Sec. 21. The state tax commission may institute proceedings to compel enforcement of this act.

History: 1986, Act 281, Eff. Feb. 1, 1987

125.2172 Effective date.
Sec. 22. This act shall take effect on February 1, 1987.

History: 1986, Act 281, Eff. Feb. 1, 1987

125.2173 Conditional effective date.
Sec. 23. This act shall not take effect unless House Bill No. 5729 of the 83rd Legislature is enacted into law.

History: 1986, Act 281, Eff. Feb. 1, 1987
Compiler's Notes: House Bill No. 5729, referred to in MCL 125.2173, was filed with the Secretary of State December 22, 1986, and became P.A. 1986, No. 280, Imd. Eff. Dec. 22, 1986.

125.2174 Constitutionality of act.
Sec. 24. Pursuant to section 8 of article III of the state constitution of 1963, it is the intent of the legislature, by concurrent resolution, to request the opinion of the supreme court as to the constitutionality of this 1986 act if the governor has not already requested an opinion.

History: 1986, Act 281, Eff. Feb. 1, 1987

BROWNFIELD REDEVELOPMENT FINANCING ACT
Act 381 of 1996

AN ACT to authorize municipalities to create a brownfield redevelopment authority to facilitate the implementation of brownfield plans; to create brownfield redevelopment zones; to promote the revitalization, redevelopment, and reuse of certain property, including, but not limited to, tax reverted, blighted, or functionally obsolete property; to prescribe the powers and duties of brownfield redevelopment authorities; to permit the issuance of bonds and other evidences of indebtedness by an authority; to authorize the acquisition and disposal of certain property; to authorize certain funds; to prescribe certain powers and duties of certain state officers and agencies; and to authorize and permit the use of certain tax increment financing.

History: 1996, Act 381, Eff. Sept. 16, 1996 ;-- Am. 2003, Act 259, Imd. Eff. Jan. 5, 2004

The People of the State of Michigan enact:

125.2651 Short title.
Sec. 1. This act shall be known and may be cited as the “brownfield redevelopment financing act”.

History: 1996, Act 381, Eff. Sept. 16, 1996

125.2652 Definitions.
Sec. 2. As used in this act:

(a) "Additional response activities" means response activities identified as part of a brownfield plan that are in addition to baseline environmental assessment activities and due care activities for an eligible property.

(b) "Authority" means a brownfield redevelopment authority created under this act.

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

(d) "Baseline environmental assessment activities" means those response activities identified as part of a brownfield plan that are necessary to complete a baseline environmental assessment for an eligible property in the brownfield plan.

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

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

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

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

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

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

(vi) Is property owned or under the control of a land bank fast track authority under the land bank fast track act, whether or not located within a qualified local governmental unit. Property included within a brownfield plan prior to the date it meets the requirements of this subdivision to be eligible property shall be considered to become eligible property as of the date the property is determined to have been or becomes qualified as, or is combined with, other eligible property. The sale, lease, or transfer of the property by a land bank fast track authority after the property's inclusion in a brownfield plan shall not result in the loss to the property of the status as blighted property for purposes of this act.

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

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

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

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

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

(j) "Department" means the department of environmental quality.

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

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

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

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

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

(m) "Eligible activities" or "eligible activity" means 1 or more of the following:

(i) Baseline environmental assessment activities.

(ii) Due care activities.

(iii) Additional response activities.

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

(A) Infrastructure improvements that directly benefit eligible property.

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

(C) Lead or asbestos abatement.

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

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

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

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

(A) Infrastructure improvements that directly benefit eligible property.

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

(C) Lead or asbestos abatement.

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

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

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

(B) Lead or asbestos abatement.

(viii) Reasonable costs of developing and preparing brownfield plans and work plans.

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

(A) Infrastructure improvements that directly benefit the property.

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

(C) Lead or asbestos abatement.

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

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

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

(B) Lead or asbestos abatement.

(xi) Reasonable costs of environmental insurance.

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

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

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

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

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

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

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

(vii) Is located north of the 45th parallel, is a facility, functionally obsolete, or blighted, and the owner or operator makes new capital investment of $250,000,000.00 or more in this state. Eligible property does not include qualified agricultural property exempt under section 7ee of the general property tax act, 1893 PA 206, MCL 211.7ee, from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

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

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

(q) "Fiscal year" means the fiscal year of the authority.

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

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

(t) "Infrastructure improvements" means a street, road, sidewalk, parking facility, pedestrian mall, alley, bridge, sewer, sewage treatment plant, property designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, waterway, waterline, water storage facility, rail line, utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement, owned or used by a public agency or functionally connected to similar or supporting property owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity, provided that any road, street, or bridge shall be continuously open to public access and that other property shall be located in public easements or rights-of-way and sized to accommodate reasonably foreseeable development of eligible property in adjoining areas.

(u) "Initial taxable value" means the taxable value of an eligible property identified in and subject to a brownfield plan at the time the resolution adding that eligible property in the brownfield plan is adopted, as shown either by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted or, if provided by the brownfield plan, by the next assessment roll for which equalization will be completed following the date the resolution adding that eligible property in the brownfield plan is

adopted. Property exempt from taxation at the time the initial taxable value is determined shall be included with the initial taxable value of zero. Property for which a specific tax is paid in lieu of property tax shall not be considered exempt from taxation. The state tax commission shall prescribe the method for calculating the initial taxable value of property for which a specific tax was paid in lieu of property tax.

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

(w) "Local taxes" means all taxes levied other than taxes levied for school operating purposes.

(x) "Municipality" means all of the following:

(i) A city.

(ii) A village.

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

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

(v) A county.

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

(i) An ownership interest in the property.

(ii) A tax lien on the property.

(iii) A tax deed to the property.

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

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

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

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

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

(bb) "Qualified taxpayer" means that term as defined in former sections 38d and 38g of the single business tax act, 1975 PA 228, or section 437 of the Michigan business tax act, 2007 PA 36, MCL 208.1437.

(cc) "Response activity" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(dd) "Specific taxes" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the technology park development act, 1984 PA 385, MCL 207.701 to 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786; the commercial rehabilitation act, 2005 PA 210, MCL 207.841 to 207.856; or that portion of the tax levied under the tax reverted clean title act, 2003 PA 260, MCL 211.1021 to 211.1026, that is not required to be distributed to a land bank fast track authority.

(ee) "Tax increment revenues" means the amount of ad valorem property taxes and specific taxes attributable to the application of the levy of all taxing jurisdictions upon the captured taxable value of each parcel of eligible property subject to a brownfield plan and personal property located on that property. Tax increment revenues exclude ad valorem property taxes specifically levied for the payment of principal of and interest on either obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit, and specific taxes attributable to those ad valorem property taxes. Tax increment revenues attributable to eligible property also exclude the amount of ad valorem property taxes or specific taxes captured by a downtown development authority, tax increment finance authority, or local development

finance authority if those taxes were captured by these other authorities on the date that eligible property became subject to a brownfield plan under this act.

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

(gg) "Taxes levied for school operating purposes" means all of the following:

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

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

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

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

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

History: 1996, Act 381, Eff. Sept. 16, 1996 ;-- Am. 2000, Act 145, Imd. Eff. June 6, 2000 ;-- Am. 2002, Act 254, Imd. Eff. May 1, 2002 ;-- Am. 2003, Act 259, Imd. Eff. Jan. 5, 2004 ;-- Am. 2003, Act 277, Imd. Eff. Jan. 8, 2004 ;-- Am. 2005, Act 101, Imd. Eff. July 22, 2005 ;-- Am. 2006, Act 32, Imd. Eff. Feb. 23, 2006 ;-- Am. 2007, Act 204, Imd. Eff. Dec. 27, 2007

125.2653 Brownfield redevelopment authority; establishment; exercise of powers; alteration or amendment of boundaries; authority as public body corporate; written agreement with county.

Sec. 3. (1) A municipality may establish 1 or more authorities. Except as provided in subsection (4), an authority with zones established before the effective date of the amendatory act that added subsection (2) shall exercise its powers within its designated zones. Except as provided in subsection (4), an authority established after the effective date of the amendatory act that added subsection (2) shall exercise its powers over any eligible property located in the municipality.

(2) An authority with zones established before the effective date of the amendatory act that added this subsection may alter or amend the boundaries of those zones if the authority holds a public hearing on the alteration or amendment using the procedures under section 4(2), (3), and (4).

(3) The authority shall be a public body corporate that may sue and be sued in a court of competent jurisdiction. The authority possesses all the powers necessary to carry out the purpose of its incorporation. The enumeration of a power in this act is not a limitation upon the general powers of the authority. The powers granted in this act to an authority may be exercised whether or not bonds are issued by the authority.

(4) An authority established by a county shall exercise its powers with respect to eligible property within a city, village, or township within the county only if that city, village, or township has concurred with the provisions of a brownfield plan that apply to that eligible property within the city, village, or township.

(5) A city, village, or township including a city, village, or township that is a qualified local governmental unit may enter into a written agreement with the county in which that city, village, or township is located to exercise the powers granted to that specific city, village, or township under this act.

History: 1996, Act 381, Eff. Sept. 16, 1996 ;-- Am. 2000, Act 145, Imd. Eff. June 6, 2000

125.2654 Resolution by governing body; adoption; notice; public hearing; proceedings establishing authority; presumption of validity; exercise as essential governmental function; implementation or modification of plan.
Sec. 4. (1) A governing body may declare by resolution adopted by a majority of its members elected and serving its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall set a date for holding a public hearing on the adoption of a proposed resolution creating the authority. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 nor more than 40 days before the date of the hearing. The notice shall state the date, time, and place of the hearing. At that hearing, a citizen, taxpayer, official from a taxing jurisdiction whose millage may be subject to capture under a brownfield plan, or property owner of the municipality has the right to be heard in regard to the establishment of the authority.

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

(4) The proceedings establishing an authority shall be presumptively valid unless contested in a court of competent jurisdiction within 60 days after the filing of the resolution with the secretary of state.

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

(6) If the board implements or modifies a brownfield plan that contains a qualified facility, the governing body shall mail notice of that implementation or modification to each taxing jurisdiction that levies ad valorem property taxes in the municipality. Not more than 60 days after receipt of that notice, the governing body of a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality in which the qualified facility is located. The resolution takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

History: 1996, Act 381, Eff. Sept. 16, 1996 ;-- Am. 2000, Act 145, Imd. Eff. June 6, 2000 ;-- Am. 2005, Act 101, Imd. Eff. July 22, 2005

125.2655 Designation of board by governing body; membership; trustees; applicability of subsection (2); election of chairperson, vice-chairperson, and other officers; oath; procedural rules; meetings; special meetings; removal of member; records open to public; quorum.

Sec. 5. (1) Each authority shall be under the supervision and control of a board chosen by the governing body. Subject to subsection (2), the governing body may by majority vote designate 1 of the following to constitute the board:

(a) The board of directors of the economic development corporation of the municipality established under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636.

(b) The trustees of the board of a downtown development authority established under 1975 PA 197, MCL 125.1651 to 125.1681.

(c) The trustees of the board of a tax increment financing authority established under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(d) The trustees of the board of a local development financing authority established under the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

(e) Not less than 5 nor more than 9 persons appointed by the chief executive officer of the municipality subject to the approval of the governing body. Of the initial members appointed, an equal number, as near as practicable, shall be appointed for 1 year, 2 years, and 3 years. A member shall hold office until the member's successor is appointed and qualified. Thereafter, each member shall serve for a term of 3 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for reasonable actual and necessary expenses.

(2) The governing body of a municipality in which a board described in subsection (1)(b), (c), or (d) has been established shall designate the trustees of 1 of those boards to constitute the board. This subsection shall only apply in the event a board described in subsection (1)(b), (c), or (d) is authorized under subsection (1) to serve as the board of the authority.

(3) The members shall elect 1 of their membership as chairperson and another as vice-chairperson. The members may designate and elect other officers of the board as they consider necessary.

(4) Before assuming the duties of office, a member shall qualify by taking and subscribing to the oath of office provided in section 1 of article XI of the state constitution of 1963.

(5) The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held when called in the manner provided in the rules of the board. Meetings of the board shall be open to the public, in accordance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) After notice and an opportunity to be heard, a member of the board appointed under subsection (1)(e) may be removed before the expiration of his or her term for cause by the governing body. Removal of a member is subject to review by the circuit court.

(7) All financial records of an authority shall be open to the public under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(8) A majority of the members of the board appointed and serving shall constitute a quorum. Action may be taken by the board at a meeting upon a vote of the majority of the members present.

History: 1996, Act 381, Eff. Sept. 16, 1996 ;-- Am. 2000, Act 145, Imd. Eff. June 6, 2000

125.2656 Appointment or employment of director, treasurer, secretary, personnel, and consultants; assistance provided by municipality; retirement and insurance programs.

Sec. 6. (1) The board may employ and fix the compensation of a director of the authority, subject to the approval of the governing body creating the authority. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before entering upon the duties of the office, the director shall take and subscribe to the oath of office provided in section 1 of article XI of the state constitution of 1963 and shall furnish bond by posting a bond in the sum specified in the resolution establishing the authority. The bond shall be payable to the authority for the use and benefit of the authority, approved by the board, and filed with the clerk of the municipality. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief officer of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall render to the board and to the governing body a regular report covering the activities and financial condition of the authority. If

the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of the office, the acting director shall take and subscribe to the oath of office referenced in this subsection and furnish bond as required of the director. The director shall furnish the board with information or reports governing the operation of the authority, as the board requires.

(2) The board may appoint or employ and fix the compensation of a treasurer who shall keep the financial records of the authority and who, together with the director, if a director is appointed, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform other duties as may be delegated by the board and shall furnish bond in an amount as prescribed by the board.

(3) The board may appoint or employ and fix the compensation of a secretary who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties as may be delegated by the board.

(4) The board may employ and retain personnel and consultants as considered necessary by the board, including legal counsel to advise the board in the proper performance of its duties and to represent the authority in actions brought by or against the authority.

(5) Upon request of the authority, the municipality may provide assistance to the authority in the performance of its powers and duties.

(6) The employees of an authority may be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees on the same basis as civil service employees.

History: 1996, Act 381, Eff. Sept. 16, 1996

125.2657 Powers of authority; determining captured taxable value; transfer of municipality funds to authority.
Sec. 7. (1) An authority may do 1 or more of the following:

(a) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(b) Incur and expend funds to pay or reimburse a public or private person for costs of eligible activities attributable to an eligible property.

(c) As approved by the municipality, incur costs and expend funds from the local site remediation revolving fund created under section 8 for purposes authorized in that section.

(d) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties, including, but not limited to, lease purchase agreements, land contracts, installment sales agreements, and loan agreements.

(e) On terms and conditions and in a manner and for consideration the authority considers proper or for no monetary consideration, own, mortgage, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in the property, that the authority determines are reasonably necessary to achieve the purposes of this act, and grant or acquire licenses, easements, and options with respect to the property.

(f) Acquire, maintain, repair, or operate all devices necessary to ensure continued eligible activities on eligible property.

(g) Accept grants and donations of property, labor, or other things of value from a public or private source.

(h) Incur costs in connection with the performance of its authorized functions, including, but not limited to, administrative costs and architect, engineer, legal, or accounting fees.

(i) Study, develop, and prepare the reports or plans the authority considers necessary to assist it in the exercise of its powers under this act and to monitor and evaluate the progress under this act.

(j) Procure insurance against loss in connection with the authority's property, assets, or activities.

(k) Invest the money of the authority at the authority's discretion in obligations determined proper by the authority, and name and use depositories for its money.

(l) Make loans, participate in the making of loans, undertake commitments to make loans and mortgages, buy and sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans and mortgages, foreclose on a mortgage, commence an action to protect or enforce a right conferred upon the authority by a law, mortgage, loan, contract, or other agreement, bid for and purchase property that was the subject of the mortgage at a foreclosure or other sale, acquire and take possession of the property and in that event compute, administer, pay the principal and interest on obligations incurred in connection with that property, and dispose of and otherwise deal with the property, in a manner necessary or desirable to protect the interests of the authority.

(m) Borrow money and issue its bonds and notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of tax increment revenues.

(n) Do all other things necessary or convenient to achieve the objectives and purposes of the authority, this act, or other laws that relate to the purposes and responsibilities of the authority.

(2) The authority shall determine the captured taxable value of each parcel of eligible property. The captured taxable value of a parcel shall not be less than zero.

(3) A municipality may transfer the funds of the municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority.

History: 1996, Act 381, Eff. Sept. 16, 1996 ;-- Am. 2000, Act 145, Imd. Eff. June 6, 2000 ;-- Am. 2002, Act 413, Imd. Eff. June 3, 2002

125.2658 Local site remediation revolving fund.

Sec. 8. (1) An authority may establish a local site remediation revolving fund. A local site remediation revolving fund shall consist of money available under section 13(5) and may also consist of money appropriated or otherwise made available from public or private sources. An authority shall separately account for money deposited to the fund that is directly derived from tax increment revenues levied for school operating purposes.

(2) The local site remediation revolving fund may be used only to pay the costs of eligible activities on eligible property that is located within the municipality.

(3) An authority or a municipality on behalf of an authority may incur an obligation for the purpose of funding a local site remediation revolving fund.

History: 1996, Act 381, Eff. Sept. 16, 1996 ;-- Am. 2000, Act 145, Imd. Eff. June 6, 2000

125.2659 Authority as instrumentality of political subdivision.
Sec. 9. The authority shall be considered an instrumentality of a political subdivision for purposes of Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

History: 1996, Act 381, Eff. Sept. 16, 1996

125.2660 Taking, transfer, and use of private property.
Sec. 10. A municipality may transfer private property taken under the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws, to the authority for use as authorized in the brownfield plan, on terms and conditions it considers appropriate. The taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

History: 1996, Act 381, Eff. Sept. 16, 1996

125.2661 Financing sources of authority activities.
Sec. 11. The activities of the authority shall be financed from 1 or more of the following sources:

(a) Contributions, contractual payments, or appropriations to the authority for the performance of its functions or to pay the costs of a brownfield plan of the authority.

(b) Revenues from a property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(c) Subject to the limitations imposed under sections 8, 13, and 15, 1 or both of the following:

(i) Tax increment revenues received under a brownfield plan established under sections 13 and 14.

(ii) Proceeds of tax increment bonds and notes issued under section 17.

(d) Proceeds of revenue bonds and notes issued under section 12.

(e) Revenue available in the local site remediation revolving fund for the costs described in section 8.

(f) Money obtained from all other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance activities authorized under this act.

History: 1996, Act 381, Eff. Sept. 16, 1996

125.2662 Bonds and notes of authority.

Sec. 12. (1) The authority may borrow money and issue its negotiable revenue bonds or notes to finance all or part of the costs of eligible activities or of another activity of the authority under this act. Revenue bonds and notes issued under this section are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. The costs that may be financed by the issuance of revenue bonds or notes may include the costs of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing property in connection with an activity authorized under this act; engineering, architectural, legal, accounting, or financial expenses; the costs necessary or incidental to the borrowing of money; interest on the bonds or notes during the period of construction; a reserve for payment of principal and interest on the bonds or notes; and a reserve for operation and maintenance until sufficient revenues have developed. The authority may secure the bonds and notes by mortgage, assignment, or pledge of the property and all money, revenues, or income received in connection with the property.

(2) A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged by the authority immediately shall be subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of a pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(3) Bonds or notes issued under this section shall be exempt from all taxation in this state except estate and transfer taxes, and the interest on the bonds or notes shall be exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(4) Unless otherwise provided by a majority vote of the members of its governing body, the municipality shall not be liable on bonds or notes of the authority issued under this section and the bonds or notes shall not be a debt of the municipality.

(5) The bonds and notes of the authority may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is supplemental and in addition to all other authority granted by law.

History: 1996, Act 381, Eff. Sept. 16, 1996 ;-- Am. 2002, Act 413, Imd. Eff. June 3, 2002

125.2663 Brownfield plan; provisions.
Sec. 13. (1) Subject to section 15, the board may implement a brownfield plan. The brownfield plan may apply to 1 or more parcels of eligible property whether or not those parcels of eligible property are contiguous and may be amended to apply to additional parcels of eligible property. Except as otherwise authorized by this act, if more than 1 eligible property is included within the plan, the tax increment revenues under the plan shall be determined individually for each eligible property. Each plan or an amendment to a plan shall be approved by the governing body of the municipality and shall contain all of the following:

(a) A description of the costs of the plan intended to be paid for with the tax increment revenues or, for a plan for eligible properties qualified on the basis that the property is owned or under the control of a land bank fast track authority, a listing of all eligible activities that may be conducted for 1 or more of the eligible properties subject to the plan.

(b) A brief summary of the eligible activities that are proposed for each eligible property or, for a plan for eligible properties qualified on the basis that the

property is owned or under the control of a land bank fast track authority, a brief summary of eligible activities conducted for 1 or more of the eligible properties subject to the plan.

(c) An estimate of the captured taxable value and tax increment revenues for each year of the plan from the eligible property. The plan may provide for the use of part or all of the captured taxable value, including deposits in the local site remediation revolving fund, but the portion intended to be used shall be clearly stated in the plan. The plan shall not provide either for an exclusion from captured taxable value of a portion of the captured taxable value or for an exclusion of the tax levy of 1 or more taxing jurisdictions unless the tax levy is excluded from tax increment revenues in section 2(dd), or unless the tax levy is excluded from capture under section 15.

(d) The method by which the costs of the plan will be financed, including a description of any advances made or anticipated to be made for the costs of the plan from the municipality.

(e) The maximum amount of note or bonded indebtedness to be incurred, if any.

(f) The duration of the brownfield plan for eligible activities on eligible property which shall not exceed 35 years following the date of the resolution approving the plan amendment related to a particular eligible property. Each plan amendment shall also contain the duration of capture of tax increment revenues including the beginning date of the capture of tax increment revenues, which beginning date shall be identified in the brownfield plan and which beginning date shall not be later than 5 years following the date of the resolution approving the plan amendment related to a particular eligible property and which duration shall not exceed the lesser of the period authorized under subsections (4) and (5) or 30 years from the beginning date of the capture of tax increment revenues. The date for the beginning of capture of tax increment revenues may be amended by the authority but not to a date later than 5 years after the date of the resolution adopting the plan. The authority may not amend the date for the beginning of capture of tax increment revenues if the authority has begun to reimburse eligible activities from the capture of tax increment revenues. The authority may not amend the date for the beginning of capture if that amendment would lead to the duration of capture of tax increment revenues being longer than 30 years or the period authorized under subsections (4) and (5). If the date for the beginning of capture of tax increment

revenues is amended by the authority and that plan includes the capture of tax increment revenues for school operating purposes, then the authority that amended that plan shall notify the department and the Michigan economic growth authority within 30 days of the approval of the amendment.

(g) An estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions in which the eligible property is located.

(h) A legal description of the eligible property to which the plan applies, a map showing the location and dimensions of each eligible property, a statement of the characteristics that qualify the property as eligible property, and a statement of whether personal property is included as part of the eligible property. If the project is on property that is functionally obsolete, the taxpayer shall include, with the application, an affidavit signed by a level 3 or level 4 assessor, that states that it is the assessor's expert opinion that the property is functionally obsolete and the underlying basis for that opinion.

(i) Estimates of the number of persons residing on each eligible property to which the plan applies and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, the plan shall include a demographic survey of the persons to be displaced, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(j) A plan for establishing priority for the relocation of persons displaced by implementation of the plan.

(k) Provision for the costs of relocating persons displaced by implementation of the plan, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646.

(l) A strategy for compliance with 1972 PA 227, MCL 213.321 to 213.332.

(m) A description of proposed use of the local site remediation revolving fund.

(n) Other material that the authority or governing body considers pertinent.

(2) The percentage of all taxes levied on a parcel of eligible property for school operating expenses that is captured and used under a brownfield plan and all tax increment finance plans under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, shall not be greater than the combination of the plans' percentage capture and use of all local taxes levied for purposes other than for the payment of principal of and interest on either obligations approved by the electors or obligations pledging the unlimited taxing power of the local unit of government. This subsection shall apply only when taxes levied for school operating purposes are subject to capture under section 15.

(3) Except as provided in this subsection and subsections (5), (15), and (16), tax increment revenues related to a brownfield plan shall be used only for costs of eligible activities attributable to the eligible property, the captured taxable value of which produces the tax increment revenues, including the cost of principal of and interest on any obligation issued by the authority to pay the costs of eligible activities attributable to the eligible property, and the reasonable costs of preparing a brownfield plan or a work plan for the eligible property, including the actual cost of the review of the work plan under section 15. For property owned or under the control of a land bank fast track authority, tax increment revenues related to a brownfield plan may be used for eligible activities attributable to any eligible property owned or under the control of the land bank fast track authority, the cost of principal of and interest on any obligation issued by the authority to pay the costs of eligible activities, the reasonable costs of preparing a work plan, and the actual cost of the review of the work plan under section 15. Except as provided in subsection (18), tax increment revenues captured from taxes levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, or taxes levied by a local school district shall not be used for eligible activities described in section 2(m)(iv)(E).

(4) Except as provided in subsection (5), a brownfield plan shall not authorize the capture of tax increment revenue from eligible property after the year in which the total amount of tax increment revenues captured is equal to the sum of the costs permitted to be funded with tax increment revenues under this act.

(5) A brownfield plan may authorize the capture of additional tax increment revenue from an eligible property in excess of the amount authorized under subsection (4) during the time of capture for the purpose of paying the costs permitted under subsection (3), or for not more than 5 years after the time that capture is required for the purpose of paying the costs permitted under subsection (3), or both. Excess revenues captured under this subsection shall be deposited in the local site remediation revolving fund created under section 8 and used for the purposes authorized in section 8. If tax increment revenues attributable to taxes levied for school operating purposes from eligible property are captured by the authority for purposes authorized under subsection (3), the tax increment revenues captured for deposit in the local site remediation revolving fund also may include tax increment revenues attributable to taxes levied for school operating purposes in an amount not greater than the tax increment revenues levied for school operating purposes captured from the eligible property by the authority for the purposes authorized under subsection (3). Excess tax increment revenues from taxes levied for school operating purposes for eligible activities authorized under subsection (15) by the Michigan economic growth authority shall not be captured for deposit in the local site remediation revolving fund.

(6) An authority shall not expend tax increment revenues to acquire or prepare eligible property, unless the acquisition or preparation is an eligible activity.

(7) Costs of eligible activities attributable to eligible property include all costs that are necessary or related to a release from the eligible property, including eligible activities on properties affected by a release from the eligible property. For purposes of this subsection, "release" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(8) Costs of a response activity paid with tax increment revenues that are captured pursuant to subsection (3) may be recovered from a person who is liable for the costs of eligible activities at an eligible property. This state or an authority may undertake cost recovery for tax increment revenue captured. Before an authority or this state may institute a cost recovery action, it must provide the other with 120 days' notice. This state or an authority that recovers costs under this subsection shall apply those recovered costs to the following, in the following order of priority:

(a) The reasonable attorney fees and costs incurred by this state or an authority in obtaining the cost recovery.

(b) One of the following:

(i) If an authority undertakes the cost recovery action, the authority shall deposit the remaining recovered funds into the local site remediation fund created pursuant to section 8, if such a fund has been established by the authority. If a local site remediation fund has not been established, the authority shall disburse the remaining recovered funds to the local taxing jurisdictions in the proportion that the local taxing jurisdictions' taxes were captured.

(ii) If this state undertakes a cost recovery action, this state shall deposit the remaining recovered funds into the revitalization revolving loan fund established under section 20108a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20108a.

(iii) If this state and an authority each undertake a cost recovery action, undertake a cost recovery action jointly, or 1 on behalf of the other, the amount of any remaining recovered funds shall be deposited pursuant to subparagraphs (i) and (ii) in the proportion that the tax increment revenues being recovered represent local taxes and taxes levied for school operating purposes, respectively.

(9) Approval of the brownfield plan or an amendment to a brownfield plan shall be in accordance with the notice and approval provisions of this section and section 14.

(10) Before approving a brownfield plan for an eligible property, the governing body shall hold a public hearing on the brownfield plan. By resolution, the governing body may delegate the public hearing process to the authority or to a subcommittee of the governing body subject to final approval by the governing body. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, not less than 10 or more than 40 days before the date set for the hearing.

(11) Notice of the time and place of the hearing on a brownfield plan shall contain all of the following:

(a) A description of the property to which the plan applies in relation to existing or proposed highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the brownfield plan are available for public inspection at a place designated in the notice and that all aspects of the brownfield plan are open for discussion at the public hearing required by this section.

(c) Any other information that the governing body considers appropriate.

(12) At the time set for the hearing on the brownfield plan required under subsection (10), the governing body shall ensure that interested persons have an opportunity to be heard and that written communications with reference to the brownfield plan are received and considered. The governing body shall ensure that a record of the public hearing is made and preserved, including all data presented at the hearing.

(13) Not less than 10 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the taxing jurisdictions that levy taxes subject to capture under this act. The authority shall fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed brownfield plan. At that hearing, an official from a taxing jurisdiction with millage that would be subject to capture under this act has the right to be heard in regard to the adoption of the brownfield plan. Not less than 10 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the department if the brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities that require the approval of a work plan by the department under section 15(1)(a) and the Michigan economic growth authority, or its designee, if the brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities subject to subsection (15) or (18).

(14) The authority shall not enter into agreements with the taxing jurisdictions and the governing body of the municipality to share a portion of the captured taxable value of an eligible property. Upon adoption of the plan, the collection and transmission of the amount of tax increment revenues as specified in this act shall be binding on all taxing units levying ad valorem property taxes or specific taxes against property located in the zone.

(15) Except as provided by subsection (18), if a brownfield plan includes the capture of taxes levied for school operating purposes approval of a work plan by the Michigan economic growth authority before January 1, 2013 to use taxes levied for school operating purposes and a development agreement or reimbursement agreement between the municipality or authority and an owner or developer of eligible property are required if the taxes levied for school operating purposes will be used for infrastructure improvements that directly benefit eligible property, demolition of structures that is not response activity under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, lead or asbestos abatement, site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101, relocation of public buildings or operations for economic development purposes, or acquisition of property by a land bank fast track authority if acquisition of the property is for economic development purposes. The eligible activities to be conducted described in this subsection shall be consistent with the work plan submitted by the authority to the Michigan economic growth authority. The department's approval is not required for the capture of taxes levied for school operating purposes for eligible activities described in this subsection.

(16) The limitations of section 15(1) upon use of tax increment revenues by an authority shall not apply to the following costs and expenses:

(a) In each fiscal year of the authority, the amount described in subsection (19) for the following purposes for tax increment revenues attributable to local taxes:

(i) Reasonable and actual administrative and operating expenses of the authority.

(ii) Baseline environmental assessments, due care activities, and additional response activities conducted by or on behalf of the authority related directly to work conducted on prospective eligible properties prior to approval of the brownfield plan.

(b) Reasonable costs of preparing a work plan or the cost of the review of a work plan for which tax increment revenues may be used under section 13(3).

(c) For tax increment revenues attributable to local taxes, reasonable costs of site investigations described in section 15(1)(a)(i), baseline environmental assessments, and due care activities incurred by a person other than the authority related directly to work conducted on eligible property or prospective eligible properties prior to approval of the brownfield plan, if those costs and the eligible property are included in a brownfield plan approved by the authority.

(17) A brownfield authority may reimburse advances, with or without interest, made by a municipality under section 7(3), a land bank fast track authority, or any other person or entity for costs of eligible activities with any source of revenue available for use of the brownfield authority under this act. If an authority reimburses a person or entity under this section for an advance for the payment or reimbursement of the cost of eligible activities and interest thereon, the authority may capture local taxes for the payment of that interest. If an authority reimburses a person or entity under this section for an advance for the payment or reimbursement of the cost of baseline environmental assessments, due care, and additional response activities and interest thereon included in a work plan approved by the department, the authority may capture taxes levied for school operating purposes and local taxes for the payment of that interest. If an authority reimburses a person or entity under this section for an advance for the payment or reimbursement of the cost of eligible activities that are not baseline environmental assessments, due care, and additional response activities and interest thereon included in a work plan approved by the Michigan economic growth authority, the authority may capture taxes levied for school operating purposes and local taxes for the payment of that interest provided that the Michigan economic growth authority grants an approval for the capture of taxes levied for school operating purposes to pay such interest. An authority may enter into agreements related to these reimbursements and payments. A reimbursement agreement for these purposes and the obligations under that reimbursement agreement shall not be subject to section 12 or the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(18) If a brownfield plan includes the capture of taxes levied for school operating purposes, approval of a work plan by the Michigan economic growth authority in the manner required under section 15(14) to (16) is required in order to use tax increment revenues attributable to taxes levied for school operating purposes for purposes of eligible activities described in section 2(m)(iv)(E) for 1 or more parcels of eligible property. The work plan to be submitted to the Michigan economic growth authority under this subsection

shall be in a form prescribed by the Michigan economic growth authority. The eligible activities to be conducted and described in this subsection shall be consistent with the work plan submitted by the authority to the Michigan economic growth authority. The department's approval is not required for the capture of taxes levied for school operating purposes for eligible activities described in this section.

(19) In each fiscal year of the authority, the amount of tax increment revenues attributable to local taxes that an authority can use for the purposes described in subsection (16)(a) shall be determined as follows:

(a) For authorities that have 5 or fewer active projects, $100,000.00.

(b) For authorities that have 6 or more but fewer than 11 active projects, $125,000.00.

(c) For authorities that have 11 or more but fewer than 16 active projects, $150,000.00.

(d) For authorities that have 16 or more but fewer than 21 active projects, $175,000.00.

(e) For authorities that have 21 or more but fewer than 26 active projects, $200,000.00.

(f) For authorities that have 26 or more active projects, $300,000.00.

(20) As used in subsection (19), "active project" means a project in which the authority is currently capturing taxes under this act.

History: 1996, Act 381, Eff. Sept. 16, 1996 ;-- Am. 2000, Act 145, Imd. Eff. June 6, 2000 ;-- Am. 2002, Act 727, Imd. Eff. Dec. 30, 2002 ;-- Am. 2003, Act 259, Imd. Eff. Jan. 5, 2004 ;-- Am. 2005, Act 101, Imd. Eff. July 22, 2005 ;-- Am. 2006, Act 32, Imd. Eff. Feb. 23, 2006 ;-- Am. 2006, Act 467, Imd. Eff. Dec. 20, 2006 ;-- Am. 2007, Act 202, Imd. Eff. Dec. 27, 2007

125.2664 Brownfield plan as public purpose; determination; amendments to plan; validity of procedure, notice, and findings; presumption.
Sec. 14. (1) Not less than 10 days after notice of the proposed brownfield plan is provided to the taxing jurisdictions, the governing body shall determine whether the plan constitutes a public purpose. If the governing body determines

that the plan does not constitute a public purpose, the governing body shall reject the plan. If the governing body determines that the plan constitutes a public purpose, the governing body may then approve or reject the plan, or approve it with modification, by resolution, based on the following considerations:

(a) Whether the plan meets the requirements of section 13.

(b) Whether the proposed method of financing the costs of eligible activities is feasible and the authority has the ability to arrange the financing.

(c) Whether the costs of eligible activities proposed are reasonable and necessary to carry out the purposes of this act.

(d) Whether the amount of captured taxable value estimated to result from adoption of the plan is reasonable.

(2) Except as provided in this subsection, amendments to an approved brownfield plan must be submitted by the authority to the governing body for approval or rejection following the same notice necessary for approval or rejection of the original plan. Notice is not required for revisions in the estimates of captured taxable value or tax increment revenues.

(3) The procedure, adequacy of notice, and findings with respect to purpose and captured taxable value shall be presumptively valid unless contested in a court of competent jurisdiction within 60 days after adoption of the resolution adopting the brownfield plan. An amendment, adopted by resolution, to a conclusive plan shall likewise be conclusive unless contested within 60 days after adoption of the resolution adopting the amendment. If a resolution adopting an amendment to the plan is contested, the original resolution adopting the plan is not therefore open to contest.

History: 1996, Act 381, Eff. Sept. 16, 1996

125.2665 Prohibited conduct; work plan; documents to be submitted for approval; written request pertaining to baseline environmental assessment activities or due care activities; additional response activities; denial of work plan as final decision; appeal; reimbursement of costs to review work plan; report; distribution of remaining funds; use of school operating taxes; extension of review period.

Sec. 15. (1) An authority shall not do any of the following:

(a) For eligible activities not described in section 13(15), use taxes levied for school operating purposes captured from eligible property unless the eligible activities to be conducted on the eligible property are eligible activities under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, consistent with a work plan approved by the department after July 24, 1996 and before January 1, 2013. However, except as provided in subdivision (e), an authority may use taxes levied for school operating purposes captured from eligible property without the approval of a work plan by the department for the reasonable costs of 1 or more of the following:

(i) Site investigation activities required to conduct a baseline environmental assessment and to evaluate compliance with section 20107a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a.

(ii) Completing a baseline environmental assessment report.

(iii) Preparing a plan for compliance with section 20107a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a.

(b) For eligible activities not described in section 13(15), other than activities that are exempt from the work plan approval process under subsection (1)(a), use funds from a local site remediation revolving fund that are derived from taxes levied for school operating purposes unless the eligible activities to be conducted are eligible activities under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, consistent with a work plan that has been approved by the department after July 24, 1996.

(c) Use funds from a local site remediation revolving fund created pursuant to section 8 that are derived from taxes levied for school operating purposes for the eligible activities described in section 13(15) unless the eligible activities to be conducted are consistent with a work plan approved by the Michigan economic growth authority.

(d) Use taxes captured from eligible property to pay for eligible activities conducted before approval of the brownfield plan except for costs described in section 13(16).

(e) Use taxes levied for school operating purposes captured from eligible property for response activities that benefit a party liable under section 20126 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20126, except that a municipality that established the authority may use taxes levied for school operating purposes captured from eligible property for response activities associated with a landfill.

(f) Use taxes captured from eligible property to pay for administrative and operating activities of the authority or the municipality on behalf of the authority except for costs described in section 13(16) and for the reasonable costs for preparing a work plan for the eligible property, including the actual cost of the review of the work plan under this section.

(2) To seek department approval of a work plan under subsection (1)(a) or (b), the authority shall submit all of the following for each eligible property:

(a) A copy of the brownfield plan.

(b) Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due.

(c) A summary of available information on the historical and current use of each eligible property, including a brief summary of site conditions and what is known about environmental contamination as that term is defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(d) Existing and proposed future zoning for each eligible property.

(e) A brief summary of the proposed redevelopment and future use for each eligible property.

(f) A separate work plan, or part of a work plan, for each eligible activity to be undertaken.

(3) Upon receipt of a request for approval of a work plan under subsection (2) or a portion of a work plan that pertains to only baseline environmental assessment activities or due care activities, or both, the department shall review

the work plan according to subsection (4) and provide 1 of the following written responses to the requesting authority within 60 days:

(a) An unconditional approval.

(b) A conditional approval that delineates specific necessary modifications to the work plan to meet the criteria of subsection (4), including, but not limited to, individual activities to be added or deleted from the work plan and revision of costs.

(c) If the work plan lacks sufficient information for the department to respond under subdivision (a), (b), or (d) for any specific activity, a letter stating with specificity the necessary additions or changes to the work plan to be submitted before that activity will be considered by the department. The department shall respond under subdivision (a), (b), or (d) according to this section for the other activities in the work plan.

(d) A denial if the property is not an eligible property under this act, if the work plan contemplates the use of taxes levied for school operating purposes prohibited by subsection (1)(e), or for any specific activity if the activity is prohibited by subsection (1)(d). The department may also deny any activity in a work plan that does not meet the conditions in subsection (4) only if the department cannot respond under subdivision (b) or (c). The department shall accompany the denial with a letter that states with specificity the reason for the denial. The department shall respond under subdivision (a), (b), or (c) according to this section for any activities in the work plan that are not denied under this subdivision. If the department denies all or a portion of a work plan under this subdivision, the authority may subsequently resubmit the work plan.

(4) The department may approve a work plan if the following conditions have been met:

(a) Whether some or all of the activities constitute due care activities or additional response activities other than activities that are exempt from the work plan approval process under subsection (1)(a).

(b) The due care activities and response activities, other than the activities that are exempt from the work plan approval process under subsection (1)(a), are protective of the public health, safety, and welfare and the environment. The department may approve additional response activities that are more protective

of the public health, safety, and welfare and the environment than required by section 20107a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a, if those activities provide public health or environmental benefit. In review of a work plan that includes activities that are more protective of the public health, safety, and welfare and the environment, the department's considerations may include, but are not limited to, all of the following:

(i) Proposed new land use and reliability of restrictions to prevent exposure to contamination.

(ii) Cost of implementation activities minimally necessary to achieve due care compliance, the incremental cost of all additional response activities relative to the cost of all response activities, and the total cost of all response activities.

(iii) Long-term obligations associated with leaving contamination in place and the value of reducing or eliminating these obligations.

(c) The estimated costs for the activities as a whole are reasonable for the stated purpose. Except as provided in subdivision (b), the department shall make the determination in this subdivision only after the department determines that the conditions in subdivisions (a) and (b) have been met.

(5) If the department fails to provide a written response under subsection (3) within 60 days after receipt of a request for approval of a work plan, the authority may proceed with the activities as outlined in the work plan as submitted for approval. Except as provided in subsection (6), activities conducted pursuant to a work plan that was submitted to the department for approval but for which the department failed to provide a written response under subsection (3) shall be considered approved for the purposes of subsection (1). Within 45 days after receiving additional information requested from the authority under subsection (3)(c), the department shall review the additional information according to subsection (4) and provide 1 of the responses described in subsection (3) to the requesting authority for the specific activity. If the department does not provide a response to the requesting authority within 45 days after receiving the additional information requested under subsection (3)(c), the activity is approved under subsection (1).

(6) The department may issue a written response to a work plan more than 60 days but less than 6 months after receipt of a request for approval. If the

department issues a written response under this subsection, the authority is not required to conduct individual activities that are in addition to the individual activities included in the work plan as it was submitted for approval and failure to conduct these additional activities shall not affect the authority's ability to capture taxes under subsection (1) for the eligible activities described in the work plan initially submitted under subsection (5). In addition, at the option of the authority, these additional individual activities shall be considered part of the work plan of the authority and approved for purposes of subsection (1). However, any response by the department under this subsection that identifies additional individual activities that must be carried out to satisfy part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, must be satisfactorily completed for the activities to be considered acceptable for the purposes of compliance with part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142.

(7) If the department issues a written response under subsection (6) to a work plan and if the department's written response modifies an individual activity proposed by the work plan of the authority in a manner that reduces or eliminates a proposed response activity, the authority must complete those individual activities in accordance with the department's response in order for that portion of the work plan to be considered approved for purposes of subsection (1), unless 1 or more of the following conditions apply:

(a) Obligations for the individual activity have been issued by the authority, or by a municipality on behalf of the authority, to fund the individual activity prior to issuance of the department's response.

(b) The individual activity has commenced or payment for the work has been irrevocably obligated prior to issuance of the department's response.

(8) It shall be in the sole discretion of an authority to propose to undertake additional response activities at an eligible property under a brownfield plan. The department shall not require a work plan to include additional response activities.

(9) The department shall review the portion of a work plan that includes additional response activities in accordance with subsection (4).

(10) The department's approval or denial of a work plan submitted under this section constitutes a final decision in regard to the use of taxes levied for school operating purposes but does not restrict an authority's use of tax increment revenues attributable to local taxes to pay for eligible activities under a brownfield plan. If a person is aggrieved by the final decision, the person may appeal under section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

(11) The authority shall reimburse the department for the actual cost incurred by the department or a contractor of the department to review a work plan under subsection (1)(a) or (b) under this section. Funds paid to the department under this subsection shall be deposited in the cost recovery subaccount of the cleanup and redevelopment fund created under section 20108 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20108.

(12) The department shall submit a report each year on or before March 1 to each member of the legislature that contains all of the following:

(a) A compilation and summary of all the information submitted under subsection (2).

(b) The amount of tax increment revenues approved by the department in the immediately preceding calendar year, including taxes levied for school operating purposes, to conduct eligible activities.

(13) To seek Michigan economic growth authority approval of a work plan under subsection (1)(c) or section 13(15), the authority shall submit all of the following for each eligible property:

(a) A copy of the brownfield plan.

(b) Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due.

(c) A summary of available information on the historical and current use of each eligible property.

(d) Existing and proposed future zoning for each eligible property.

(e) A brief summary of the proposed redevelopment and future use for each eligible property.

(f) A separate work plan, or part of a work plan, for each eligible activity described in section 13(15) to be undertaken.

(g) A copy of the development agreement or reimbursement agreement required under section 13(15), which shall include, but is not limited to, a detailed summary of any and all ownership interests, monetary considerations, fees, revenue and cost sharing, charges, or other financial arrangements or other consideration between the parties.

(14) Upon receipt of a request for approval of a work plan, the Michigan economic growth authority shall provide 1 of the following written responses to the requesting authority within 65 days:

(a) An unconditional approval that includes an enumeration of eligible activities and a maximum allowable capture amount.

(b) A conditional approval that delineates specific necessary modifications to the work plan, including, but not limited to, individual activities to be added or deleted from the work plan and revision of costs.

(c) A denial and a letter stating with specificity the reason for the denial. If a work plan is denied under this subsection, the work plan may be subsequently resubmitted.

(15) In its review of a work plan under subsection (1)(c) or section 13(15), the Michigan economic growth authority shall consider the following criteria to the extent reasonably applicable to the type of activities proposed as part of that work plan when approving or denying a work plan:

(a) Whether the individual activities included in the work plan are sufficient to complete the eligible activity.

(b) Whether each individual activity included in the work plan is required to complete the eligible activity.

(c) Whether the cost for each individual activity is reasonable.

(d) The overall benefit to the public.

(e) The extent of reuse of vacant buildings and redevelopment of blighted property.

(f) Creation of jobs.

(g) Whether the eligible property is in an area of high unemployment.

(h) The level and extent of contamination alleviated by or in connection with the eligible activities.

(i) The level of private sector contribution.

(j) The cost gap that exists between the site and a similar greenfield site as determined by the Michigan economic growth authority.

(k) If the developer or projected occupant of the new development is moving from another location in this state, whether the move will create a brownfield.

(l) Whether the project of the developer, landowner, or corporate entity that is included in the work plan is financially and economically sound.

(m) Other state and local incentives available to the developer, landowner, or corporate entity for the project of the developer, landowner, or corporate entity that is included in the work plan.

(n) Any other criteria that the Michigan economic growth authority considers appropriate for the determination of eligibility or for approval of the work plan.

(16) If the Michigan economic growth authority fails to provide a written response under subsection (14) within 65 days after receipt of a request for approval of a work plan, the eligible activities shall be considered approved and the authority may proceed with the eligible activities described in section 13(15) as outlined in the work plan as submitted for approval.

(17) The Michigan economic growth authority's approval of a work plan under section 13(15) is final.

(18) The authority shall reimburse the Michigan economic growth authority for the actual cost incurred by the Michigan economic growth authority or a contractor of the Michigan economic growth authority to review a work plan under this section.

(19) The Michigan economic growth authority shall submit a report each year on or before March 1 to each member of the legislature that contains all of the following:

(a) A compilation and summary of all the information submitted under subsection (13).

(b) The amount of tax increment revenues approved by the Michigan economic growth authority in the immediately preceding calendar year, including taxes levied for school operating purposes, to conduct eligible activities.

(20) All taxes levied for school operating purposes that are not used for eligible activities consistent with a work plan approved by the department or the Michigan economic growth authority or for the payment of interest under section 13 and that are not deposited in a local site remediation revolving fund shall be distributed proportionately between the local school district and the school aid fund.

(21) An authority shall not use taxes levied for school operating purposes captured from eligible property for eligible activities for a qualified facility or for eligible activities for property located in an economic opportunity zone.

(22) The department's approval of a work plan under subsection (3)(a) or (b) does not imply an entitlement to reimbursement of the costs of the eligible activities if the work plan is not implemented as approved.

(23) The applicant and the department can, by mutual agreement, extend the time period for any review described in this section. An agreement described in this subsection shall be documented in writing.

History: 1996, Act 381, Eff. Sept. 16, 1996 ;-- Am. 2000, Act 145, Imd. Eff. June 6, 2000 ;-- Am. 2002, Act 727, Imd. Eff. Dec. 30, 2002 ;-- Am. 2003, Act 283, Imd. Eff. Jan. 8, 2004 ;-- Am. 2005, Act 101, Imd. Eff. July 22, 2005 ;-- Am. 2006, Act 32, Imd. Eff. Feb. 23, 2006 ;-- Am. 2007, Act 201, Imd. Eff. Dec. 27, 2007

125.2665a Retention and payment of taxes levied under state education tax act; conditions; application for approval by authority; information to be included; approval, modification, or denial of application by department of treasury; appropriation and distribution of amount; calculation of aggregate amount; lien; reimbursement calculations; legislative intent; definitions.

Sec. 15a. (1) If the amount of tax increment revenues lost as a result of the personal property tax exemptions provided by section 1211(4) of the revised school code, 1976 PA 451, MCL 380.1211, section 3 of the state education tax act, 1993 PA 331, MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will reduce the allowable school tax capture received in a fiscal year, then, notwithstanding any other provision of this act, the authority, with approval of the department of treasury under subsection (3), may request the local tax collecting treasurer to retain and pay to the authority taxes levied within the municipality under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used for the following:

(a) To repay an advance made not later than 1 year after the effective date of the amendatory act that added this section.

(b) To repay an obligation issued or incurred not later than 1 year after the effective date of the amendatory act that added this section.

(c) To pay or reimburse a developer or owner of eligible property or a municipality that created the authority for eligible activities pursuant to a development and reimbursement agreement entered into not later than 1 year after the effective date of the amendatory act that added this section.

(d) To pay for eligible activities identified in a brownfield plan, or an amendment to that plan approved by board of the authority not later than 90 days after the effective date of the amendatory act that added this section if the plan contains all of the following and the work plan for the capture of school taxes has been approved within 1 year after the effective date of the amendatory act that added this section:

(i) A detailed description of the project.

(ii) A statement of the estimated cost of the project.

(iii) The specific location of the project.

(iv) The name of any developer of the project.

(2) Not later than June 15 of 2008 and not later than June 1 of each subsequent year, an authority eligible under subsection (1) to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section, shall apply for approval with the department of treasury. The application for approval shall include the following information:

(a) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(b) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(c) The tax increment revenues the authority estimates it would have received for that fiscal year if the personal property tax exemptions described in subsection (1) were not in effect.

(d) A list of advances, obligations, development and reimbursement agreements, and projects included in brownfield plans described in subsection (1), and shall separately identify the payments due on each of those advances, obligations, development agreements, and eligible activities in that fiscal year, and the total amount of all the payments due on all of those in that fiscal year.

(e) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, or would be used for, the repayment of an advance, the payment of an obligation, the payment of eligible activities pursuant to a development and reimbursement agreement, or the payment of eligible activities identified in a brownfield plan described in subsection (1). That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development plan.

(f) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(3) Not later than August 15, based on the calculations under subsection (5), the department of treasury shall approve, modify, or deny the application for approval to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section. If the application for approval contains the information required under subsection (2)(a) through (f) and appears to be in substantial compliance with the provisions of this section, then the department of treasury shall approve the application. If the application is denied by the department of treasury, then the department of treasury shall provide the opportunity for a representative of the authority to discuss the denial within 21 days after the denial occurs and shall sustain or modify its decision within 30 days after receiving information from the authority. If the application for approval is approved or modified by the department of treasury, the local tax collecting treasurer shall retain and pay to the authority the amount described in subsection (5) as approved by the department of treasury. If the department of treasury denies the authority's application for approval, the local tax collecting treasurer shall not retain or pay to the authority the taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the department does not prohibit a subsequent audit of taxes retained in accordance with the procedures currently authorized by law.

(4) Each year the legislature shall appropriate and distribute an amount sufficient to pay each authority the following:

(a) If the amount to be retained and paid under subsection (3) is less than the amount calculated under subsection (5), the difference between those amounts.

(b) If the application for approval is denied by the department of treasury, an amount verified by the department equal to the amount calculated under subsection (5).

(5) Subject to subsection (6), the aggregate amount under this section shall be the sum of the amounts determined under subdivisions (a) and (b) minus the amount determined under subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received and retained for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax exemptions described in subsection (1) were not in effect, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported under subsection (2)(f) that had not previously increased a distribution.

(c) An excess amount required to be reported under subsection (2)(f) that had not previously decreased a distribution.

(6) A distribution or taxes retained under this section replacing tax increment revenues pledged by an authority or a municipality are subject to any lien of the pledge described in subsection (1), whether or not there has been physical delivery of the distribution.

(7) Obligations for which distributions are made under this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(8) Not later than September 15 of each year, the authority shall provide a copy of the application for approval approved by the department of treasury to the local tax collecting treasurer and provide the amount of the taxes retained and paid to the authority under subsection (5).

(9) Calculations of amounts retained and paid and appropriations to be distributed under this section shall be made on the basis of each development area of the authority.

(10) The state tax commission may provide that the calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

(11) It is the intent of the legislature that, to the extent that the total amount of taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be retained under this section and section 11b of the local development financing act, 1986 PA 281, MCL 125.2161b, section

12b of the tax increment financing act, 1980 PA 450, MCL 125.1812b, and section 13c of 1975 PA 197, MCL 125.1663c, exceeds the difference of the total school aid fund revenue for the tax year minus the estimated amount of revenue the school aid fund would have received for the tax year had the tax exemptions described in subsection (1) and the earmark created by section 515 of the Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken effect, the general fund shall reimburse the school aid fund the difference.

(12) As used in this section:

(a) "Advance" means that term as defined in section 1 of 1975 PA 197, MCL 125.1651.

(b) "Obligation" means that term as defined in section 1 of 1975 PA 197, MCL 125.1651.

History: Add. 2008, Act 154, Imd. Eff. June 5, 2008

125.2666 Tax increment revenues; transmission to authority; expenditure; reversion of surplus funds; abolishment of plan; financial status report; collection of financial reports by state tax commission; performance postaudit report by auditor general.

Sec. 16. (1) The municipal and county treasurers shall transmit tax increment revenues to the authority not more than 30 days after tax increment revenues are collected.

(2) The authority shall expend the tax increment revenues received only in accordance with the brownfield plan. All surplus funds not deposited in the local site remediation revolving fund of the authority under section 13(5) shall revert proportionately to the respective taxing bodies, except as provided in section 15(20). The governing body may abolish the plan when it finds that the purposes for which the plan was established are accomplished. However, the plan shall not be abolished until the principal and interest on bonds issued under section 17 and all other obligations to which the tax increment revenues are pledged have been paid or funds sufficient to make the payment have been segregated.

(3) The authority shall submit annually to the governing body and the state tax commission a financial report on the status of the activities of the authority. The report shall include all of the following:

(a) The amount and source of tax increment revenues received.

(b) The amount and purpose of expenditures of tax increment revenues.

(c) The amount of principal and interest on all outstanding indebtedness.

(d) The initial taxable value of all eligible property subject to the brownfield plan.

(e) The captured taxable value realized by the authority.

(f) Information concerning any transfer of ownership of or interest in each eligible property.

(g) The amount of tax increment revenues attributable to taxes levied for school operating purposes used for activities described in section 15(1)(a) and section 2(m)(vii).

(h) All additional information that the governing body or the state tax commission considers necessary.

(4) The state tax commission shall collect the financial reports submitted under subsection (3), compile and analyze the information contained in those reports, and submit annually a report based on that information to all of the following standing committees of the legislature:

(a) In the house of representatives, the committees responsible for natural resource management, conservation, environmental protection, commerce, economic development, and taxation.

(b) In the senate, the committees responsible for natural resource management, conservation, environmental protection, economic development, and taxation.

(5) In addition to any other requirements under this act, not less than once every 3 years beginning not later than June 30, 2008, the auditor general shall conduct and report a performance postaudit on the effectiveness, efficiency, and economy of the program established under this act. As part of the performance postaudit, the auditor general shall assess the extent to which the implementation of the program by the department and the Michigan economic

growth authority facilitate and affect the redevelopment or reuse of eligible property and identify any factors that inhibit the program's effectiveness. The performance postaudit shall also assess the extent to which the interpretation of statutory language, the development of guidance or administrative rules, and the implementation of the program by the department and the Michigan economic growth authority is consistent with the fundamental objective of facilitating and supporting timely and efficient brownfield redevelopment of eligible properties. Copies of the performance postaudits shall be provided to the governor, the clerk of the house of representatives, the secretary of the senate, and the chairpersons of the senate and house of representatives standing committees on commerce and economic development.

History: 1996, Act 381, Eff. Sept. 16, 1996 ;-- Am. 2000, Act 145, Imd. Eff. June 6, 2000 ;-- Am. 2007, Act 203, Imd. Eff. Dec. 27, 2007

125.2667 Authorization, issuance, and sale of tax increment bonds and notes.

Sec. 17. (1) By resolution of its board, the authority may authorize, issue, and sell its tax increment bonds and notes, subject to the limitations set forth in this section, to finance the purposes of a brownfield plan. The bonds or notes shall be payable in the manner and upon the terms and conditions determined, or within the parameters specified, by the authority in the resolution authorizing issuance of the bonds or notes. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds or notes may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution.

(2) The municipality, by majority vote of the members of its governing body, may make a limited tax pledge to support the authority's tax increment bonds or notes or, if authorized by the voters of the municipality, may pledge its unlimited tax full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds or notes.

(3) The bonds or notes issued under this section shall be secured by 1 or more sources of revenue identified in section 7 as sources of financing of activities of the authority, as provided by resolution of the authority.

(4) The bonds and notes of the authority may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions,

insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for 1 or more of the purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is supplemental and in addition to all other authority granted by law.

(5) The bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except section 503 of the revised municipal finance act, 2001 PA 34, MCL 141.2503.

(6) For bonds issued under this act, the first principal amount maturity date or mandatory redemption date shall be not later than 5 years after the date of issuance and some principal amount shall mature or be subject to mandatory redemption in each subsequent year of the term of the bond.

History: 1996, Act 381, Eff. Sept. 16, 1996 ;-- Am. 2002, Act 413, Imd. Eff. June 3, 2002
Compiler's Notes: The following communication was received:“September 12, 1999The Honorable John EnglerCapitol BuildingLansing, MichiganSubject: PA 381 of 1996Dear Governor Engler:A review of the Senate and House Journals has revealed an error in Enrolled Senate Bill 923, which was filed with the Secretary of State on July 24, 1996, and assigned Public Act No. 381 of 1996. The bill presented to the Governor on July 17, 1996, did not accurately reflect what was agreed to by both houses of the Legislature. Specifically, Section 17, subsection (1), the third sentence incorrectly stated:'The terms of the municipal finance act, Act No. 202 of the Public Acts of 1943, apply to bonds issued under this section.'The sentence agreed to by both houses is:'Except for the requirement of the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws, that the authority receive the approval or an exception from approval from the department of treasury prior to the issuance of bonds under this subsection, the terms of Act No. 202 of the Public Acts of 1943 shall not apply to bonds issued under this section.'Therefore, we are presenting a correct Enrolled Senate Bill 923 for your signature and filing with the Secretary of State. Upon filing, the defective Enrolled Senate Bill 923 will be replaced with the correct Enrolled Senate Bill 923 and assigned the same public act number. The effective date of the Public Act No. 381 of 1996 will be the date the correct bill is filed.This procedure ensures the integrity of the process while providing notification to the public. We apologize for any inconvenience this may have caused you or the citizens of the state of Michigan. If you have any questions, please feel free to contact us.Sincerely,Carol Morey Viventi Melvin J. DeStigterSecretary of the Senate Clerk of the House of Representativescc: Candice S. Miller, Secretary of State”

125.2668 Operating budget.

Sec. 18. (1) The authority shall prepare and approve a budget for the operation of the authority for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. Funds

of a municipality shall not be included in the budget of the authority except those funds authorized in this act or by the governing body of the municipality.

(2) The governing body of a municipality may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds of the authority, other than those committed for designated purposes, which cost shall be paid annually by the authority under an appropriate item in its budget.

History: 1996, Act 381, Eff. Sept. 16, 1996

125.2669 Dissolution of authority; distribution of tax revenues and interest.
Sec. 19. (1) An authority that completes the purposes for which it was organized shall be dissolved by resolution of the governing body. Except as provided in subsection (2), the property and assets of the authority remaining after the satisfaction of the obligations of the authority shall belong to the municipality or to an agency or instrumentality designated by resolution of the municipality.

(2) Tax increment revenues and the interest earned on tax increment revenues shall be distributed as provided under section 16(2).

History: 1996, Act 381, Eff. Sept. 16, 1996 ;-- Am. 2000, Act 145, Imd. Eff. June 6, 2000

125.2670 Enforcement proceedings.
Sec. 20. The state tax commission may institute proceedings to compel enforcement of the requirements of this act.

History: 1996, Act 381, Eff. Sept. 16, 1996

125.2671 Taxes levied before December 31, 1996.
Sec. 21. An authority shall not capture tax increment revenues from taxes levied before December 31, 1996.

History: 1996, Act 381, Eff. Sept. 16, 1996

125.2672 Conditional effective date.
Sec. 22. This act shall not take effect unless Senate Bill No. 919 of the 88th Legislature is enacted into law.

History: 1996, Act 381, Eff. Sept. 16, 1996

PUBLIC IMPROVEMENT FUNDS
Act 177 of 1943

AN ACT to provide for the creation of a fund or funds in political subdivisions for acquiring, constructing, extending, altering, repairing or equipping public improvements or public buildings; to provide for appropriations, credits and transfers to said fund or funds; and to provide for the disbursement thereof.

History: 1943, Act 177, Imd. Eff. Apr. 17, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 4, Imd. Eff. Feb. 16, 1944 ;-- Am. 1956, Act 136, Eff. Aug. 11, 1956

The People of the State of Michigan enact:

141.261 Funds for public improvements or buildings.

Sec. 1. The legislative or governing body of any political subdivision is hereby authorized and empowered to create and establish a fund or funds for the purpose of appropriating, providing for, setting aside and accumulating moneys to be used for acquiring, constructing, extending, altering, repairing or equipping public improvements or public buildings, which said political subdivision may by the provisions of its charter or the general law be authorized to acquire, construct, extend, alter, enlarge, equip or repair.

History: 1943, Act 177, Imd. Eff. Apr. 17, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 4, Imd. Eff. Feb. 16, 1944 ;-- CL 1948, 141.261 ;-- Am. 1956, Act 136, Eff. Aug. 11, 1956

141.262 Funds for public improvements or buildings; transfer or encumbrance.

Sec. 2. Notwithstanding the provisions of any law or the charter of any city or village, moneys accumulated in said fund shall not be transferred, encumbered or otherwise disposed of, except for the purpose of acquiring, constructing, extending, altering, repairing or equipping public improvements or public buildings, which a political subdivision may by the provisions of its charter or the general law be authorized to acquire, construct, extend, alter, repair or equip. Funds established and moneys on hand which had been allocated to or appropriated for the making of capital improvements on January 1, 1956, may be transferred to or credited to such reserve fund created under authority of this act and when so transferred or credited shall be governed by the provisions of this act.

History: 1943, Act 177, Imd. Eff. Apr. 17, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 4, Imd. Eff. Feb. 16, 1944 ;-- CL 1948, 141.262 ;-- Am. 1956, Act 136, Eff. Aug. 11, 1956

141.263 Funds for public improvements or buildings; allocation of miscellaneous revenues; sale of lands.
Sec. 3. The legislative or governing body of any political subdivision may allocate to said fund miscellaneous revenues received and credited to the general fund, including revenues received by said political subdivision under the provisions of Act No. 155 of the Public Acts of 1937, as amended, being sections 211.351 to 211.364, inclusive, of the Compiled Laws of 1948, and also revenues received from the sale of lands owned by the political subdivision and which are no longer needed for public purposes, if said revenues are not otherwise pledged or encumbered for other purposes.

History: 1943, Act 177, Imd. Eff. Apr. 17, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 4, Imd. Eff. Feb. 16, 1944 ;-- CL 1948, 141.263 ;-- Am. 1956, Act 136, Eff. Aug. 11, 1956

141.264 Tax limitation.
Sec. 4. Nothing in this act shall be construed so as to authorize any city or village to exceed any tax limitation imposed by law or charter of said city or village.

History: 1943, Act 177, Imd. Eff. Apr. 17, 1943 ;-- CL 1948, 141.264

141.265 Additional powers; political subdivision construction.
Sec. 5. This act shall be in addition to all powers heretofore granted to political subdivisions by state law, or by any charter thereof.

The term “political subdivision” as used in this act shall be construed to mean any county, city, village, township, school district or other local unit of this state.

History: 1943, Act 177, Imd. Eff. Apr. 17, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 4, Imd. Eff. Feb. 16, 1944 ;-- CL 1948, 141.265

REVISED MUNICIPAL FINANCE ACT (EXCERPTS)
Act 34 of 2001

141.2103 Definitions.
Sec. 103. As used in this act:

(a) “Assessed value”, “assessed valuation”, “valuation as assessed”, and “valuation as shown by the last preceding tax assessment roll”, or similar terms, used in this act, any statute, or charter as a basis for computing limitations upon

the taxing or borrowing power of any municipality, mean the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(b) “Chief administrative officer” means that term as defined in section 2b of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.422b.

(c) “Debt” means all borrowed money, loans, and other indebtedness, including principal and interest, evidenced by bonds, obligations, refunding obligations, notes, contracts, securities, refunding securities, municipal securities, or certificates of indebtedness that are lawfully issued or assumed, in whole or in part, by a municipality, or will be evidenced by a judgment or decree against the municipality.

(d) “Debt retirement fund” means a segregated account or group of accounts used to account for the payment of, interest on, or principal and interest on a municipal security.

(e) “Deficit” means a situation for any fund of a municipality in which, at the end of a fiscal year, total expenditures, including an accrued deficit, exceeded total revenues for the fiscal year, including any surplus carried forward.

(f) “Department” means the department of treasury.

(g) “Fiscal year” means a 12-month period fixed by statute, charter, or ordinance, or if not so fixed, then as determined by the department.

(h) “Governing body” means the county board of commissioners of a county; the township board of a township; the council, common council, or commission of a city; the council, commission, or board of trustees of a village; the board of education or district board of a school district; the board of an intermediate school district; the board of trustees of a community college district; the county drain commissioner or drainage board of a drainage district; the board of the district library; the legislative body of a metropolitan district; the port commission of a port district; and, in the case of another governmental authority or agency, that official or official body having general governing powers over the authority or agency.

(i) “Municipal security” means a security that when issued was not exempt from this act or the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3,

by the provisions of this act or by the provisions of the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, or by the provisions of the law authorizing its issuance and that is payable from or secured by any of the following:

(i) Ad valorem real and personal property taxes.

(ii) Special assessments.

(iii) The limited or unlimited full faith and credit pledge of the municipality.

(iv) Other sources of revenue described in this act for debt or securities authorized by this act.

(j) "Municipality" means a county, township, city, village, school district, intermediate school district, community college district, metropolitan district, port district, drainage district, district library, or another governmental authority or agency in this state that has the power to issue a security. Municipality does not include this state or any authority, agency, fund, commission, board, or department of this state.

(k) "Outstanding security" means a security that has been issued, but not defeased or repaid, including a security that when issued was exempt from this act or the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, by the provisions of this act or by the provisions of the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, or by the provisions of the law authorizing its issuance.

(l) "Qualified status" means a municipality that has filed a qualifying statement under section 303 and has been determined by the department to be qualified to issue municipal securities without further approval by the department.

(m) "Refunding security" means a municipal security issued to refund an outstanding security.

(n) "Security" means an evidence of debt such as a bond, note, contract, obligation, refunding obligation, certificate of indebtedness, or other similar instrument issued by a municipality, which pledges payment of the debt by the municipality from an identified source of revenue.

(o) “Sinking fund” means a fund for the payment of principal only of a mandatory redemption security.

(p) “Taxable value” means the taxable value of the property as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2105 Municipal security; limitations.
Sec. 105. A municipal security does not include any of the following:

(a) A contract for the purchase of real or personal property.

(b) A contract for the lease of real or personal property with or without an option to purchase.

(c) A contract, lease, note, or other security given in connection with a contract described in subdivision (a) or (b).

(d) A security that is evidence of an emergency loan under section 1 of 1855 PA 105, MCL 21.141, in conjunction with the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, or qualified agricultural loans under section 2a of 1855 PA 105, MCL 21.142a.

(e) A mortgage secured by real property and its corresponding security to the extent secured by the mortgage.

(f) A contract between 1 or more municipalities under whose terms 1 or more municipalities pledge their revenues or full faith and credit to secure payment of a proposed municipal security issued by 1 of the municipalities.

History: 2001, Act 34, Eff. Mar. 1, 2002 ;-- Am. 2002, Act 541, Imd. Eff. July 26, 2002

Part III
GENERAL

141.2301 Issuance of municipal security.
Sec. 301. A municipality shall not issue a municipal security except in accordance with this act.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2303 Annual audit report and qualifying statement; filing by municipality; compliance requirements; determination; correction of noncompliant requirements; reconsideration; order granting exception from prior approval.

Sec. 303. (1) Each municipality shall file an audit report annually with the department within 6 months from the end of its fiscal year or as otherwise provided in the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(2) Accompanying the audit report described in subsection (1), a municipality shall file a qualifying statement, on a form and in the manner provided by the department, which shall be certified by the chief administrative officer. Within 30 business days of the receipt of the qualifying statement, the department shall determine if the municipality complies with the requirements of subsection (3). If the department determines that the municipality complies with the provisions of subsection (3) or if the department fails to notify the municipality of its determination under this subsection within 30 business days of receipt of the qualifying statement, the municipality may proceed to issue municipal securities under this act without further approval from the department until 30 business days after the next qualifying statement is due or a new determination is made by the department, whichever occurs first.

(3) To qualify to issue municipal securities without further approval from the department, the municipality shall be in material compliance with all of the following requirements, as determined by the department:

(a) The municipality is not operating under the provisions of the local government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291.

(b) The municipality did not issue securities in the immediately preceding 5 fiscal years or current fiscal year that were authorized by either the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, other than a security issued for a loan authorized under section 3(2)(a) of the emergency municipal loan act, 1980 PA 243, MCL 141.933, or the fiscal stabilization act, 1981 PA 80, MCL 141.1001 to 141.1011.

(c) The municipality was not required by the terms of a court order or judgment to levy a tax in the preceding fiscal year. For purposes of this subdivision, the

department may determine that a court order or judgment to levy a tax is not material if it did not have an adverse financial impact on the municipality.

(d) The most recent audit report, as required by the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, was filed with the department within 6 months from the end of the fiscal year of the municipality.

(e) The debt retirement fund balance for any municipal security that is funded from an unlimited tax levy does not exceed 150% of the amount required for principal and interest payments due for that municipal security in the next fiscal year.

(f) The municipality is not currently exceeding its statutory or constitutional debt limits.

(g) The municipality has no outstanding securities that were not authorized by statute.

(h) The municipality is not currently and during the preceding fiscal year was not in violation of any provisions in the covenants for an outstanding security.

(i) The municipality was not delinquent more than 1 time in the preceding fiscal year in transferring employee taxes withheld to the appropriate agency, transferring taxes collected as agent for another taxing entity to that taxing unit, or making all required pension, retirement, or benefit plan contributions.

(j) The most recent delinquent property taxes of the municipality, without regard to payments received from the county under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, did not exceed 18% of the amount levied.

(k) The municipality did not submit a qualifying statement or an application for any other municipal security in the preceding 12 months that was materially false or incorrect.

(l) The municipality is not in default on the payment of any debt, excluding industrial development revenue bonds issued under the industrial development revenue bond act of 1963, 1963 PA 62, MCL 125.1251 to 125.1267, economic development corporation bonds issued under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, bonds issued by a

local hospital finance authority for a private hospital under the hospital finance authority act, 1969 PA 38, MCL 331.31 to 331.84, or any other debt for which the municipality is not financially liable.

(m) The municipality did not end the immediately preceding fiscal year with a deficit in any fund, unless the municipality has filed a financial plan to correct that deficit condition that is acceptable to the department.

(n) The municipality has not been found by a court of competent jurisdiction to be in violation of any finance or tax-related state or federal statutes during the preceding fiscal year.

(o) The municipality has not been determined by the department to be in violation of this act during the preceding fiscal year.

(p) The municipality did not issue a refunding security in the preceding fiscal year to avoid a potential default on an outstanding security.

(4) If a municipality is notified within 30 business days of the filing of the qualifying statement that it does not comply with 1 or more of the requirements of subsection (3), the municipality may correct the noncompliant requirements and request a reconsideration of the determination from the department as provided in subsection (5).

(5) A municipality may request a reconsideration of the determination from the department. That request shall indicate the requirements that the department determined the municipality to be not in compliance with and the action taken by the municipality to correct the noncompliance. Within 30 business days of the receipt of the request for reconsideration, the department shall determine if the municipality complies with the requirements of subsection (3) or, if the department fails to notify the municipality of its determination under this subsection within 30 business days of receipt of the request for reconsideration, the municipality will be granted qualified status.

(6) If a municipality is notified within 30 business days after filing a request for reconsideration that it does not comply with the requirements of subsection (3), the municipality shall not issue municipal securities under this act without the prior written approval of the department to issue a municipal security as provided in subsections (7) and (8).

(7) If a municipality has not been granted qualified status, the municipality must obtain, for each municipal security, the prior written approval of the department to issue a municipal security. To request prior written approval to issue a municipal security, the municipality shall submit an application and supporting documentation to the department on a form and in a manner prescribed by the department, which shall be certified by the chief administrative officer. A filing fee equal to 0.03% of the principal amount of the municipal security to be issued, but not less than $800.00 and not greater than $2,000.00 as determined by the department, shall accompany each application. If the qualifying statement required by subsection (2) was received by the department more than 6 months after the end of the municipality's fiscal year, a late fee of $100.00 shall accompany the first application filed after that date. Within 30 business days of receiving an application, the fee, and supporting documentation from a municipality, the department shall make a determination whether the municipality has met all of the following requirements:

(a) Has indicated the authority to issue the municipal security requested.

(b) Is projected to be able to repay the municipal security when due.

(c) Has filed information with the department indicating compliance with the requirements of subsection (3) or adequately addressed any noncompliance with subsection (3) as determined by the department.

(d) If required by the department, has obtained an investment grade rating for the municipal security or has purchased insurance for payment of the principal and interest on the municipal security to the holders of the municipal security, or has otherwise enhanced the creditworthiness of the municipal security.

(8) If the department determines that the requirements in subsection (7) have been met, the department shall approve the issuance of the proposed municipal security. If the department determines that the requirements in subsection (7) have not been met, the department shall issue a notice of deficiency to the municipality that prevents the issuance of the proposed municipal security. The notice of deficiency shall state the specific deficiencies and problems with the proposed issuance. After the deficiencies and problems have been addressed as determined by the department, the department shall approve the issuance of the proposed municipal security.

(9) A determination by the department that a municipality has been granted qualified status constitutes an order granting exception from prior approval under former 1943 PA 202, of that municipality's securities.

History: 2001, Act 34, Eff. Mar. 1, 2002 ;-- Am. 2002, Act 541, Imd. Eff. July 26, 2002

141.2304 Issuance of municipal security; provisions applicable to contracting municipalities.

Sec. 304. If a municipality issues a municipal security subject to this act and the principal and interest for that municipal security will be paid by 1 or more municipalities not issuing the municipal security under a contract, then 1 of the following applies:

(a) If all of the municipalities contracting to pay the municipal security have been granted qualified status, then the issuance of the municipal security is subject to section 303(2).

(b) Except as provided in subdivision (c), if 1 or more of the municipalities contracting to pay the municipal security have not been granted qualified status, then the issuance of the municipal security is subject to section 303(7).

(c) If 1 or more of the municipalities contracting to pay the municipal security have not been granted qualified status and the other municipalities representing over 50% of the contractual obligation have been granted qualified status and the municipality that issues the municipal security has been granted qualified status and pledges its full faith and credit on the municipal security, then the issuance of the municipal security is subject to section 303(2).

History: Add. 2002, Act 541, Imd. Eff. July 26, 2002

141.2305 Issuance of municipal security; interest rate; sale at discount; rating; maturity; principal as interest.

Sec. 305. (1) A municipal security authorized by law to be issued by a municipality may, notwithstanding the provisions of a charter, bear no interest as provided in this section or a rate of interest not to exceed a maximum rate established by the governing body of the issuing municipality as set forth in its resolution or ordinance authorizing the issuance of the municipal security, which rate shall not exceed 18% per annum or a per annum rate determined by the department at the request of the municipality, whichever is higher. In making its determination, the department shall establish a rate that shall bear a

reasonable relationship to 80% of the adjusted prime rate determined by the department under section 23 of 1941 PA 122, MCL 205.23. Except as otherwise provided in this section, the rate determined by the department shall be conclusive as to the maximum rate of interest permitted for a municipal security issued under this act.

(2) Except as provided in subsection (3), a municipal security issued under this act shall not be sold at a discount exceeding 10% of the principal amount of the municipal security. The amortization of the discount shall be considered interest and shall be within the interest rate limitation set forth in subsection (1).

(3) A municipal security may be sold at a discount exceeding 10% of the principal amount of the municipal security only if 1 or more of the following conditions apply, as determined by the department:

(a) The sale will result in the more even distribution for the municipality of total debt service on proposed and outstanding municipal securities.

(b) The sale will result in an interest cost savings when compared to the best available alternative that does not include a municipal security being sold at a discount exceeding 10% of the principal amount.

(c) The issuance is based on the availability of specific revenues previously pledged for another purpose and lawfully available for this purpose.

(d) The municipal security is issued to this state or the federal government to secure a loan or agreement.

(4) A municipal security issued in accordance with subsection (3)(a), (b), or (c) shall be rated investment grade by a nationally recognized rating agency or have insurance for payment of the principal and interest on the municipal security to the holders of the municipal security.

(5) Notwithstanding any other provision of this section, a municipal security meeting the requirements of subsection (3) that is a refunding security shall not have a maturity that exceeds the maturity of the existing municipal security.

(6) Not more than 25% of the total principal amount of any authorized issue of a municipal security shall meet the qualifications under subsection (3)(a), (b), and (c).

(7) A municipal security may bear no interest if sold in accordance with a federal program by which the holder of the municipal security, as a result of holding the municipal security, may declare a credit against a federal tax.

(8) A municipal security may bear no interest and appreciate as to principal amount if it meets the requirements of subsections (3), (4), and (6). The accreted principal amount of a municipal security shall be considered interest and shall be within the interest rate limitations provided in subsection (1).

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2307 Proposed bulletin; public comment period.

Sec. 307. Before any bulletin issued by the department can take effect that addresses the filings, approvals, or determinations under section 303, or any modification of an existing bulletin that addresses the filings, approvals, or determinations under section 303, the department shall issue the bulletin or modification as a proposed bulletin with not less than a 30-day public comment period.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2308 Limited tax full faith and credit pledge; notice.

Sec. 308. If a municipality issues a municipal security that contains the limited tax full faith and credit pledge of the municipality after October 1, 2002, a notice of at least 1 meeting at which a decision will be made or discussed with respect to the issuance of the municipal security shall contain a statement that the proposed municipal security will contain a limited tax full faith and credit pledge of the municipality. This section does not apply to a refunding security, short-term municipal security issued under part 4, or a municipal security for which the municipality is required to provide a notice of the right of referendum by law or charter.

History: Add. 2002, Act 541, Imd. Eff. July 26, 2002

141.2309 Sale of municipal security at competitive or negotiated sale; requirements.

Sec. 309. (1) A municipality may sell an authorized municipal security at a competitive sale or a negotiated sale as determined in the authorizing resolution. If a municipality determines to sell a municipal security at a negotiated sale, the governing body shall expressly state the method and

reasons for choosing a negotiated sale instead of a competitive sale in the resolution or ordinance authorizing the issuance or sale of the municipal security.

(2) If a municipality determines to sell a municipal security at a competitive sale, the municipality shall publish a notice of sale at least 7 days before the date set for the sale, in a publication printed in the English language and circulated in this state that carries as a part of its regular service the notices of the sale of municipal securities.

(3) A municipality shall award a municipal security sold at a competitive sale to the bidder whose bid meets all specifications and requirements and results in the lowest interest cost to the municipality, unless all bids are rejected.

(4) A municipality may accept bids for the purchase of a municipal security made in person, by mail, by facsimile, by electronic means, or by any other means authorized by the municipality.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2311 Municipal security; registration; facsimile signatures; transfer of ownership; delivery; validity of signature of former officer.
Sec. 311. (1) A municipal security may be registrable as to principal alone or as to both principal and interest under terms and conditions determined by the governing body of the issuing municipality.

(2) A municipality may authorize a trustee or other authenticating agent to authenticate any municipal security executed by the facsimile signatures of the officials of the municipality in lieu of manual signatures of the officials of the issuing municipality.

(3) Officials of a municipality may sign and seal a municipal security in facsimile form if so authorized by the governing body of the issuing municipality.

(4) If authorized by the governing body of the issuing municipality, ownership of a municipal security may be transferred by means of a recorded entry in a record maintained by the issuing municipality, trustee, or other agent in lieu of printing and transferring a new municipal security. However, this subsection does not preclude a municipality from the delivery of, and a municipality shall

have the authority to deliver, new municipal securities as evidence of the originally issued municipal security.

(5) If an individual acting in an official capacity signs or affixes his or her signature to a municipal security under this act and that individual ceases to be an officer before delivery of the municipal security, the municipal security is valid the same as if the individual had remained in office until delivery of that municipal security.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2313 Mutilated security; substitution.
Sec. 313. If a municipal security has become mutilated, then the governing body of the municipality may by resolution provide for the issuance of a new municipal security with like terms, in exchange for and substitution of the mutilated municipal security. In all such cases the holder shall pay the reasonable expenses and charges of such an exchange.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2315 Issuance of municipal security; determination; payment on demand; contrary ordinance or charter provision.
Sec. 315. (1) In determining to issue a municipal security, a municipality may do 1 or more of the following:

(a) Authorize and enter into insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase municipal securities, remarketing agreements, reimbursement agreements, and any other transactions to enhance timely payment of any municipal security.

(b) Authorize payment from the proceeds of the municipal security, or from other funds available, of the cost of issuance, including, but not limited to, fees for placement, fees or charges for insurance, letters of credit, lines of credit, remarketing agreements, reimbursement agreements, or purchase or sales agreements or commitments, or agreements to enhance timely payment of municipal securities.

(c) Authorize principal and interest to be payable from 1 or more of the following:

(i) Taxes or other revenues of the municipality.

(ii) Proceeds of the municipal security.

(iii) Earnings on proceeds of the municipal security or other funds held for payment of the municipal security.

(iv) Proceeds of any other transaction described in subdivision (a).

(d) Authorize or provide for an officer of the municipality, but only within limitations that shall be contained in the authorizing resolution of the governing body, to do 1 or more of the following:

(i) Sell, deliver, and receive payment for the municipal securities.

(ii) Refund the municipal securities in accordance with part VI of this act.

(iii) Deliver a municipal security partly to refund another security and partly for any other authorized purposes.

(iv) Buy the municipal security so issued at not more than the face value of the municipal security.

(v) Approve fixed interest rates, variable interest rates, or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment date, redemption rights at the option of the municipality or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(2) A municipality may provide that a municipal security additionally secured as provided in subsection (1) may be payable on demand or before maturity at the option of the holder only at the time and in the manner determined by the governing body as provided in the resolution authorizing the municipal security.

(3) The authority granted by this section may be exercised notwithstanding any ordinance or charter provision to the contrary.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2317 Interest rate exchange or swap, hedge, or similar agreement; definitions.

Sec. 317. (1) For the purpose of more effectively managing its debt service, a municipality may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance or proposed issuance of debt or in connection with its then outstanding debt.

(2) In connection with entering into an interest rate exchange or swap, hedge, or similar agreement, a municipality may create a reserve fund for the payment of the exchange or swap, hedge, or similar agreement.

(3) An agreement entered into pursuant to this section shall not be included within the total debt of a municipality for any statutory or charter or other debt limitation purpose.

(4) If an interest rate exchange or swap, hedge, or similar agreement described in this section is entered into by a municipality in connection with debt that was not approved by the voters of the municipality, or in connection with a refunding of debt not originally approved by the voters of the municipality, 1 or more of the following apply:

(a) The interest under the agreement constitutes a limited tax full faith and credit pledge from general funds of the municipality.

(b) Subject to any existing contracts, the interest under the agreement shall be payable from any available money or revenue sources, including revenues that shall be specified by the agreement, securing the municipal security in connection with which the agreement is entered into.

(5) If an interest rate exchange or swap, hedge, or similar agreement described in this section is entered into by a municipality in connection with debt that was approved by the voters of the municipality, or in connection with a refunding of debt originally approved by the voters of the municipality, the municipality's interest payment obligation under the agreement shall be considered to be additional interest on the debt, shall constitute an unlimited tax full faith and credit pledge of the municipality, and the municipality shall levy all of the following:

(a) The full amount of taxes required, or in the case of a variable rate obligation the amount reasonably estimated to be required, for the payment of principal

and interest on the municipal securities without limitation as to rate or amount and in addition to other taxes that the municipality may be authorized to levy.

(b) The full amount of taxes required, or in the case of a variable rate obligation the amount reasonably estimated to be required, for the payment of the municipality's net interest obligation under an interest rate exchange or swap, hedge, or similar agreement entered into under this section.

(c) The amounts levied under subdivisions (a) and (b) shall be reduced by any surplus funds on hand in the debt retirement fund in excess of a reasonable reserve as determined by the municipality's chief financial officer.

(6) For purposes of this section, “net interest obligation” means the amount of interest payable by a municipality in a given year under an agreement entered into under this section minus any interest payment received by a municipality from the other party to the agreement in the same period under the agreement, but not less than zero. Termination payments shall constitute interest to the extent that the treatment does not cause the interest rate on the debt to exceed the limits established by this act.

(7) A municipality shall not enter into an agreement under this section unless all of the following conditions are met:

(a) The governing body of the municipality has, by resolution or ordinance, expressly approved the agreement and acknowledged the potential risks associated with the agreement.

(b) The counterparty to the agreement has been assigned a rating of “A” or better, or other rating as the department may determine, by a nationally recognized rating agency at the time the agreement is entered into.

(c) The length of the agreement does not extend beyond the final maturity date of the debt issued in connection with the agreement.

(d) The municipality shall not have waived its right to a jury trial.

(e) The municipality has created a debt management plan.

(f) The municipality has created a swap management plan.

(8) An agreement entered into under this section shall be described in the municipality's annual audit report filed under section 303(1).

(9) As used in this section:

(a) “Debt management plan” means a written debt management plan of the municipality that includes, but is not limited to, the following:

(i) Total amount of debt of the municipality.

(ii) Total amount of variable rate debt of the municipality.

(iii) Analysis of the effect of rising interest rates on variable rate holdings of the municipality.

(iv) Analysis of risk in maintaining variable risk holdings.

(b) “Swap management plan” means a written management plan that includes, but is not limited to, all of the following:

(i) Analysis of the benefits and costs of entering into swap agreements.

(ii) Analysis of the risk associated with entering into swap agreements.

(iii) Analysis of early termination, involuntary termination, default, and cost considerations associated with swap agreements.

(iv) System in place to monitor the status of all outstanding swap agreements.

History: 2001, Act 34, Eff. Mar. 1, 2002 ;-- Am. 2002, Act 500, Imd. Eff. July 3, 2002

141.2319 Document to be filed by municipality; failure to comply with subsection (1) or (2).

Sec. 319. (1) Within 15 business days of completing the issuance of any municipal security qualified under section 303(3), the municipality shall file a copy of all of the following with the department in a form and manner prescribed by the department:

(a) A copy of the municipal security.

(b) A proof of publication of the notice of sale, if applicable.

(c) A copy of the award resolution or certificate of award including a detail of the annual interest rate and call features on the municipal security.

(d) A copy of the legal opinion regarding the legality and tax status of the municipal security.

(e) A copy of the notice of rating of the municipal security received from a recognized rating agency, if any.

(f) A copy of the resolution or ordinance authorizing the issuance of the municipal security.

(g) A copy of the official statement, if any.

(h) For a refunding security, documentation indicating compliance with section 611.

(i) A filing fee equaling 0.02% of the principal amount of the municipal security issued, but in an amount not less than $100.00 and not greater than $1,000.00, as determined by the department.

(j) If the qualifying statement required by section 303(2) was received by the department more than 6 months after the end of the municipality's fiscal year, a late fee of $100.00 with the first filing thereafter.

(k) For a municipal security issued under section 305(2), documentation indicating compliance with section 305(2).

(2) Within 15 business days of completing the issuance of any municipal security approved under section 303(7), the municipality shall file all of the following with the department in a form and manner prescribed by the department:

(a) A copy of the municipal security.

(b) A proof of publication of the notice of sale, if applicable.

(c) A copy of the award resolution including a detail of the annual interest rate and call features on the municipal security.

(d) A copy of the legal opinion regarding the legality and tax status of the municipal security.

(e) A copy of the notice of rating of the municipal security received from a recognized rating agency, if any.

(f) A copy of the resolution or ordinance authorizing the issuance of the municipal security.

(g) A copy of the official statement, if any.

(h) For a refunding security, documentation indicating compliance with section 611.

(i) For a municipal security issued under section 305(2), documentation indicating compliance with section 305(2).

(3) The failure to comply with subsection (1) or (2) does not invalidate any of the securities issued or reported under this act.

History: 2001, Act 34, Eff. Mar. 1, 2002 ;-- Am. 2002, Act 541, Imd. Eff. July 26, 2002

141.2321 Filing in electronic format.
Sec. 321. The department may require that the filings to the department required by this act be filed in an electronic format prescribed by the department.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2323 Municipal security issued without department approval; rating.
Sec. 323. The department may require a rating for a municipal security issued without approval of the department as provided in section 303(3) if the principal amount of the municipal security exceeds $5,000,000.00.

History: 2001, Act 34, Eff. Mar. 1, 2002

Part IV
SHORT-TERM MUNICIPAL SECURITIES

141.2401 Short-term municipal securities; issuance; conditions; public airport authority.

Sec. 401. (1) A municipality may, by resolution of its governing body, and without a vote of the electors, issue short-term municipal securities in anticipation of and payable from taxes to be collected by the municipality for its then next succeeding fiscal year or the taxes for a current fiscal year, or if the taxes for the next succeeding fiscal year and the taxes for the current fiscal year are both levied in the same calendar year, then in anticipation of and payable from the collection of both of the taxes.

(2) By resolution of its governing body and without a vote of the electors, an authority organized under 1957 PA 206, MCL 259.621 to 259.631, or a public airport authority created or incorporated under the public airport authority act, chapter VIA of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.108 to 259.125c, may borrow money and issue short-term municipal securities maturing not more than 1 year from the date of issue in anticipation of the collection of revenues to which it will be entitled to receive within 1 year from the date of the short-term municipal securities' issuance. The amount of the short-term municipal securities issued under this section shall not exceed 50% of the revenues collected in the preceding fiscal year not pledged for the payment of a security other than a short-term municipal security issued under this section as conclusively certified by the governing body of the authority. The resolution shall provide for the pledging of all or a portion of the revenues of the authority not previously pledged for the payment of a security. The resolution may also provide for the pledging of other assets of the authority as additional security for the payment of the short-term municipal security. The resolution also shall provide that from the receipts of the revenues in anticipation of which the authority issued the short-term municipal security, there shall be set aside in a special fund to be used for the payment of principal and interest on the short-term municipal security a portion of each dollar received that is not less than 125% of the percentage that the principal amount of the short-term municipal security bears to the amount certified as the revenues estimated to be collected, until the amount set aside is sufficient for the payment of principal and interest on the short-term municipal security. The amount set aside shall be used only for the payment of the principal and interest on the short-term municipal security until the short-term municipal security is paid as to both principal and interest. Except when in conflict with the

requirements of section 9 of 1957 PA 206, MCL 259.629, the short-term municipal securities authorized under this subsection are subject to this act.

History: 2001, Act 34, Eff. Mar. 1, 2002 ;-- Am. 2002, Act 541, Imd. Eff. July 26, 2002

141.2403 Resolution authorizing municipal security; tax levy provision; operating expenditures; limitation; set aside of taxes collected; tax installments; capital improvements; debt service charges.

Sec. 403. (1) If a municipality issues a municipal security in anticipation of the collection of the taxes for the next succeeding fiscal year, the resolution authorizing a municipal security shall contain an irrevocable provision for the levying of a tax in the next succeeding fiscal year for the purpose for which the municipal security is to be made and the repayment of the municipal security from the receipt of taxes.

(2) A municipality may issue the short-term municipal security described in subsection (1) to pay for operating expenditures. As used in this section, "operating expenditures" means 1 or more of the following:

(a) Necessary operating expenditures of the municipality that could not reasonably have been foreseen and adequately provided for in the tax levy for the then current fiscal year.

(b) Payment of an expenditure in the then current fiscal year that cannot be funded because of a delay in or failure of receipt of budgeted revenue.

(c) Payment of budgeted expenditures in the then current fiscal year that precede budgeted revenues.

(3) The amount of the municipal securities issued under this section to pay operating expenditures shall not exceed 50% of the operating tax levy for the current fiscal year, or if the operating tax levy for the next succeeding fiscal year is determined, then 50% of the levy for the next succeeding fiscal year. The authorizing resolution shall provide that from the first collections of the operating taxes for the next succeeding fiscal year, there shall be set aside in a special fund to be used for the payment of principal and interest on the tax anticipation municipal security, a portion of each dollar that is not less than 125% of the percentage that the principal amount of the municipal security bears to the amount of the operating taxes until the amount set aside is sufficient for the payment. If a municipality collects its taxes in installments

and issues a municipal security in anticipation of more than 1 installment, the requirements of the preceding sentence shall apply to each installment of taxes. The collection of the taxes to be set aside shall not be used for any other purpose. If the municipality determines that issuing municipal securities for this purpose will result in a deficiency in the funds available to pay the necessary operating expenditures of the next succeeding fiscal year, the municipality shall levy additional taxes in the future from within constitutional, charter, and statutory limits to prevent a continuation of the deficiency from year to year.

(4) A municipality may issue a short-term municipal security described in subsection (1) to pay for 1 or more capital improvements that can be legally and properly provided for in the budget of the municipality for the fiscal year in which the municipality issues the short-term municipal security. The principal amount of the municipal security issued for this purpose shall not exceed the sum set forth in the authorizing resolution to be levied for the improvement. The authorizing resolution shall provide that from the first collection of taxes for the next succeeding fiscal year, there shall be set aside in a special fund to be used for the payment of principal and interest on the short-term municipal security that percentage of the collection that the tax levied for capital outlay bears to the total levy, and until the amount set aside is sufficient for the payment, collection of the taxes to be set aside shall not be used for any other purpose.

(5) A municipality may issue the short-term municipal security described in subsection (1) to pay debt service charges or obligations on municipal securities or agreements described in section 317(5).

History: 2001, Act 34, Eff. Mar. 1, 2002 ;-- Am. 2002, Act 500, Imd. Eff. July 3, 2002

141.2405 Issuance of short-term municipal securities; payments allowed; operating expenditures or debt service charges; limitation; authorizing resolution; set aside of taxes collected; capital improvements; deduction of outstanding principal amount.

Sec. 405. (1) A municipality may issue short-term municipal securities in anticipation of the collection of the taxes for a current fiscal year for the payment of 1 or more of the following:

(a) Operating expenditures.

(b) Debt service charges.

(c) Capital improvements.

(2) If the municipality issues short-term municipal securities described in subsection (1) to pay operating expenditures or debt service charges, the principal amount of that municipal security issued under this section shall not exceed 75% of the amount of the debt service taxes, if the proceeds of the municipal security are to pay debt service charges, or 75% of the amount of the operating taxes, if the proceeds of the municipal security are to pay operating expenditures, as provided for in the budget of the current fiscal year and that remain to be collected at the time the authorizing resolution is passed. However, if the resolution is passed before the day upon which taxes for the year become due and payable, the principal amount of the municipal security shall not exceed 50% of the tax levy made for debt service or operating expenditures, respectively, for the preceding fiscal year.

(3) The authorizing resolution shall provide that, from the date of the authorizing resolution, from the collection of the taxes remaining to be collected for the current fiscal year there shall be set aside in a special fund, to be used for the payment of principal and interest on the short-term municipal security, a portion of each dollar of taxes remaining to be collected for the current fiscal year not less than 125% of the percentage that the principal amount of the municipal security bears to the amount of the tax levied for debt service or operating expenditures, respectively, that remain to be collected from the date of the authorizing resolution until the amount set aside is sufficient for that payment. The collection of the taxes to be set aside shall not be used for any other purpose.

(4) A municipality may issue short-term municipal securities in anticipation of the collection of taxes for the current fiscal year for the payment of 1 or more capital improvements that are legally and properly provided for in the tax levy of the current fiscal year. The principal amount of the municipal security issued for this purpose shall not exceed the anticipated collection, based on the delinquency in collections of the levy of the preceding fiscal year, of the sum included in the tax levy for that purpose and remaining unpaid at the time the authorizing resolution is passed. The authorizing resolution shall provide that from the collections of the taxes for the current fiscal year there shall be set aside in a special fund to be used for the payment of principal and interest on the municipal security that percentage of the collections that the tax levied for capital outlay bears to the total levy, and until the amount set aside is sufficient

for that payment, collection of the taxes to be set aside shall be used for no other purpose.

(5) The principal amount outstanding of any municipal security issued under section 403 shall be deducted from the total principal amount of any municipal security that may be issued under this section.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2407 Anticipation of revenue sharing payments; issuance of short-term municipal securities; payment of operating expenditures; authorizing resolution; set aside of amounts for payment of principal and interest.
Sec. 407. (1) A municipality may, by resolution of its governing body, and without a vote of the electors, issue short-term municipal securities in anticipation of revenue sharing payments under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, for its next succeeding fiscal year, or for a current fiscal year, in accordance with the provisions of this part.

(2) When a municipality issues municipal securities in anticipation of the receipt of revenue sharing payments under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, for the current or next succeeding fiscal year, the proceeds of the municipal securities shall be used only for the payment of operating expenditures. The principal amount of the municipal securities issued in accordance with this section shall not exceed 50% of the total payments received in the last preceding fiscal year of the municipality, as certified by the department. The authorizing resolution shall provide that from the first receipts of the payments for that fiscal year in anticipation of which the municipality issued the municipal security, there shall be set aside in a special fund to be used for the payment of principal and interest on the municipal security a portion of each dollar that is not less than 125% of the percentage that the principal amount of the municipal security bears to the amount of payments remaining to be collected, until the amount set aside is sufficient for the payment of principal and interest on the municipal security. The amount set aside shall be used only for the payment of the principal and interest on the municipal security until the municipal security is paid as to both principal and interest.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2409 Interest rate; limitation; payment.
Sec. 409. A municipal security issued pursuant to this part shall bear no interest or interest at a rate not to exceed that provided in part III and shall be payable not later than the estimated time of collection of an amount sufficient for its payment out of the taxes or revenues pledged for the municipal security, as determined by the governing body of the municipality
.
History: 2001, Act 34, Eff. Mar. 1, 2002

141.2411 Money deposited in special fund; use.
Sec. 411. The money in each special fund required by this part shall be deposited in a bank account separate from any other money of the municipality and shall be used for no purpose other than to retire the municipal security for which the special fund was established.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2413 Anticipation of long-term municipal security proceeds; issuance of short-term municipal security; authorization of principal, interest, and redemption premiums; limitation on principal amount; use of proceeds.
Sec. 413. (1) A municipality may by resolution of its governing body, and without a vote of its electors, issue a short-term municipal security in anticipation of the proceeds of a long-term municipal security it proposes to issue, or that will be issued in its behalf. However, if required by law, issuance of the long-term municipal security has been approved by the electors of the municipality or, if required by law, a notice of intent to issue the long-term municipal security or enter into a contract has been published and all rights of referendum relating to the notice have expired. The municipality shall pledge for the payment of the principal, interest, and redemption premiums, if any, on the short-term municipal security from 1 or more of the sources and on the terms described in section 315 and from any of the additional sources identified in subsection (2).

(2) The municipality, in determining to issue a short-term municipal security under this section, may authorize principal, interest, and redemption premiums, if any, on the short-term municipal security to be payable from and secured by a pledge of the proceeds of the long-term municipal security issued to refund the short-term municipal security.

(3) The principal amount of a short-term municipal security issued in anticipation of the issuance of long-term municipal securities shall not exceed

50% of the principal amount of the proposed long-term municipal security. The municipality shall in the resolution authorizing the short-term municipal security declare the necessity of the short-term municipal security and state its purpose, the principal amount of the short-term municipal security to be issued, and an estimated principal payment schedule for and an estimated or maximum average annual interest rate on the short-term municipal security. The issuance and delivery of the short-term municipal security shall be conclusive as to the existence of the facts entitling the short-term municipal security to be issued in the principal amount of the short-term municipal security and shall not be subject to attack in any proceeding. A short-term municipal security shall mature not more than the earlier of 3 years from the date of issuance or 60 days after the expected date of issuance of the long-term municipal security in anticipation of which it is issued and may bear no interest or interest at a fixed or variable rate or rates of interest per annum, subject to the limitations in section 305.

(4) The proceeds of a short-term municipal security issued under this section shall be used only for the purpose to which the proceeds of the long-term municipal security may be applied, the costs of issuance of the short-term municipal security and to the payment of principal and interest on the short-term municipal security.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2415 Anticipation of state or federal grants; issuance of short-term municipal security; pledge of grant proceeds as payment of principal, interest, and redemption premiums; limitation on principal amount; use of municipal security proceeds.

Sec. 415. (1) A municipality may by resolution of its governing body, and without a vote of its electors, issue a short-term municipal security in anticipation of the receipt of grants from the United States, this state, or any agency or instrumentality of the United States or this state and shall pledge for the payment of the principal, interest, and redemption premiums, if any, on that municipal security from 1 or more of the sources and on the terms described in section 315 and from any of the additional sources identified in subsection (2).

(2) The municipality that issues a short-term municipal security under this section may pledge the proceeds of federal or state grants for the payment of the interest and redemption premiums, if any, on the municipal security.

(3) The principal amount of a municipal security issued under this section shall not exceed 50% of the amount remaining to be received by the municipality that is not still subject to an appropriation from the granting agency under a written contract from that granting agency that has been accepted by resolution by the municipality. The issuance and delivery of the municipal security shall be conclusive evidence of the facts entitling the municipality to issue the municipal security in the principal amount issued and shall not be subject to attack in any proceeding. The pledge of 100% of the funds the municipality expects to receive from the granting agency may be secured by a direct transfer of the committed funds from the granting agency to a trustee or the Michigan municipal bond authority, if the municipal security is sold to the Michigan municipal bond authority, that is authorized to receive the funds by the authorizing resolution adopted by the municipality. The municipal security issued under this section shall mature not more than the earlier of 18 months from the date of issuance or 6 months after the expected date of receipt of grant proceeds and may bear no interest or interest at a fixed or variable rate or rates of interest per annum, subject to the limitations of section 305.

(4) The proceeds of the municipal security issued under this section shall be used only for the purpose to which the proceeds of the grant may be applied, the costs of issuance of the municipal security, and the payment of principal and interest on the municipal security.

History: 2001, Act 34, Eff. Mar. 1, 2002

Part V
LONG-TERM MUNICIPAL SECURITIES

141.2501 Maturity time periods.

Sec. 501. (1) Except as otherwise provided for by law, or as otherwise provided in part VI, a municipal security issued by a municipality under this act shall not mature later than the estimated period of usefulness of the property or improvement for which the municipal security is issued.

(2) In addition to the requirements of subsection (1), a municipal security shall not mature later than the following time periods:

(a) A municipal security issued in anticipation of special assessments shall mature no later than 2 years after the time fixed by law for the payment of the

last installment of the assessments from which the municipal security is payable.

(b) A municipal security issued to meet an emergency for relief from fire, flood, or other calamity shall mature no later than 5 years after the date of issuance.

(c) A municipal security issued to pay judgments against the municipality, except judgments in condemnation proceedings, and municipal securities issued for the purchase of personal property, other than material for permanent construction, machinery for public utilities, or original furnishings and equipment of new buildings, shall mature no later than 10 years after the date of issuance.

(d) All other municipal securities shall mature no later than 30 years after the date of issuance.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2503 Municipal securities of a single issue; maturity or redemption date; purchase at open market; redemption requirements; municipal securities of school district.

Sec. 503. (1) Municipal securities of a single issue may mature serially or be subject to mandatory redemptions, or both, with maturities as fixed by the governing body of the municipality. In any case, the first maturity or mandatory redemption date shall occur not later than 5 years after the date of issuance, and the total principal amount maturing or subject to mandatory redemption in any year after 4 years from the date of issuance shall not be less than 1/5 of the total principal amount maturing or subject to mandatory redemption in any subsequent year.

(2) In the resolution authorizing the issuance of a municipal security, the governing body of the municipality may provide that the municipality may purchase municipal securities in the open market at a price not greater than that payable on the next redemption date in order to satisfy all or part of the next succeeding scheduled mandatory redemption.

(3) The governing body of the municipality may provide that some or all of the principal amounts maturing in any year may be redeemed at the option of the municipality at the times, on the terms and conditions, and at the price as provided by resolution of the governing body, except that a municipality shall

not agree to pay a premium exceeding 3% of the principal amount being redeemed.

(4) All outstanding and authorized municipal securities of a school district payable out of taxes may be treated as a single issue for the purpose of fixing maturities. Several series of municipal securities issued under the same authorization may be treated as a single issue for the purpose of fixing maturities.

(5) A municipal security issued by a school district that is sold in accordance with a federal program in which the holder of the municipal security, as a result of holding the municipal security, may declare a credit against a federal tax is exempt from the provisions of subsection (1) if the school district deposits in trust payments to provide for the repayment of the municipal security and the first required payment shall occur not later than 5 years after the date of issuance and each required payment in any year after 4 years from the date of issuance shall not be less than 1/5 of the total required payment in any subsequent year.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2505 Municipal securities secured by special assessments.
Sec. 505. The total amount of municipal securities secured by special assessments and pledging the limited tax full faith and credit of the municipality shall at no time by reason of future issues, other than issues of refunding securities, exceed 12% of the assessed value of the taxable property in the municipality. A municipality shall not issue municipal securities secured by special assessments in any calendar year in an amount greater than 3% of the assessed value of the municipality unless authorized by majority vote of the electors or by a larger vote as may be provided by statute or charter.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2507 Interest rate charge on special assessments.
Sec. 507. A municipality issuing a municipal security in anticipation of special assessments may, notwithstanding any charter or ordinance provisions to the contrary, charge a rate of interest on the unpaid balance of the special assessments in excess of the charter or ordinance limit on the municipal security, but not in excess of a rate of more than 1% above the average rate of interest borne by the municipal security.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2509 Reserve fund; establishment.

Sec. 509. A municipality may pay interest that accrues on a municipal security during the first 3 years after the date of issuance of the municipal security from the proceeds of the sale of the municipal security. In addition, a municipality may establish a reserve fund, in an amount not exceeding 15% of the principal amount of the municipal security issued from the proceeds of the sale of the municipal security which shall be held solely for the payment of principal and interest on the municipal security.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2511 Issuance of municipal securities to fund county drain special assessment.

Sec. 511. Any county, township, city, or village, by resolution of its governing body and without a vote of its electors, may issue municipal securities for the purpose of funding any part or all of a county or intercounty drain special assessment made against the county, township, city, or village at large under the provisions of the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630. A municipal security described in this section shall mature serially, the first annual maturity of which shall fall due not more than 2 years from the date of issuance and the last of which shall fall due not more than 10 years from the date of issuance or not more than 1 year after the due date of the last installment of the special assessment, whichever is later. No maturity shall be less than 1/2 of the amount of any subsequent maturity. A municipal security issued in accordance with this section may be issued in 1 or more series and may fund 1 or more drain special assessments. The principal amount of a municipal security that may be issued under this section shall not exceed the principal amount of the special assessments to be funded under this section. If any interest is to mature upon the municipal security prior to the time of the next county, township, city, or village tax collection, then the governing body of the county, township, city, or village shall make provision for the payment of that amount when due. The debt evidenced by a municipal security issued under this section shall not be included within the debt of a township, city, or village for any statutory or charter debt limitation purpose. No installment or installments of a special assessment shall be funded under this section unless payable in advance of the due date or due dates, and if the drainage district has issued municipal securities, an equal amount of the principal amount of the municipal securities must be redeemable within 90 days from the delivery of the municipal securities to the purchaser of those municipal securities. The

provisions of this part together with the general provisions of this act shall govern the issuance of a municipal security authorized in this section except where inapplicable or inconsistent with this section. All municipal securities issued under this section shall be legal and valid, notwithstanding any illegality in the special assessments funded by those municipal securities.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2513 Debt incurred; issuance of municipal securities secured by limited tax full faith and credit pledge.

Sec. 513. (1) A municipality by resolution of its governing body or by entry into an intergovernmental contract pursuant to section 5 of 1951 PA 35, MCL 124.5, or pursuant to an amendment to a contract adopted and made effective in accordance with the terms of the contract, and without a vote of its electors, may incur debt that shall not be considered debt of the municipality for statutory, charter, or constitutional debt limits, and may issue municipal securities secured by a limited tax full faith and credit pledge for the purpose of either of the following:

(a) Paying premiums and other charges for coverages provided by a pool established pursuant to 1951 PA 35, MCL 124.1 to 124.13, or evidencing fixed payment securities or securities to make payments under specified contingencies pursuant to an intergovernmental self-insurance pool contract approved by the state treasurer, which contract is authorized under 1951 PA 35, MCL 124.1 to 124.13.

(b) Establishing funds, reserves, or accounts in amounts determined by the municipality to defray losses for which insurance coverage could be provided by an insurer pursuant to the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, but for which the municipality has determined to self-insure.

(2) Notwithstanding any provision of this act to the contrary, the municipal security issued under this section shall be issued for the period of time determined by the governing body of the municipality or pursuant to the contract, but not to exceed 30 years.

(3) A municipal security authorized under subsection (1)(a), other than a municipal security to make payments under specified contingencies, shall not be of a term exceeding the coverage provided in consideration for receipt of the

proceeds of the municipal security. A municipal security, other than a municipal security issued to make payments under specified contingencies, may mature annually or be subject to mandatory redemption requirements, with the first annual maturity or mandatory redemption requirement to fall due 10 years or less from the date of issuance. Annual maturity or redemption requirements, or a combination of both, of a municipal security issued under this section other than a municipal security issued to make payments under specified contingencies, after 10 years from the date of issuance shall not be less than 1/10 of the amount of any subsequent annual maturity or redemption requirement, or combination of both. A municipal security issued pursuant to subsection (1)(b) shall be subject to the provisions of this act relating to the municipal security. A municipal security issued or incurred under subsection (1)(a) shall be subject to this section only and not to any other section or part of this act. The self-insurance pool shall submit for approval by the state treasurer a copy of the intergovernmental contract pursuant to which a municipal security is to be issued or incurred under subsection (1)(a) prior to the effectiveness of the municipal security.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2515 Water supply or sewage disposal, public building, or other public improvement; delivery of municipal security to defray cost.

Sec. 515. (1) A municipality may deliver a municipal security to this state or the federal government for the purpose of defraying the whole or part of the cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing any water supply or sewage disposal system or public building or other public improvement.

(2) Parts IV, V, and VI do not apply to any municipal security delivered to this state or the federal government to the extent the requirements of this state or the federal government relating to any of the terms of the debt conflict with the provisions of this act.

(3) As used in this section:

(a) “Federal government” means the federal government or any agency of the federal government.

(b) “This state” means this state or any department, agency, board, commission, fund, corporation, or authority of this state.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2517 Capital improvement items; issuance of municipal security to pay cost; notice of intent; petition; referendum; special election; limitation on amount.

Sec. 517. (1) A county, city, village, or township may by resolution of its governing body, and without a vote of its electors, issue a municipal security under this section to pay the cost of any capital improvement items, provided that the amount of taxes necessary to pay the principal and interest on that municipal security, together with the taxes levied for the same year, shall not exceed the limit authorized by law.

(2) If a county, city, village, or township issues a municipal security under this section, before issuance, the county, city, village, or township shall publish a notice of intent to issue the municipal security. The notice of intent shall be directed to the electors of the county, city, village, or township, shall be published in a newspaper that has general circulation in the county, city, village, or township, and shall state the maximum amount of municipal securities to be issued, the purpose of the municipal securities, the source of payment, the right of referendum on the issuance of the municipal securities, and any other information the county, city, village, or township determines necessary to adequately inform the electors of the nature of the issue. The notice of intent shall not be less than 1/4 page in size in the newspaper. If, within 45 days after the publication of the notice of intent, a petition, signed by not less than 10% or 15,000 of the registered electors, whichever is less, residing within the county, city, village, or township, is filed with the governing body of the county, city, village, or township, requesting a referendum upon the question of the issuance of the municipal securities, then the municipality shall not issue the municipal securities until authorized by the vote of a majority of the electors of the county, city, village, or township qualified to vote and voting on the question at a general or special election. A special election called for this purpose shall not be included in a statutory or charter limitation as to the number of special elections to be called within a period of time. Signatures on the petition shall be verified by a person under oath as the actual signatures of the persons whose names are signed to the petition, and the governing body of the county, city, village, or township shall have the same power to reject signatures and petitions as city clerks under section 25 of the home rule city act, 1909 PA 279, MCL 117.25. The number of registered electors in the county, city, village, or township shall be determined by the governing body of the county, city, village, or township.

(3) Municipal securities issued under subsection (1) by a county, city, village, or township shall not exceed 5% of the state equalized valuation of the property assessed in that county, city, village, or township.

History: 2001, Act 34, Eff. Mar. 1, 2002 ;-- Am. 2002, Act 541, Imd. Eff. July 26, 2002

Part VII
TAX LEVIES, DEBT RETIREMENT, AND SINKING FUND

141.2701 Annual tax levy; determination; limitation not applicable; adjustment in event of surplus funds; use of money remaining in debt retirement fund; priority; set aside of tax collections allocable to principal and interest payment; failure of officer to perform duties; "tax levy" defined.

Sec. 701. (1) Subject to subsection (3), if a municipality has municipal securities outstanding, or with the approval of its electors has authorized the issuance of municipal securities to be paid from collections of its next tax levy, an officer or official body charged with a duty in connection with the determination of the amount of the next taxes to be raised or with the levying of the next taxes, shall include all of the following in the amount of taxes levied each year:

(a) An amount such that the estimated collections will be sufficient to promptly pay, when due, the interest on all municipal securities and the portion of the principal falling due whether by maturity or by mandatory redemption before the time of the following year's tax collection.

(b) An amount, if there are outstanding mandatory redemption refunding securities, sufficient to provide the sum required to be deposited, by the ordinance or resolution authorizing the issue, into the sinking fund for that purpose before the time of the following year's tax collection.

(c) An amount, if there are outstanding mandatory redemption municipal securities other than refunding securities not required to be redeemed in annual amounts before the maturity of the outstanding mandatory redemption municipal securities, that if deposited annually into a sinking fund will, with the existing sinking fund pertaining to the municipal securities and the increment of the municipal securities, be sufficient to pay the municipal securities at maturity.

(d) An amount necessary to pay debt service charges or obligations on municipal securities or agreements described in section 317(5) falling due in the immediately preceding fiscal year, to the extent that the tax levy in the preceding fiscal year was inadequate to pay, when due, the debt service charges or obligations on municipal securities or agreements described in section 317(5). The municipality shall do 1 or more of the following with the proceeds of the tax levy:

(i) Deposit in the debt retirement fund established for the municipal securities and used to pay debt service charges or obligations on municipal securities or agreements described in section 317(5).

(ii) Use to pay debt service on short-term municipal securities issued under section 403(5).

(iii) Use to reimburse the municipality for any advances of funds used for the purposes described in subparagraph (i) or (ii).

(2) Subsection (1) does not limit the amount required to be levied in a year for the purposes prescribed in that subsection, by the terms of an ordinance or resolution authorizing the issuance of the municipal securities.

(3) If the municipal securities were authorized or issued before December 23, 1978, or were approved by the electors of a municipality, the municipality shall levy the full amount of taxes required by this section for the payment of the municipal securities without limitation as to rate or amount and in addition to other taxes that the municipality may be authorized to levy. If the municipal securities were authorized or issued by a municipality after December 22, 1978, and were not approved by the electors of the municipality, the municipality shall set aside each year from the levy and collection of ad valorem taxes as required by this section as a first budget obligation for the payment of the municipal securities. However, the ad valorem taxes shall be subject to applicable charter, statutory, or constitutional rate limitations.

(4) If there is surplus money on hand for the payment of principal or interest at the time of making an annual tax levy, and provision has not been made in the authorizing resolution for the disposition of that money, the annual levy for principal or interest shall be adjusted to reflect available funds.

(5) Money remaining in a debt retirement fund from the levy of a tax or an account within a debt retirement fund from the levy of a tax after the retirement of all municipal securities payable from that fund shall be used in the following order of priority:

(a) To pay other outstanding unlimited tax full faith and credit municipal securities.

(b) To pay other outstanding limited tax full faith and credit municipal securities.

(c) To be deposited in the general fund of the municipality.

(6) As taxes are collected, there shall be set aside that portion of the collections that is allocable to the payment of the principal and interest on the municipal securities. The portion set aside shall be divided pro rata among the various sinking funds and debt retirement funds in accordance with the amount levied for that purpose. Tax collections paid into a debt retirement fund, if the fund is for the payment of more than 1 issue of municipal securities, shall be allocated on the books and records of the municipality between the various issues in accordance with the amounts levied for that purpose.

(7) An officer who willfully fails to perform duties required by this section is personally liable to the municipality or to a holder of a municipal security for loss or damage arising from his or her failure.

(8) As used in this section, “tax levy” includes special assessments.

History: 2001, Act 34, Eff. Mar. 1, 2002 ;-- Am. 2002, Act 500, Imd. Eff. July 3, 2002

141.2705 Debt retirement funds; accounting; use; pooled or combined for deposit or investment; certification of debt retirement.

Sec. 705. (1) Debt retirement funds, except in the case of a common debt retirement fund maintained by a school district pursuant to section 1223 of the revised school code, 1976 PA 451, MCL 380.1223, shall be accounted for separately and, debt retirement funds, except as provided in section 701(5), shall be used only to retire the municipal securities of the municipality for which the debt retirement fund was created. Debt retirement funds created for the following categories of debt evidenced by a municipal security may be pooled or combined for deposit or investment purposes only with other debt

retirement funds created for the same category of debt evidenced by a municipal security:

(a) Voted debt.

(b) Nonvoted debt, other than special assessment debt.

(c) Special assessment debt.

(2) When any municipality completes the retirement of a debt evidenced by a municipal security or accumulates sufficient funds in the debt retirement fund for the retirement of the debts evidenced by a municipal security, the governing body of the municipality shall certify that the debt evidenced by a municipal security is retired or that the debt retirement fund is of sufficient amount to retire the debt evidenced by a municipal security to the county treasurer of the county in which the municipality is located, and the county treasurer shall no longer be required to recognize a levy for the debt or municipal security issue.

History: 2001, Act 34, Eff. Mar. 1, 2002

141.2707 Sinking fund; use; deposit; accounting.

Sec. 707. Any municipality issuing a mandatory redemption refunding security under the provisions of part VI shall provide a sinking fund or funds for the retirement of the refunding security, and there shall be deposited in each sinking fund annually an amount sufficient to pay the principal of that refunding security at or before maturity. All sinking fund money for the retirement of a refunding security shall be accounted for separately and shall be used only for the payment or purchase of the refunding security.

History: 2001, Act 34, Eff. Mar. 1, 2002

TECHNOLOGY PARK DEVELOPMENT ACT
Act 385 of 1984

AN ACT to provide for the establishment of technology park districts in local governmental units; to provide certain facilities located in technology park districts an exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of

certain state agencies and officers and certain officers of local governmental units; and to provide remedies and penalties.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984 ;-- Am. 1990, Act 151, Imd. Eff. June 27, 1990

The People of the State of Michigan enact:

207.701 Short title.
Sec. 1. This act shall be known and may be cited as the "technology park development act".

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984

207.702 Meanings of words and phrases.
Sec. 2. For the purposes of this act, the words and phrases defined in sections 3 and 4 have the meanings ascribed to them in those sections.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984

207.703 Definitions; D to P.
Sec. 3. (1) "Department" means the department of treasury.

(2) "Facility" means property to be located in a technology park district.

(3) "Local governmental unit" means a city, village, or township.

(4) "Property" means land improvements, buildings, structures, and other improvements classified by law for general ad valorem tax purposes as real property, including real property assessable as personal property under section 14(6) of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.14 of the Michigan Compiled Laws, whether completed or in the process of construction, and machinery, equipment, furniture, and fixtures, or any part or accessory thereof, classified by law for general ad valorem tax purposes as personal property, the primary purpose and use of which real property and personal property are for 1 or more of the following:

(a) Research and development.

(b) A high technology service activity that has as its principal function the providing of services including computer, information transfer, communication,

distribution, processing, administrative, laboratory, experimental, developmental, technical, or testing services.

(c) A high technology industrial activity that has as its principal function activities including the manufacture of goods or materials, the processing of goods or materials by physical or chemical change, computer related activities, communications, robotics, biological or pharmaceutical industrial activity, or technology oriented or emerging industrial or business activity not involving heavy manufacturing.

(d) A business activity that has as its primary function developing, improving, or creating new or existing products.

(5) Property, as defined in subsection (4), does not include the following:

(a) Land.

(b) Inventory.

(c) Facilities the primary purpose and use of which is the sale of goods or services at retail, housing, or lodging.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984 ;-- Am. 1990, Act 151, Imd. Eff. June 27, 1990

207.704 Definitions; S, T.

Sec. 4. (1) "State equalized valuation" means the valuation determined under Act No. 44 of the Public Acts of 1911, being sections 209.1 to 209.8 of the Michigan Compiled Laws.

(2) "Technology park district" or "district" means an area of a local governmental unit established as provided in section 5.

(3) "Technology park facilities exemption certificate" or "certificate" means a certificate issued pursuant to section 8.

(4) "Technology park facilities tax" means the specific tax levied under section 12.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984

207.705 Technology park district; establishment; composition; requirements; resolution; filing written request; alteration of boundaries; public hearing; notice; district established by township; land included as part of district.

Sec. 5. (1) A local governmental unit, by resolution of its legislative body, may establish 1 technology park district or, if subdivision (a) is not applicable, may establish more than 1 technology park district. A district shall consist of 1 or more parcels or tracts of land and, at the time the resolution is adopted, shall meet the following requirements:

(a) The district shall contain not less than 100 acres of undeveloped land. This subdivision does not apply if the administration building of the university requesting establishment of the district is located in a local governmental unit with a population of 800,000 or more persons.

(b) The district boundaries shall be continuous.

(c) All of the land in the district shall be within a 10-mile radius of the administration building on the main campus of a 4-year public university, 4-year independent university, or 4-year institute of technology, or within the corporate boundaries of the city, village, or township in which the administration building is located, or in a city or township adjacent to a city in which the administration building is located if the district is adjacent to land owned by the 4-year public university.

(2) The resolution establishing a district shall set forth a finding and determination that the district satisfies all the requirements of subsection (1).

(3) A local governmental unit shall establish a district only upon the written request filed with the clerk of the local governmental unit by the owners of record of 75% of the land included within the proposed district and the board of control of the 4-year eligible university or institute. If the university lies within 2 adjoining local governmental units, the university may file a request with both of the clerks of the local governmental units.

(4) The boundaries of an established district may be altered to include or exclude land upon the request of the owners of record of the affected real property and with the written consent of the owners of record of 75% of the land within the district as established and the board of control of the university. The district as altered shall satisfy the requirements provided in subsection (1).

(5) After receiving a proper written request and before adopting a resolution establishing or altering a district, the legislative body shall set a date for a public hearing on the request and shall publish a notice of the hearing. The legislative body shall also give written notice of the hearing to all of the owners of record of real property within the proposed district and to the legislative body of each taxing unit which levies ad valorem property taxes on the real property within the proposed district. The notice shall be given by certified mail not less than 10 nor more than 30 days before the date of the hearing.

(6) A district established by a township shall affect only land within the unincorporated territory of the township and shall not affect land within a village located in that township.

(7) Land included as part of a district may also be part of a district or development area established under any of the following:

(a) The commercial redevelopment act, Act No. 255 of the Public Acts of 1978, being sections 207.651 to 207.668 of the Michigan Compiled Laws.

(b) Act No. 198 of the Public Acts of 1974, being sections 207.551 to 207.571 of the Michigan Compiled Laws.

(c) Act No. 197 of the Public Acts of 1975, being sections 125.1651 to 125.1681 of the Michigan Compiled Laws.

(d) The tax increment finance authority act, Act No. 450 of the Public Acts of 1980, being sections 125.1801 to 125.1830 of the Michigan Compiled Laws.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984 ;-- Am. 1988, Act 382, Imd. Eff. Dec. 21, 1988 ;-- Am. 1990, Act 151, Imd. Eff. June 27, 1990

207.706 Application for technology park facilities exemption certificate; filing; contents; notification of assessor and legislative body; public hearing; notice.

Sec. 6. (1) Following the establishment of a district, the owner of record of a facility or, if an existing lease provides for the direct payment of ad valorem property taxes by the lessee, the lessee of a facility shall file an application for a technology park facilities exemption certificate with the clerk of the local governmental unit that established the district. The application shall be filed in the manner and form prescribed by the department. The application shall

contain or be accompanied by a general description of the facility and a general description of the proposed use of the facility, the general nature and extent of construction to be undertaken, a descriptive list of fixed building equipment that will be a part of the facility, a descriptive list of machinery, equipment, furniture, fixtures, and other personal property that will be a part of the facility, a time schedule for commencing and completing the facility, a statement of the economic advantages expected from the exemption, including the number of jobs retained or created because of the exemption and expected construction employment, and information relating to the requirements in section 10.

(2) Upon receipt of an application for a certificate, the clerk of the local governmental unit shall notify in writing the assessor of the assessing unit in which the facility is located or to be located and the legislative body of each taxing unit that levies ad valorem property taxes in the district in which the facility is located or is to be located that such an application has been received. Before acting upon the application, the legislative body of the local governmental unit shall set a date for a public hearing on the application and shall publish public notice of the hearing. The legislative body shall also give written notice of the hearing to the applicant, the assessor, and a representative of the affected taxing jurisdictions by certified mail not less than 10 nor more than 30 days before the date of the hearing.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984 ;-- Am. 1990, Act 151, Imd. Eff. June 27, 1990

207.707 Approval or disapproval of application; resolution.

Sec. 7. Not more than 60 days after receipt of the application for a certificate by the clerk, the legislative body of the local governmental unit shall, by resolution, either approve or disapprove the application in accordance with this act. The clerk shall retain the original of the application and resolution. If the application is disapproved, the reasons for the disapproval shall be set forth in the resolution, and the clerk shall send a copy of the resolution to the applicant. If the application is approved, the number of years that the certificate shall remain in full force and effect following completion of the facility as authorized in section 9 shall be stated in the resolution.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984

207.707a District or exemption certificate; approval or disapproval; effective date of exemption certificate; appeal.

Sec. 7a. (1) After June 30, 1990, the establishment of a district under section 5 and the approval or disapproval of an exemption certificate under section 7 is

subject to the approval or disapproval of the department of treasury. If the department of treasury does not disapprove the establishment of a district or approval of an exemption certificate within 30 days after the adoption of the resolution by the local governmental unit establishing the district or approving the certificate, the district or exemption certificate shall be considered approved by the department. If the resolution approving an exemption certificate is adopted within 30 days before the end of a tax year and the department of treasury does not disapprove the exemption certificate, the exemption certificate is effective on the effective date that the legislative body of the local governmental unit specifies in the certificate.

(2) A party aggrieved by the action of the department of treasury may appeal that action in the manner and form and within the time provided by the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: Add. 1990, Act 151, Imd. Eff. June 27, 1990

207.708 Certificate; issuance; form; contents; effective date; filing; record. Sec. 8. (1) After approval of the application for a certificate by the legislative body of the local governmental unit and the department, the clerk of the local governmental unit shall issue to the applicant a certificate in a form determined by the department that shall contain all of the following:

(a) A legal description of the real property on which the facility is located or is to be located.

(b) A descriptive list of the machinery, equipment, furniture, fixtures, and other personal property, if any, to be located in the facility.

(c) A statement that the certificate remains in force with respect to the property described in the certificate for the period stated in the certificate, unless revoked as provided in this act.

(2) The certificate shall take effect beginning on the December 31 next following the date of issuance of the certificate.

(3) The clerk of the local governmental unit shall file a copy of the certificate with the department, and the department shall maintain a record of all certificates filed.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984 ;-- Am. 1990, Act 151, Imd. Eff. June 27, 1990

207.709 Exemption from ad valorem real and personal property taxes; duration of certificate; review; extension; commencement and termination of certificate; date of issuance of certificate of occupancy; basis of review.
Sec. 9. (1) For the period during which the certificate is in effect, a facility for which a certificate is in effect, but not the land on which the facility is located or the inventory in the facility, is exempt from ad valorem real and personal property taxes. The lessee, occupant, user, or person in possession of the facility is exempt for the same period from any ad valorem taxes imposed under Act No. 189 of the Public Acts of 1953, being sections 211.181 to 211.182 of the Michigan Compiled Laws. Unless revoked as provided in section 14, a certificate shall remain in force and effect for a period determined by the legislative body of the local governmental unit commencing with its effective date and ending on the December 31 next following not more than 12 years after the completion date of the facility. The certificate may be issued for a period of at least 1 year, but not to exceed 12 years. If the number of years determined is less than 12, the certificate is subject to review by the legislative body of the local governmental unit, and the certificate may be extended. The total amount of time determined for the certificate including any extensions shall not exceed 12 years after the completion of the facility. The certificate shall commence with its effective date and end on the December 31 next following the last day of the number of years determined. The date of issuance of a certificate of occupancy, if required by an appropriate authority, shall be the date of completion of the facility if the certificate is issued to an owner, or the date that the lessee takes possession if the certificate is issued to a lessee.

(2) If the number of years determined by the legislative body of the local governmental unit for the period a certificate remains in force is less than 12 years, the review of the certificate for the purpose of determining an extension shall be based upon factors, criteria, and objectives that are placed in writing, approved at the time the certificate is approved by the legislative body of the local governmental unit, and sent to the applicant and department.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984 ;-- Am. 1990, Act 151, Imd. Eff. June 27, 1990 ;-- Am. 1993, Act 338, Eff. Mar. 15, 1994

207.710 State equalized valuation; finding; statement; requirements for approval of application.
Sec. 10. (1) If the state equalized valuation of the property proposed to be exempt pursuant to an application under consideration, considered together

with the aggregate state equalized valuation of property exempt under certificates previously granted and currently in force under this act or under Act No. 198 of the Public Acts of 1974, being sections 207.551 to 207.571 of the Michigan Compiled Laws, or the commercial redevelopment act, Act No. 255 of the Public Acts of 1978, being sections 207.651 to 207.668 of the Michigan Compiled Laws, exceeds 5% of the state equalized valuation of the local governmental unit, the legislative body of the local governmental unit shall make a separate finding and shall state in its resolution approving the application that exceeding that amount shall not have the effect of substantially impeding the operation of the local governmental unit or impairing the financial soundness of any affected taxing unit.

(2) The legislative body of the local governmental unit shall not approve an application unless all of the following requirements are met:

(a) If an application relates to real property, including real property assessable as personal property under section 14(6) of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.14 of the Michigan Compiled Laws, the construction of any part of a facility has not commenced before the submission of the application and, if an application relates to personal property, the acquisition of any of the personal property by the applicant has not occurred before submission of the application. This subsection does not prevent an applicant from entering into a contract or purchase order if the contract or purchase order is cancelable by the applicant if the application is not approved.

(b) The application relates to a facility as defined in this act which shall be located within a qualified district established by a local governmental unit eligible under this act to establish that district.

(c) Completion of the facility is calculated to and will, at the time of the issuance of the certificate, have the reasonable likelihood to increase economic activity, create employment, retain employment, or prevent the loss of employment in the local governmental unit in which the facility is located.

(d) Completion of the facility will not cause the transfer of employment of more than 20 full-time persons from 1 or more local governmental units or, if completion of the facility will cause the transfer of employment of more than 20 full-time persons from 1 or more local governmental units, the applicant has provided notification to the department and to each local governmental unit from which such employment is to be transferred and the notified local

governmental unit has not objected by resolution within 30 days after receipt of notification of the transfer of employment. If a notified local governmental unit objects within 30 days after receipt of the notification, the application shall not be approved until the objection is waived by the objecting local governmental unit. If the local governmental unit objects, a copy of the resolution of objection showing reasons for the objection shall be filed within 20 days after adoption with the department.

(e) Completion of the facility will not cause transfer of employment from 1 or more local governmental units of this state with a population of 800,000 or more persons to the local governmental unit in which the facility is to be located or, if completion of the facility will cause such a transfer of employment, the legislative body of each local governmental unit from which employment is to be transferred consents by resolution to the issue of the certificate. If a local governmental unit from which employment is to be transferred does not give its consent, a copy of the resolution of denial showing reasons for the denial shall be filed with the department within 20 days after adoption.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984 ;-- Am. 1990, Act 151, Imd. Eff. June 27, 1990

207.711 Annual valuation of facility; duties of assessor.

Sec. 11. The assessor of a local governmental unit in which is located a facility for which 1 or more certificates are in force shall annually determine the value, as of December 31, of each facility separately, of both real and personal property. Upon receipt of notice of the filing of an application for an issuance of a certificate, the assessor of a local governmental unit shall determine and furnish to the local legislative body the value of the property to which the application pertains and other information as may be necessary to permit the local legislative body to make the determination required by section 10(1).

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984

207.712 Technology park facilities tax; levy; amount; collection, disbursement, and assessment of tax; payment; copy of amount of disbursement; facility located in renaissance zone; facility of qualified start-up business.

Sec. 12. (1) Except as provided in subsections (8) and (9), there is levied upon every owner of record and every user or occupant, if known, of a facility to which a certificate is issued, a specific tax to be known as a technology park facilities tax.

(2) The amount of the technology park facilities tax in each year shall be determined by multiplying the state equalized valuation of the facility excluding the land and the inventory personal property by the sum of 1/2 of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located other than mills levied by a local or intermediate school district within which the facility is located for school operating purposes or mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, plus 1/2 of the number of mills levied for school operating purposes in 1993.

(3) The technology park facilities tax shall be collected, disbursed, and assessed in accordance with this act.

(4) The technology park facilities tax shall be an annual tax payable at the same time, in the same manner, and to the same officer or officers as taxes imposed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, are payable. Except as otherwise provided in this section, the officer or officers shall disburse technology park facilities tax payments received each year to the state, cities, townships, villages, school districts, counties, community and junior colleges, and authorities, at the times and in the proportions required by law for the disbursement of taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155. To determine the proportion for the disbursement of taxes under this subsection and for attribution of taxes under subsection (6) for taxes collected pursuant to technology park facilities exemption certificates issued before January 1, 1994, the number of mills levied for local school district operating purposes to be used in the calculation shall equal the number of mills for local school district operating purposes levied in 1993 minus the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, for the year for which the disbursement is calculated.

(5) Except as provided in subsection (6), all or a portion of the amount to be disbursed to intermediate school districts receiving state aid under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, as determined on the basis of the tax rates being utilized to compute the amount of state aid, shall be paid to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(6) For technology park facilities taxes levied after 1993 for school operating purposes, the amount to be disbursed to a local school district shall be paid to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(7) The officer or officers shall send a copy of the amount of disbursement made to each unit under this section to the department on a form provided by the department.

(8) A facility located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the technology park facilities tax levied under this act to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except for that portion of the technology park facilities tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. The technology park facilities tax calculated under this subsection shall be disbursed proportionately to the local taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff.

(9) Upon application for an exemption under this subsection by a qualified start-up business, the governing body of a local tax collecting unit may adopt a resolution to exempt a facility of a qualified start-up business from the collection of the technology park facilities tax levied under this act in the same manner and under the same terms and conditions as provided for the exemption in section 7hh of the general property tax act, 1893 PA 206, MCL 211.7hh. The clerk of the local tax collecting unit shall notify in writing the assessor of the local tax collecting unit and the legislative body of each taxing unit that levies ad valorem property taxes in the local tax collecting unit. Before acting on the resolution, the governing body of the local tax collecting unit shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing. If a resolution authorizing the exemption is adopted in the same manner as provided in section 7hh of the general property tax act, 1893 PA 206, MCL 211.7hh, the facility owned or operated by a qualified start-up business is exempt from the technology park facilities tax levied under this act, except for that portion of the technology park facilities tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff, for the year in which the resolution is adopted. A qualified start-up business is not eligible for an exemption under this subsection

for more than 5 years. A qualified start-up business may receive the exemption under this subsection in nonconsecutive years. The technology park facilities tax calculated under this subsection shall be disbursed proportionately to the taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. As used in this subsection, "qualified start-up business" means that term as defined in section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or in section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984 ;-- Am. 1990, Act 151, Imd. Eff. June 27, 1990 ;-- Am. 1993, Act 338, Eff. Mar. 15, 1994 ;-- Am. 1994, Act 364, Imd. Eff. Dec. 27, 1994 ;-- Am. 1996, Act 445, Imd. Eff. Dec. 19, 1996 ;-- Am. 2004, Act 321, Imd. Eff. Aug. 27, 2004 ;-- Am. 2007, Act 184, Imd. Eff. Dec. 21, 2007

Compiler's Notes: Act 164 of 1989, purporting to amend MCL 207.712, could not take effect "unless amendment 2 of House Joint Resolution I of the 85th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution I was submitted to, and disapproved by, the people at the special election held on November 7, 1989.

207.713 Technology park facilities tax; failure to pay; remedies; tax as lien; enforcement; disbursement of tax and interest.

Sec. 13. (1) If a technology park facilities tax applicable to personal property is not paid within the time permitted by law for payment of taxes without penalty imposed under the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, the officer to whom the technology park facilities tax is first payable may in his or her own name or in the name of the city, village, township, or county of which he or she is an officer, and in the manner and under the circumstances provided for a township or city treasurer by Act No. 206 of the Public Acts of 1893, collect an amount sufficient to pay the tax, the expenses of sale, and the interest on the tax at the rate of 9% per annum from the date the tax was first payable. In the alternative, the officer, in his or her own name or in the name of the city, village, township, or county of which he or she is an officer, may institute a civil action against the owner of the facility in the circuit court of the county in which the facility is located or in the circuit court of the county in which the holder of the certificate resides or has his, her, or its principal place of business, to recover the amount of the tax and interest on the tax at the rate of 9% per annum from the date the tax was first payable.

(2) The officer may seek a jeopardy assessment in the manner and under the circumstances provided for the treasurer of a city, village, or township by Act No. 55 of the Public Acts of 1956, being sections 211.691 to 211.697 of the

Michigan Compiled Laws, as an additional means of collecting the amount of the tax under those circumstances.

(3) A technology park facilities tax applicable to real property, until paid, shall be a lien upon the real property to which the certificate is applicable. The officer may seek enforcement of the lien in the circuit court according to procedures for enforcement of a mortgage lien and only after filing the following with the register of deeds of the county in which the real property is located:

(a) A certificate of nonpayment of the tax.

(b) An affidavit of proof of service by certified mail of the certificate of nonpayment on the owner of the facility and, if different, on the holder of the certificate.

(4) The officer may pursue 1 or more of the remedies provided in this section until the officer has received the amount of the tax, interest on the tax, and costs allowed by this act or by the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.101 to 600.9947 of the Michigan Compiled Laws. The amount of the tax and interest on the tax shall be disbursed by the officer as provided in section 12 for the disbursement of the technology park facilities tax.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984

207.714 Revocation of certificate; grounds; effect of noncompliance.
Sec. 14. (1) The legislative body of the local governmental unit, by resolution, may revoke a certificate if it finds any of the following:

(a) Completion of the facility does not occur within 2 years after the effective date of the certificate or a greater time as authorized by the legislative body of the local governmental unit for good cause.

(b) The holder of the certificate, not due to circumstances beyond his or her control, fails to proceed in good faith with the operation or use of the facility in a manner consistent with the purposes of this act and in accordance with the application.

(c) The holder of the certificate does not pay the technology park facilities tax by December 31 next following the year in which the tax was due and payable.

(2) If a certificate is issued or transferred or a district created in noncompliance with this act, the certificate in noncompliance or any certificate issued for property in a district that does not comply with this act shall not be considered to have been effective for purposes of this act, including section 9. A local governmental unit that transfers a certificate in noncompliance with this act is subsequently required to receive the approval of the department before transferring a certificate under this act.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984 ;-- Am. 1990, Act 151, Imd. Eff. June 27, 1990

207.715 Transfer of certificate; filing application for approval.
Sec. 15. (1) A holder of a certificate may transfer the certificate as provided in this section.

(2) If the holder of a certificate is an owner of the facility, a purchaser of that owner's interest must apply to the local governmental unit for approval of the transfer of the certificate. The application shall be filed prior to the effective date of the sale.

(3) If the holder of a certificate is a lessee of a facility, an assignee of that lessee's interest in the facility must apply to the local governmental unit for approval of the transfer of the certificate. The application shall be filed prior to the effective date of assignment of the interest in the facility.

(4) Notice of the application shall be given and a public hearing held as provided in section 6(2).

(5) If the owner of a facility is the holder of the certificate, a new lessee is not required to apply for transfer of the certificate.

(6) If the lessee of a facility is the holder of the certificate, a sublessee is not required to apply for transfer of the certificate.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984

207.716 Status of certificate; report.
Sec. 16. Each local governmental unit granting a certificate shall report to the department not later than October 15 of each year regarding the status of each certificate, including the current value of the property to which the certificate pertains, the value on which the technology park facilities tax is based, and a current estimate of the number of jobs retained or created within the local governmental unit by the holder of the certificate and the users or occupants of the facilities.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984 ;-- Am. 1990, Act 151, Imd. Eff. June 27, 1990

207.717 Analyses of costs and benefits.
Sec. 17. After this act has been in effect for 4 years, the departments of commerce and of treasury shall jointly prepare and submit to the respective committees of the senate and house of representatives having jurisdiction over matters concerning taxes, economic development, and corporations an in-depth analysis of the costs and benefits of this act in the communities where it has been utilized.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984

207.718 Exemptions; submission of analyses of costs and benefits.
Sec. 18. (1) A new exemption shall not be granted under this act after December 31, 1993, but an exemption then in effect shall continue until expiration of the certificate.

(2) The in-depth analysis of the costs and benefits of this act in the communities where it has been utilized required under section 17 shall be submitted to the required committees of the senate and house of representatives not later than February 1, 1990.

History: 1984, Act 385, Imd. Eff. Dec. 28, 1984 ;-- Am. 1989, Act 289, Imd. Eff. Dec. 26, 1989 ;-- Am. 1990, Act 151, Imd. Eff. June 27, 1990

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT
Act 451 of 1994 (EXCERPTS)

Part 191
CLEAN MICHIGAN FUND

324.19101 Meanings of words and phrases.

Sec. 19101. For purposes of this part, the words and phrases defined in sections 19102 and 19103 have the meanings ascribed to them in those sections.

History: 1994, Act 451, Eff. Mar. 30, 1995
Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.
Popular Name: Act 451
Popular Name: NREPA

324.19102 Definitions; A to N.

Sec. 19102. (1) "Approved solid waste management plan" means a solid waste management plan submitted and approved under part 115.

(2) "Capital costs" means those allowable costs, as determined by the department, of constructing or equipping, or both, a solid waste transfer facility, a recycling project, or a composting project.

(3) "Composting project" means a project in which yard wastes, including leaves and grass clippings, are converted into humus through natural biological processes.

(4) "Disposal area" means disposal area as defined in part 115.

(5) "Fund" means the clean Michigan fund created in section 19104.

(6) "Municipality" means a county, city, village, township, or an agency of a county, city, village, or township; an authority or any other public body created by or pursuant to state law; or this state or an agency or department of this state.

(7) "Nonprofit private entity" means a private entity that carries out any lawful purpose or purposes not involving pecuniary profit or gain for its directors, officers, shareholders, or members.

History: 1994, Act 451, Eff. Mar. 30, 1995
Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.
Popular Name: Act 451
Popular Name: NREPA

324.19103 Definitions; P to W.

Sec. 19103. (1) "Private entity" means an individual, trust, firm, joint stock company, corporation, or association that is not a local unit of government.

(2) "Recycling project" means a project in which materials that otherwise would become solid waste are collected, separated, or processed and returned for conversion into raw materials or products.

(3) "Resource recovery" means the processing or collecting of solid wastes so as to produce materials or energy that may be used in manufacturing, agriculture, heat production, or other productive processes or purposes designed to reuse materials or products or to conserve natural resources.

(4) "Site separated material" means glass, metals, wood, paper products, plastics, rubber, textiles, or any other material approved by the department that is separated from solid waste for conversion into raw materials or new products.

(5) "Solid waste" means solid waste as defined in part 115.

(6) "Solid waste transfer facility" means a solid waste transfer facility as defined in part 115.

(7) "Source separated material" means glass, metals, wood, paper products, plastics, rubber, textiles, or any other material approved by the department that is separated at the source of generation for conversion into raw material or new products.

(8) "Waste-to-energy" means a process that is specifically designed to recover energy through the combustion or volume reduction of solid waste.

History: 1994, Act 451, Eff. Mar. 30, 1995
Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.

Popular Name: Act 451
Popular Name: NREPA

324.19104 Clean Michigan fund; creation; appropriations, gifts, and donations; expenditures.

Sec. 19104. The clean Michigan fund is created in the state treasury. The fund shall consist of appropriations from the general fund or any other fund, as provided by law, and any gifts and donations to the fund. The fund shall be expended only for the programs described in this part and for the staffing and administrative costs to the department of administering those programs.

History: 1994, Act 451, Eff. Mar. 30, 1995
Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.
Popular Name: Act 451
Popular Name: NREPA

324.19105 Grants to counties for establishment of revolving loan fund; use of initial grant; percentage of grant utilized for administration of loan program; use of loans; establishment, duties, and membership of county loan board; conditions to making loan; annual audit; liability of county; maximum grant.

Sec. 19105. (1) The department may make a grant to a county having a population of less than 12,000 enabling the county to establish a revolving loan fund with money received from the department. The initial grant shall be used by the county to establish a revolving loan fund that shall be allocated and reallocated as provided in this section. Not more than 1% of a grant made pursuant to this section may be utilized by a county for the administration of the loan program.

(2) Grant money loaned by a county under this section shall be loaned to a private entity or nonprofit private entity only for purposes and programs that would be eligible to receive a grant under this part and may not be used for any other purpose, except administration costs.

(3) A county that receives a grant under this section shall establish a county loan board to review applications for loans submitted to the county and the board shall make recommendations to the county board of commissioners. The county loan board shall consist of a member to represent each of the following:

(a) The county.

(b) Nonprofit private entities and private entities engaged in resource recovery alternatives.

(c) Conservation or environmental organizations.

(d) The department.

(e) A member of the general public.

(4) Upon receipt of the recommendations of the county loan board, the county board of commissioners of a county that receives a grant under this section shall determine when a loan shall be made. The board of commissioners shall not make a loan unless both of the following conditions are met:

(a) The loan applicant is seeking a loan for a purpose or program that would be eligible to receive a grant under this part.

(b) The amount of the proposed loan is not more than $300,000.00.

(5) The county shall provide the department with an annual audit of the revolving loan fund using generally accepted accounting procedures.

(6) A county may be liable to the department for the full amount of a grant made pursuant to this section if at any time the county makes a loan in a manner or to an entity that is substantially out of compliance with this part.

(7) A grant to a county made under this section shall not exceed $300,000.00.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19106 Waste stream assessments.

Sec. 19106. (1) The department shall cause to be conducted a series of waste stream assessments in representative areas of the state. The assessments shall determine the characteristics of the waste stream and document seasonal fluctuations in the volume of waste.

(2) The department shall select a site for a waste stream assessment subject to the following prerequisites:

(a) The site is located in a county that has an approved solid waste management plan.

(b) The approved solid waste management plan for the county proposes some type of resource recovery.

(c) The site has not been the subject of an adequate waste stream assessment within the 5 years before the assessment authorized by this part is performed.

(3) The department shall consider the following in determining appropriate sites for inclusion in the waste stream assessment:

(a) The extent to which the owners of the disposal areas in the proposed study site will do the following:

(i) Provide an area on the site for scales and for composition studies.

(ii) Provide temporary shelter for work during inclement weather.

(iii) Enlist the cooperation of solid waste haulers.

(b) The likelihood that a resource recovery project or projects will be undertaken at the proposed site.

(c) The likelihood that the data resulting from the assessment of the proposed site will be usable or useful in evaluating the waste stream in other similar areas of the state.

(d) The extent to which selection of the site contributes to the achievement of a balanced distribution of assessments throughout the state.

(e) The availability of a scale at the proposed site.

(4) The department shall not expend more than 5% of the total amount in the fund in any state fiscal year on the assessments described in this section. The

department shall not expend more than $50,000.00 for any single assessment conducted under this section.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19107 Recycling and composting feasibility studies.
Sec. 19107. (1) The department shall cause to be conducted a series of recycling and composting feasibility studies. A study shall establish a basis upon which a decision to commit financial resources to a proposed recycling or composting project can be made. The department shall prescribe the elements to be included within a study.

(2) The department shall select a site for a recycling and composting feasibility study subject to the following prerequisites:

(a) The site is located in a county that has an approved solid waste management plan.

(b) The recycling or composting project proposed by the municipality is consistent with the approved solid waste management plan.

(3) The department shall consider the following factors in selecting a site for a recycling and composting feasibility study:

(a) The extent to which a municipality commits to proceeding with the project if the study determines that the project is feasible.

(b) The degree of demonstrated municipality, community group, or volunteer interest in undertaking a recycling or composting project.

(c) A demonstration that a recycling or composting project undertaken on the basis of the study would provide a necessary solid waste management alternative, given the status of existing disposal areas serving the location.

(d) The extent to which selection of the site contributes to the achievement of a balanced distribution of studies throughout the state.

(e) The demonstrated capability of the municipality in which the site is located to work with adjacent municipalities on alternative resource recovery projects.

(4) The department shall not expend more than 5% of the total amount in the fund in any state fiscal year on the studies described in this section. The department shall not expend more than $30,000.00 for any single study conducted under this section.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19108 Waste-to-energy feasibility studies.
Sec. 19108. (1) The department shall cause to be conducted a series of waste-to-energy feasibility studies. A study shall establish a basis upon which a decision to commit financial resources to a proposed waste-to-energy project can be made. The department shall prescribe the elements to be included in the study.

(2) The department shall select a site for a waste-to-energy feasibility study subject to the following prerequisites:

(a) The site is located in a county that has an approved solid waste management plan.

(b) The waste-to-energy project proposed is consistent with the approved solid waste management plan.

(3) The department shall consider the following factors in selecting a site for a waste-to-energy feasibility study:

(a) The extent to which the municipality proposing the project has done the following:

(i) Held meetings to discuss a waste-to-energy project.

(ii) Sought funding for studies of a waste-to-energy project.

(iii) Sought feasibility data on its own.

(b) The availability of letters of interest from potential energy markets.

(c) Whether a recycling feasibility study for the area to be served by the proposed waste-to-energy facility is available.

(d) Whether a waste-to-energy facility undertaken on the basis of the study would provide a necessary solid waste management alternative, given the status of existing disposal areas serving the location.

(e) The extent to which selection of the site contributes to the achievement of a balanced distribution of studies throughout the state.

(f) The demonstrated efforts of the municipality in which the site is located in working towards alternative resource recovery solutions to solid waste management problems, such as implementing recycling or composting programs in the area to be served.

(g) The demonstrated capability of the municipality in which the site is located to work with adjacent municipalities on alternative resource recovery projects.

(4) The department shall not expend more than 15% of the total amount in the fund in any state fiscal year for the studies described in this section. The department shall not expend more than $400,000.00 for any single study conducted under this section.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19109 Educational program with respect to resource recovery; resource recovery education grant program; authorized grants; factors in selecting recipients; limitations on expenditures.
Sec. 19109. (1) The department shall establish an educational program with respect to resource recovery to accomplish the following:

(a) To promote on a statewide basis the purchase of recycled products and materials.

(b) To develop promotional materials for distribution by municipalities in support of their resource recovery initiatives.

(2) The department shall establish a resource recovery education grant program. The program shall provide funding for the direct promotion of local resource recovery initiatives by municipalities, nonprofit private entities, and private entities. The department shall make the grants described in this subsection.

(3) The department shall not make a resource recovery education grant unless both of the following conditions are met:

(a) The proposed education project is conducted in a county that has an approved solid waste management plan.

(b) A local resource recovery project is planned or under way and the proposed education project directly promotes the use of that project.

(4) The department shall consider the following factors in selecting recipients of resource recovery education grants:

(a) Whether the education program has measurable objectives.

(b) The extent of background research completed.

(c) The type and extent of follow-up or evaluation, or both, to be conducted.

(d) The level of commitment by local officials.

(e) The extent to which the recipient commits its own financial resources to the education project.

(f) The extent to which selection of the project contributes to the achievement of a balanced distribution of grants throughout the state.

(5) The department shall not expend more than 25% of the total amount in the trust fund in any state fiscal year on the educational program and the education grant program described in this section. The department shall not expend more than $50,000.00 for any single education grant made under this section.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19110 Solid waste transfer station grant program.
Sec. 19110. (1) The department shall establish a solid waste transfer station grant program. The program shall provide funding to municipalities, nonprofit private entities, and private entities for the cost of transfer station construction. The department shall make the grants described in this section.

(2) The department shall not make a solid waste transfer station grant unless both of the following conditions are met:

(a) The proposed transfer station is located in a county that has an approved solid waste management plan.

(b) The proposed solid waste transfer station is consistent with the approved solid waste management plans of all of the affected counties.

(3) The department shall consider the following factors in selecting recipients for solid waste transfer station grants:

(a) The potential for providing to the municipality resource recovery alternatives otherwise not available to the municipality without the proposed transfer station.

(b) The willingness of the municipality to form or participate in a joint solid waste management system with adjacent municipalities.

(c) The applicant demonstrates that the proposed transfer station replaces a sanitary landfill or open dump closed according to the standards contained in part 115.

(4) The department shall not dispense a solid waste transfer station grant unless all permits that are required by state law and that are specifically applicable to the nature of the proposed project have been obtained.

(5) The department shall not expend more than 25% of the total amount in the fund in any state fiscal year on the solid waste transfer station grant program. The department shall not expend more than $300,000.00 for any single transfer station grant made under this section.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19111 Recycling and composting capital grant program.
Sec. 19111. (1) The department shall establish a recycling and composting capital grant program. The program shall provide funding for the capital costs of recycling and composting programs undertaken by municipalities, nonprofit private entities, or private entities. The department shall make the grants described in this section.

(2) The department shall not make a recycling or composting capital grant unless all of the following conditions are met:

(a) The proposed recycling or composting project is located in a county that has an approved solid waste management plan.

(b) The proposed recycling or composting project is consistent with the approved solid waste management plan.

(c) The applicant provides either a feasibility study with positive results supportive of project initiation or sufficient data justifying project expansion.

(d) The equipment obtained with the grant is used for source separated materials or site separated materials, or both.

(3) The department shall consider the following factors in selecting recipients for recycling and composting capital grants:

(a) The likelihood of project success as indicated by the feasibility study results.

(b) The availability of an appropriate site.

(c) A demonstration by the applicant that the materials to be collected or processed, or both, are not being recovered presently and would not be recovered without the proposed recycling or composting project.

(d) A demonstration by the applicant that the materials to be collected or processed, or both, will be absorbed in an existing market without displacing

existing resource recovery operations or that the materials, by being collected or processed, or both, will create a new market.

(e) The business and accounting plans for the proposed recycling or composting project.

(f) The need for a new or expanded recycling or composting program in the area to be served, relative to the needs of other areas.

(g) The extent to which selection of the recycling or composting program contributes to the achievement of a balanced distribution of grants throughout the state.

(h) A demonstration by the applicant that land, buildings, personnel, support services, or funds have been committed to the recycling or composting project.

(i) The portion of the waste stream that is projected to be diverted from landfills, compared to the projected costs of the recycling or composting project.

(j) The immediacy of the reduction in waste resulting from the recycling or composting program.

(k) The potential of the recycling or composting project to be replicated in similar areas of the state.

(l) The availability of capacity at existing licensed landfills that serve the area to be served by the proposed recycling or composting program.

(m) The demonstrated municipality, community group, or volunteer interest in undertaking a recycling or composting project.

(n) The demonstrated capability of the applicant in working with adjacent municipalities on alternative resource recovery projects, such as development of a regional resource recovery organization, jointly sponsored resource recovery initiatives, or regional materials marketing strategies.

(4) The department shall not dispense a recycling or composting capital grant unless all the permits that are required by this part and otherwise required by

state law and that are specifically applicable to the nature of the proposed project have been obtained.

(5) The department shall not expend more than 20% of the total amount in the fund in any state fiscal year on the recycling and composting capital grant program. The department shall not expend more than $500,000.00 for any single recycling or composting capital grant made under this section.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19112 Waste-to-energy capital grant program.
Sec. 19112. (1) The department shall establish a waste-to-energy capital grant program. The program shall provide funding for the capital costs of waste-to-energy programs undertaken by municipalities, nonprofit private entities, or private entities. The department shall make the grants described in this section.

(2) The department shall not make a waste-to-energy capital grant unless all of the following conditions are met:

(a) The proposed waste-to-energy project is located in a county that has an approved solid waste management plan.

(b) The proposed waste-to-energy project is consistent with the approved solid waste management plan.

(c) The applicant provides either a feasibility study with positive results supportive of project initiation or sufficient data justifying project expansion.

(3) The department shall consider the following factors in selecting recipients for waste-to-energy capital grants:

(a) The likelihood of project success as indicated by the feasibility study results.

(b) The availability of an appropriate site.

(c) A demonstration by the applicant that the materials to be collected or processed, or both, are not being recovered presently.

(d) The business and accounting plans for the proposed waste-to-energy project.

(e) The need for a new or expanded waste-to-energy program in the area to be served, relative to the needs of other areas.

(f) The extent to which selection of the waste-to-energy program contributes to the achievement of a balanced distribution of grants throughout the state.

(g) A demonstration by the applicant that land, buildings, personnel, support services, or funds have been committed to the waste-to-energy project.

(h) The portion of the waste stream that is projected to be diverted from landfills, compared to the projected costs of the waste-to-energy project.

(i) The potential of the waste-to-energy project to be replicated in similar areas of the state.

(4) The department shall not dispense a waste-to-energy capital grant unless all the permits that are required by this part and otherwise required by state law and that are specifically applicable to the nature of the proposed project have been obtained.

(5) The department shall not expend more than 30% of the total amount in the fund in any state fiscal year on the waste-to-energy capital grant program. The department shall not expend more than $2,000,000.00 for any single waste-to-energy grant made under this section.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19113 Recycling operational grant program.
Sec. 19113. (1) The department shall establish a recycling operational grant program. The program shall provide temporary operating subsidies to assist municipalities, nonprofit private entities, and private entities in recapturing the difference between the cost of collection, processing, and transportation and the revenues generated from the sale of the recovered materials. The department shall make the grants described in this section.

(2) The department shall not make a recycling operational grant unless all of the following conditions are met:

(a) The proposed recycling project is located in a county with an approved solid waste management plan.

(b) The proposed recycling project is consistent with the approved solid waste management plan.

(c) A positive feasibility study of the proposed recycling project, or sufficient data justifying project expansion, is available.

(d) The applicant agrees to match the grant on a dollar for dollar basis.

(e) The applicant agrees to continue support for the recycling project if the project is within 10% of previous disposal costs.

(f) The applicant agrees to provide the department with an annual operation report.

(g) The need for an operating subsidy is demonstrated.

(h) The grant is used for a project handling source separated material or site separated material, or both.

(3) The department shall consider the following factors in determining whether to make a recycling operational grant:

(a) The portion of the waste stream projected to be diverted from a landfill, compared to projected costs.

(b) A demonstration by the applicant that land, buildings, personnel, support services, or funds have been committed to the recycling project.

(c) The applicant's willingness to show others the program.

(d) The potential of the recycling project to be replicated in similar areas of the state.

(e) The extent to which selection of the project contributes to the achievement of a balanced distribution of grants throughout the state.

(f) The demonstrated municipality, community group, or volunteer interest in undertaking a recycling project.

(g) The demonstrated capability of the applicant in working with adjacent municipalities on alternative resource recovery projects, such as development of a regional resource recovery organization, jointly sponsored resource recovery initiatives, or regional materials marketing strategies.

(h) The availability of capacity at existing licensed landfills that serve the area to be served by the proposed recycling project.

(i) The existence of a plan for transferring financial responsibility for the program to another funding source.

(j) The existence of sources of capital funding for the project.

(4) The department shall not dispense a recycling operational grant unless all the permits that are required by this part and otherwise required by state law and that are specifically applicable to the nature of the proposed project have been obtained.

(5) The department shall not expend more than 5% of the total amount in the fund in any state fiscal year for the recycling operational grant program. The department shall not expend more than $150,000.00 for any single recycling operational grant made under this section.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19114 Composting operational grant program.
Sec. 19114. (1) The department shall establish a composting operational grant program. The program shall provide temporary operating subsidies to assist municipalities, nonprofit private entities, and private entities in undertaking composting projects. The department shall make the grants described in this section.

(2) The department shall not make a composting operational grant unless all of the following conditions are met:

(a) The proposed composting project is located in a county with an approved solid waste management plan.

(b) The proposed composting project is consistent with the approved solid waste management plan.

(c) A positive feasibility study of the proposed composting project, or sufficient data justifying project expansion, is available.

(d) The applicant agrees to match the grant on a dollar for dollar basis.

(e) The applicant agrees to provide the department with an annual operation report.

(3) The department shall consider the following factors in determining whether to make a composting operational grant:

(a) The portion of the waste stream projected to be diverted from a landfill, compared to projected costs.

(b) A demonstration by the applicant that land, buildings, personnel, support services, or funds have been committed to the composting project.

(c) The applicant's willingness to show others the program.

(d) The potential of the composting project to be replicated in similar areas of the state.

(e) The extent to which selection of the project contributes to the achievement of a balanced distribution of grants throughout the state.

(f) The demonstrated municipality, community group, or volunteer interest in undertaking a composting project.

(g) The demonstrated capability in working with adjacent municipalities on alternative resource recovery projects, such as development of a regional

resource recovery organization, jointly sponsored resource recovery initiatives, or regional materials marketing strategies.

(h) The availability of capacity at existing licensed landfills that serve the area to be served by the proposed composting project.

(i) A plan for transferring financial responsibility for the program to another funding source has been developed.

(j) The sources of capital funding for the project.

(4) The department shall not dispense a composting operational grant unless all the permits that are required by this part and otherwise required by state law and that are specifically applicable to the nature of the proposed project have been obtained.

(5) The department shall not expend more than 5% of the total amount in the fund in any state fiscal year for the composting operational grant program. The department shall not expend more than $150,000.00 for any single composting operational grant made under this section.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19115 Household hazardous waste disposal grant program.
Sec. 19115. (1) The department shall establish a household hazardous waste disposal grant program. The program shall assist municipalities in projects that educate citizens as to methods of household hazardous waste reduction and disposal option, promote the safe handling of household hazardous waste, or dispose of household hazardous waste at a state or federally permitted or licensed hazardous waste treatment, storage, or disposal facility. The department shall make the grants described in this section.

(2) The department shall not make a household hazardous waste disposal grant unless all of the following conditions are met:

(a) The project is not funded under a federal program.

(b) The municipality commits to contributing 20% of the total project cost in cash or in-kind services, or both.

(c) The project is completed within 1 year after receipt of the grant.

(d) The project is consistent with this part and other state law and policy.

(3) The department shall not dispense a household hazardous waste disposal grant unless all the permits that are required by this part and otherwise required by state law and that are specifically applicable to the nature of the proposed project have been obtained.

(4) The department shall not expend more than 2% of the total amount in the fund in any state fiscal year for the household hazardous waste disposal grant program. The department shall not expend more than $15,000.00 for any single household hazardous waste disposal grant made under this section.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19116 Statewide market development research study; market development plan; market development grant program; selection of development projects; selecting recipients of market development grants; permits as condition to dispensing market development grant; limitation on expenditures.

Sec. 19116. (1) The department shall cause to be conducted a statewide market development research study to assess the current markets and the potential for and the means for expansion of markets for recycled materials in this state. The department shall not expend more than 2.5% of the total amount in the fund in any state fiscal year for the market development research study. In addition, the department shall establish a market development plan based on the market development research study. The plan shall identify the barriers in attracting or expanding industries that use recycled materials and determine the appropriate methods for eliminating those barriers. The department of commerce shall serve as project coordinator for the market development study funded and administered by the department pursuant to this section.

(2) The department shall establish a market development grant program. The program shall encourage expansion of the use of recycled materials and the

development of innovative technologies to use recycled materials. The department shall make a grant under the program described in this section.

(3) The department shall select development projects subject to the following prerequisites:

(a) The project is beyond the research stage and a demonstration has indicated that it is technically feasible.

(b) The recipient of the grant is a municipality, nonprofit private entity, or private entity in this state.

(c) The project shall be performed in this state.

(4) The department shall consider the following factors in selecting recipients of market development grants:

(a) The contribution that would be made by the project toward the goal of increasing the use of recycled materials.

(b) The market's need for the development of the technology or equipment.

(c) The potential impact of the technology or equipment on the cost effectiveness of using recycled materials.

(d) The potential for development of new resource recovery markets and for the generation of positive economic impacts.

(e) The potential of the project for commercial application.

(f) The stage of the development of the technology or equipment proposed to be used in the project.

(g) The environmental, economic, and social benefits to the state of the development of the technology or equipment.

(h) The future sources of capital funding for the project.

(i) The extent to which the applicant has committed land, buildings, personnel, support services, or funds to the project.

(j) The potential of the project for developing multiple markets.

(5) The department shall not dispense a market development grant unless all the permits that are required by this part and otherwise required by state law and that are specifically applicable to the nature of the proposed project have been obtained.

(6) The department shall not expend more than 25% of the total amount in the fund in any state fiscal year for the market development grant program. The department shall not expend more than $500,000.00 for any single grant made under this program.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19117 Program to perform hydrogeological monitoring studies on open and closed sanitary landfills and open dumps owned by municipalities.

Sec. 19117. (1) The department shall establish a program to perform hydrogeological monitoring studies on open and closed sanitary landfills and open dumps owned by municipalities. The program shall determine the extent of groundwater contamination associated with the sanitary landfills and open dumps and the need for remedial actions on those sites. The department shall determine which landfills and dumps owned by municipalities are to be monitored. In determining the order in which the landfills and dumps owned by municipalities are to be monitored, the department shall consider the potential threat of human exposure to environmental contamination originating from the sanitary landfill or open dump and the likelihood that hazardous waste was accepted at the landfill or dump.

(2) The department shall not expend more than 10% of the total amount in the fund in any state fiscal year for the program to perform hydrogeological monitoring studies. The department shall not expend more than $50,000.00 for any single hydrogeological monitoring study performed under this section.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19118 Sanitary landfill and open dump closure or reclosure matching grant program.

Sec. 19118. (1) The department shall establish a sanitary landfill and open dump closure or reclosure matching grant program. The program shall provide up to 75% of the funding for the closure or reclosure of sanitary landfills and open dumps owned or operated by municipalities. In addition, the program shall provide up to 75% reimbursement for the closure of municipally owned sanitary landfills and open dumps or the reclosure of municipally owned sanitary landfills and open dumps that were closed after January 11, 1979, the effective date of former Act No. 641 of the Public Acts of 1978, according to the standards prescribed by that former act, which is currently part 115, but before December 4, 1986. The department shall make the grants described in this section.

(2) The department shall not make a closure or reclosure grant unless all of the following requirements are met:

(a) The sanitary landfill or open dump proposed for closure or reclosure is located in a county that has an approved solid waste management plan.

(b) The grant is for the closure of an operating sanitary landfill or open dump that is not operated according to the standards contained in part 115 and the rules promulgated under that part or the grant is for the reclosure of a closed sanitary landfill or dump that was not closed according to the standards contained in part 115 and the rules promulgated under that part.

(c) If the grant is reimbursement for the closure or reclosure of a landfill or dump, the closure or reclosure was made according to the standards of part 115 and the rules promulgated under that part.

(d) The grant shall be used only for a closure or reclosure that is a complete closure of an entire landfill or dump.

(e) The closure or reclosure will be accomplished completely within 1 year after receipt of the grant.

(3) The department shall consider the following factors in selecting recipients of closure or reclosure grants:

(a) The degree of effort demonstrated by the municipality in working toward alternative solutions to solid waste management problems.

(b) The degree of the potential threat of groundwater contamination.

(c) The likelihood that hazardous waste was accepted.

(d) The municipality's willingness to work with adjacent municipalities on alternative solutions.

(e) The municipality's commitment to refrain from operating unlicensed disposal areas in the future.

(4) The department shall not expend more than 25% of the total amount in the fund in any state fiscal year for the sanitary landfill and open dump closure or reclosure matching grant program. The department shall not expend more than $600,000.00 for any single grant made under this section.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19119 Project producing site separated materials; eligibility for grant.
Sec. 19119. Any project of the type for which a grant may be available under section 19111, which produces site separated materials, and for which the licenses or permits required by this part and otherwise required by law have been obtained, is eligible to receive a grant under this part.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19120 Administration of studies, assessments, and programs; application for inclusion in study or assessment or for grant; project summary.
Sec. 19120. (1) The department shall administer the studies, assessments, and programs described in this part according to the following:

(a) Within 60 days after enactment of the general appropriations bill for the department of natural resources for a state fiscal year, the department shall issue a request for applications for inclusion in any study or assessment to be conducted that year and for receipt of any grant available during that year.

(b) The department shall not accept any applications after 60 days from the issuance of a request for applications.

(c) Within 135 days after the advisory panel recommendations are made, the department shall complete its review of the application and recommendations and make its determinations.

(2) An application for inclusion in any study or assessment described in this part or for any grant available under this part shall be made on a form prescribed by the department. The department may require the applicant to provide any information reasonably necessary to allow the department to make the determinations required by this part.

(3) Each recipient of a grant and each participant in a study or assessment under this part shall complete and return a project summary on a form developed by the department by a date specified by the advisory panel. A recipient or participant who fails to submit a project summary as required by this section is not eligible to be a recipient or participant under this part for 5 years after the year for which the failure occurs.

(4) The project summary form developed by the department shall not exceed 1 page and shall include the following information:

(a) The name, address, and telephone number of the recipient or participant.

(b) The name of the project.

(c) The amount of money received.

(d) The county in which the project is located.

(e) A brief summary of the activities and accomplishments of the project.

(5) A completed project summary is available to the public under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

324.19121 Reports.
Sec. 19121. (1) Not later than March 31 of each year, the department shall report the following information regarding the projects financed under this part for that fiscal year to the governor, the standing committees of the senate and the house of representatives that primarily consider issues pertaining to the protection of natural resources and the environment, and the subcommittees of the house of representatives and the senate on appropriations for the department:

(a) The name, address, and telephone number of the recipient or participant.

(b) The nature of the project.

(c) The amount of money received.

(d) The county in which the project is located.

(2) Not later than September 30 of each year, the department shall submit to the governor and the legislature a report on the projects financed under this act during the previous fiscal year. The report shall consist of the project summaries described in section 19120, along with an introduction and conclusion.

History: 1994, Act 451, Eff. Mar. 30, 1995
Popular Name: Act 451
Popular Name: NREPA

Part 196
CLEAN MICHIGAN INITIATIVE IMPLEMENTATION

324.19601 Definitions.
Sec. 19601. As used in this part:

(a) “Bonds” means the bonds authorized under the clean Michigan initiative act.

(b) “Corrective action” means that term as it is defined in part 213.

(c) “Department” means the department of environmental quality.

(d) “Facility” means that term as it is defined in part 201.

(e) “Fund” means the clean Michigan initiative bond fund created in section 19606.

(f) “Gaming facility” means a gaming facility regulated under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(g) “Local unit of government” means a county, city, village, or township, or an agency of a county, city, village, or township; or an authority or other public body created by or pursuant to state law.

(h) “Response activity” means that term as it is defined in part 201.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998
Popular Name: Act 451
Popular Name: NREPA

324.19602 Findings and declaration.

Sec. 19602. The legislature finds and declares that the environmental and natural resources protection programs implemented under this part are a public purpose and of paramount public concern in the interest of the health, safety, and general welfare of the citizens of this state.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998
Popular Name: Act 451
Popular Name: NREPA

324.19603 Bonds; issuance; refund; security; authority of state treasurer; bonds not subject to revised municipal finance act; sale; issuance subject to agency financing reporting act; interest rate agreement.

Sec. 19603. (1) The bonds shall be issued in 1 or more series, each series to be in a principal amount, to be dated, to have the maturities that may be either

serial, term, or both, to bear interest at a rate or rates, to be subject or not subject to prior redemption, and if subject to prior redemption with or without call premiums, to be payable at a place or places, to have or not have provisions for registration as to principal only or as to both principal and interest, to be in a form and to be executed in a manner as shall be determined by resolution to be adopted by the state administrative board and subject to covenants, directions, restrictions, or rights specified by resolution to be adopted by the state administrative board as necessary to ensure the marketability, insurability, or tax exempt status of the bonds. The state administrative board shall rotate the services of legal counsel when issuing bonds.

(2) The state administrative board may refund bonds issued under this part by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption. The state administrative board may issue bonds partly to refund bonds issued under this part and partly for any other purpose provided by this part. The principal amount of any refunding bonds issued under this section shall not be counted against the limitation on principal amount provided in the clean Michigan initiative act, 1998 PA 284, MCL 324.95101 to 324.95108. Further, refunding bonds issued under this section are not subject to the restrictions of section 19607.

(3) The state administrative board may approve insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds, and any other transaction to provide security to assure timely payment or purchase of any bond issued under this part.

(4) The state administrative board may authorize the state treasurer, but only within limitations contained in the authorizing resolution of the board, to do 1 or more of the following:

(a) Sell and deliver and receive payment for the bonds.

(b) Deliver bonds partly to refund bonds and partly for other authorized purposes.

(c) Select which outstanding bonds will be refunded, if any, by the new issue of bonds.

(d) Buy issued bonds at not more than their face value.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, purchase prices, purchase dates, remarketing dates, denominations, dates of issuance, interest payment dates, redemption rights at the option of the state or the owner, the place and time of delivery and payment, and other matters and procedures necessary to complete the authorized transactions.

(f) Execute, deliver, and pay the cost of remarketing agreements, insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds or notes, and any other transaction to provide security to assure timely payments or purchase of any bond issued under this part.

(5) The bonds are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) The bonds or any series of the bonds shall be sold at a price as determined by the state administrative board.

(7) The bonds shall be sold in accordance with a schedule established by the state administrative board.

(8) The issuance of bonds under this section is subject to the agency financing reporting act.

(9) For the purpose of more effectively managing its debt service, the state administrative board may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the state administrative board.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998 ;-- Am. 2002, Act 383, Imd. Eff. May 28, 2002
Popular Name: Act 451
Popular Name: NREPA

324.19604 Bonds as negotiable and exempt from taxation.
Sec. 19604. The bonds shall be fully negotiable under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102. The bonds and the interest on the bonds shall be exempt from all taxation by the state or any political subdivision of the state.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998
Popular Name: Act 451
Popular Name: NREPA

324.19605 Bonds as securities; investment of funds.
Sec. 19605.The bonds are securities in which banks, savings and loan associations, investment companies, credit unions, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all administrators, executors, guardians, trustees, and other fiduciaries may properly and legally invest funds, including capital, belonging to them or within their control.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998
Popular Name: Act 451
Popular Name: NREPA

324.19606 Clean Michigan initiative bond fund; creation; composition; establishment of restricted subaccounts.
Sec. 19606. (1) The clean Michigan initiative bond fund is created in the state treasury.

(2) The fund shall consist of all of the following:

(a) The proceeds of sales of the bonds and any premium and accrued interest received on the delivery of the bonds.

(b) Any interest or earnings generated by the proceeds described in subdivision (a).

(c) Any repayment of principal and interest made under a loan program authorized in this part.

(d) Any federal or other funds received.

(3) The department of treasury may establish restricted subaccounts within the fund as necessary to administer the fund.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998
Popular Name: Act 451
Popular Name: NREPA

324.19607 Disposition and allocation of fund; investment; loan repayments; expenditures; unencumbered balance not to revert to general fund; annual accounting.

Sec. 19607. (1) The total proceeds of all bonds shall be deposited into the fund and allocated as follows:

(a) Not more than $335,000,000.00 shall be used for response activities at facilities.

(b) Not more than $50,000,000.00 shall be used for waterfront improvements.

(c) Not more than $25,000,000.00 shall be used for remediation of contaminated lake and river sediments.

(d) Not more than $50,000,000.00 shall be used for nonpoint source pollution prevention and control projects or wellhead protection projects.

(e) Not more than $90,000,000.00 shall be used for water quality monitoring and water resources protection and pollution control activities.

(f) Not more than $20,000,000.00 shall be used for pollution prevention programs.

(g) Not more than $5,000,000.00 shall be used to abate lead hazards.

(h) Not more than $50,000,000.00 shall be used for state park infrastructure improvements.

(i) Not more than $50,000,000.00 shall be used for local recreation projects.

(2) The state treasurer shall direct the investment of the fund. Except as may be required to maintain the exclusion from gross income of the interest paid on the bonds or to comply otherwise with state or federal law, interest and earnings from investment of the proceeds of any bond issue shall be allocated in the same proportion as earned on the investment of the proceeds of the bond issue.

(3) Except as may be required to maintain the exclusion from gross income of the interest paid on the bonds or to comply otherwise with state or federal law, all repayments of principal and interest earned under a loan program authorized

by this part shall be credited to the appropriate restricted subaccount of the fund and used for the purposes authorized for that subaccount or to pay debt service on any obligation issued which pledges the loan repayments and the proceeds of which are deposited in that subaccount.

(4) The bond proceeds shall be expended in an appropriate manner that maintains the tax exempt status of the bonds.

(5) The unencumbered balance in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(6) The department shall provide an annual accounting of bond proceeds spending on a cash basis to the department of treasury in order for the state to comply with requirements set forth for issuing tax exempt bonds, including arbitrage rebate calculations. This accounting shall be submitted to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the appropriations committees in the house of representatives and the senate.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998
Popular Name: Act 451
Popular Name: NREPA

324.19608 Use of money allocated under MCL 324.19607; purposes; notice to public advisory council; use of fund to develop municipal or commercial marina prohibited; payment of costs; grant prohibited; submission of eligible project list; carrying over appropriations until project completion; submission of list of financed projects.
Sec. 19608. (1) Money in the fund that is allocated under section 19607 shall be used for the following purposes:

(a) Money allocated under section 19607(1)(a) shall be used by the department to fund all of the following:

(i) Corrective actions undertaken by the department to address releases from leaking underground storage tanks pursuant to part 213.

(ii) Response activities undertaken by the department at facilities pursuant to part 201 to address public health and environmental problems or to promote redevelopment.

(iii) Assessment activities undertaken by the department to determine whether a property is a facility.

(iv) $75,000,000.00 shall be used to provide grants and loans to local units of government and brownfield redevelopment authorities created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, for response activities at known or suspected facilities with redevelopment potential. Of the money provided for in this subparagraph, not more than $37,500,000.00 shall be used to provide grants and not more than $37,500,000.00 shall be used to provide loans pursuant to the clean Michigan initiative revolving loan program created in section 19608a. However, grants or loans provided for in this subparagraph shall not be made to a local unit of government or a brownfield redevelopment authority that is responsible for causing a release or threat of release under part 201 at the site proposed for grant or loan funding.

(v) Not more than $12,000,000.00 shall be used for grants pursuant to the municipal landfill grant program under section 20109a.

(b) Money allocated under section 19607(1)(b) shall be used for waterfront redevelopment grants pursuant to part 795.

(c) Money allocated under section 19607(1)(c) shall be used for response activities for the remediation of contaminated lake and river sediments pursuant to part 201.

(d) Money allocated under section 19607(1)(d) shall be used for nonpoint source pollution prevention and control grants or wellhead protection grants pursuant to part 88.

(e) Money allocated under section 19607(1)(e) shall be deposited into the clean water fund created in section 8807.

(f) Money allocated under section 19607(1)(f) shall be expended as follows:

(i) $10,000,000.00 shall be deposited into the retired engineers technical assistance program fund created in section 14512.

(ii) $5,000,000.00 shall be deposited into the small business pollution prevention assistance revolving loan fund created in section 14513.

(iii) $5,000,000.00 shall be used by the department to implement pollution prevention activities other than those funded under subparagraphs (i) and (ii).

(g) Money that is allocated under section 19607(1)(g) shall be used by the department of community health for remediation and physical improvements to structures to abate or minimize exposure of persons to lead hazards.

(h) Money allocated under section 19607(1)(h) shall be used for infrastructure improvements at Michigan state parks as determined by the department of natural resources. The installation or upgrade of drinking water systems or rest room facilities shall be the first priority.

(i) Money allocated under section 19607(1)(i) shall be used to provide grants to local units of government for local recreation projects pursuant to part 716.

(2) Of the money allocated under section 19607(1)(a), $93,000,000.00 shall be used for facilities that pose an imminent or substantial endangerment to the public health, safety, or welfare, or to the environment. For purposes of this subsection, facilities that pose an imminent or substantial endangerment shall include, but are not limited to, those where public access poses hazards because of potential exposure to chemicals or safety risks and where drinking water supplies are threatened by contamination.

(3) Before expending any funds allocated under subsection (1)(c) at a site that is an area of concern as designated by the parties to the Great Lakes water quality agreement, the department shall notify the public advisory council established to oversee that area of concern regarding the development, implementation, and evaluation of response activities to be conducted with money in the fund at that area of concern.

(4) Money in the fund shall not be used to develop a municipal or commercial marina.

(5) Money provided in the fund may be used by the department of treasury to pay for the cost of issuing bonds and by the department and the department of natural resources to pay department costs as provided in this subsection. Not more than 3% of the total amount specified in section 19607(1)(a) to (f) shall be available for appropriation to the department to pay its costs directly associated with the completion of a project authorized by section 19607(1)(a) to (f). Not more than 3% of the total amount specified in section 19607(1)(h) and (i) shall be available for appropriation to the department of natural resources to pay its costs directly associated with the completion of a project authorized by section 19607(1)(h) and (i). It is the intent of the legislature that general fund appropriations to the department and to the department of natural resources shall not be reduced as a result of costs funded pursuant to this subsection.

(6) A grant shall not be provided under this part for a project that is located at any of the following:

(a) Land sited for use as a gaming facility or as a stadium or arena for use by a professional sports team.

(b) Land or other facilities owned or operated by a gaming facility or by a stadium or arena for use by a professional sports team.

(c) Land within a project area described in a project plan pursuant to the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, for a gaming facility.

(7) The department, the department of natural resources, and the department of community health shall each submit annually a list of all projects that will be undertaken by that department that are recommended to be funded under this part. The list shall be submitted to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the appropriations committees in the house of representatives and the senate. The list shall be submitted to the legislative committees not later than February 15 of each year. This list shall also be submitted before any request for supplemental appropriation of bond funds. For each eligible project, the list shall include the nature of the eligible project; the county in which the eligible project is located; an estimate of the total cost of the eligible project; and other information considered pertinent by the administering state department. A project that is funded by a grant or loan with money from the fund does not

need to be included on the list submitted under this subsection. However, money in the fund that is appropriated for grants and loans shall not be encumbered or expended until the administering state department has reported those projects that have been approved for a grant or a loan to the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment and to the appropriations subcommittees in the house of representatives and the senate on natural resources and environmental quality. Before submitting the first cycle of recommended projects under subsection (1)(a), the department shall publish and disseminate the criteria it will use in evaluating and recommending these projects for funding.

(8) The legislature shall appropriate prospective or actual bond proceeds for projects proposed to be funded. Appropriations shall be carried over to succeeding fiscal years until the project for which the funds are appropriated is completed.

(9) Not later than December 31 of each year, the department, the department of natural resources, and the department of community health shall each submit a list of the projects financed under this part by that department to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the subcommittees of the house of representatives and the senate on appropriations on natural resources and environmental quality. Each list shall include the name, address, and telephone number of the recipient or participant, if appropriate; the name and location of the project; the nature of the project; the amount of money allocated to the project; the county in which the project is located; a brief summary of what has been accomplished by the project; and other information considered pertinent by the administering state department.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998 ;-- Am. 2003, Act 252, Imd. Eff. Dec. 29, 2003
Popular Name: Act 451
Popular Name: NREPA

324.19608a Clean Michigan initiative revolving loan program.
Sec. 19608a. (1) The department shall create a clean Michigan initiative revolving loan program for the purpose of making loans to local units of government and brownfield redevelopment authorities created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to

125.2672, for response activities at known or suspected facilities with redevelopment potential.

(2) The department shall accept, and consider for approval, applications for loans throughout the year. The department shall develop written instructions for prospective applicants, including the criteria that will be used in application review and approval.

(3) Final application decisions shall be made by the department within 90 days of submittal of a complete loan application.

(4) A complete application shall include all of the following:

(a) A description of the proposed eligible activities.

(b) An itemized budget for the proposed eligible activities.

(c) A schedule for the completion of the proposed eligible activities.

(d) The location of the property.

(e) The current ownership and ownership history of the property.

(f) The current use of the property.

(g) A detailed history of the use of the property.

(h) The existing and proposed future zoning of the property.

(i) If the property is not owned by the applicant, a draft of an enforceable agreement between the property owner and the applicant that commits the property owner to cooperate with the applicant, including a commitment to allow access to the property to complete, at a minimum, the proposed eligible activities.

(j) A description of the property's economic redevelopment potential.

(k) A resolution from the governing body of the applicant committing to repayment of the loan according to the terms of this section.

(l) Other information as specified by the department in its written instructions.

(5) To receive loan funds, approved applicants must enter into a loan agreement with the department. At a minimum, the loan agreement shall contain all of the following:

(a) The approved eligible activities to be undertaken with loan funds.

(b) An implementation schedule for the approved eligible activities.

(c) Reporting requirements, including, at a minimum, the following:

(i) The loan recipient shall submit a progress status report to the department every 6 months during the implementation schedule.

(ii) The loan recipient shall provide a final report within 3 months of completion of the loan-funded activities that includes documentation of project costs and expenditures, including invoices and proof of payment.

(d) If the property is not owned by the loan recipient, an executed agreement that has been approved by the department that meets the requirements of subsection (4)(i).

(e) Other provisions as considered appropriate by the department.

(6) As used in this section:

(a) “Baseline environmental assessment” and “response activity” mean those terms as they are defined in section 20101.

(b) “Due care activities” means those activities conducted under section 20107a.

(c) “Eligible activities” means baseline environmental assessment activities, due care activities, and any additional response activity. Eligible activities include only those activities necessary to facilitate redevelopment. All eligible activities must be consistent with a work plan or remedial action plan pursuant to section 15 of the brownfield redevelopment financing act, 1996 PA 381,

MCL 125.2665. Unless otherwise approved by the director, only activities carried out and costs incurred after execution of a loan agreement are eligible.

History: Add. 2003, Act 253, Imd. Eff. Dec. 29, 2003
Popular Name: Act 451
Popular Name: NREPA

324.19609 Grant or loan application; form or format.
Sec. 19609. An application for a grant or a loan from the fund shall be made on a form or in a format prescribed by the administering state department. The administering state department may require the applicant to provide any information reasonably necessary to allow the administering state department to make a determination required by this part.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998
Popular Name: Act 451
Popular Name: NREPA

324.19610 Grant or loan funding; conditions.
Sec. 19610. The administering state department shall not make a grant or a loan with money from the fund unless all of the following conditions are met:

(a) The applicant demonstrates that the proposed project is in compliance with all applicable state laws and rules or will result in compliance with state laws and rules.

(b) The applicant demonstrates to the administering state department the capability to carry out the proposed project.

(c) The applicant demonstrates to the administering state department that there is an identifiable source of funds for the future maintenance and operation of the proposed project, if appropriate.

(d) Within the last 24 months, the applicant has successfully undergone an audit conducted in accordance with generally accepted auditing standards.

(e) Within the last 24 months, the applicant has not had a grant from the administering state department revoked or terminated or had the administering state department determine that the applicant demonstrated an inability to manage a grant.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998
Popular Name: Act 451
Popular Name: NREPA

324.19611 Balancing distribution of grants and loans.
Sec. 19611. Prior to making a grant or loan with money from the fund, the administering state department shall consider the extent to which the making of the grant or loan contributes to the achievement of a balanced distribution of grants and loans throughout the state.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998
Popular Name: Act 451
Popular Name: NREPA

324.19612 Duties of grant or loan recipient; revoking grant or withholding payment; cancellation of grant or loan offer; loan terms; disposition of loan payments and interest; default.
Sec. 19612. (1) A recipient of a grant or a loan made with money from the fund shall do both of the following:

(a) Keep an accounting of the money spent on the project or facility in a generally accepted manner. The accounting shall be subject to a postaudit.

(b) Obtain authorization from the administering state department before implementing a change that significantly alters the proposed project.

(2) The administering state department may revoke a grant or a loan made with money from the fund or withhold payment if the recipient fails to comply with the terms and conditions of the grant or loan agreement or with the requirements of this part or the rules promulgated under this part, or with other applicable law or rules. If a grant or loan is revoked, the administering state department may recover all funds awarded.

(3) The administering state department may withhold a grant or a loan until the administering state department determines that the recipient is able to proceed with the proposed project.

(4) To assure timely completion of a project, the administering state department may withhold 10% of the grant or loan amount until the project is complete.

(5) If an approved applicant fails to sign a grant or loan agreement within 90 days after receipt of a written grant or loan offer by the administering state department, the administering state department may cancel the grant or loan offer. The applicant may not appeal or contest a cancellation pursuant to this subsection.

(6) The administering state department may terminate a grant or loan agreement and require immediate repayment of the grant or loan if the recipient uses grant or loan funds for any purpose other than for the approved activities specified in the grant or loan agreement. The administering state department shall provide the recipient written notice of the termination 30 days prior to the termination.

(7) A loan made with money in the fund shall have the following terms:

(a) A loan interest rate of not more than 50% of the prime rate as determined by the administering state department as of the date of approval of the loan.

(b) Loan recipients shall repay loans in equal annual installments of principal and interest beginning not later than 5 years after execution of a loan agreement and concluding not later than 15 years after execution of a loan agreement.

(c) A loan recipient shall enter into a loan agreement with the administering state department. At a minimum, the loan agreement shall contain a commitment that the loan is secured by a full faith and credit pledge of the applicant, or if the applicant is an authority established pursuant to the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, the commitment shall be from the municipality that created the authority pursuant to that act.

(d) Upon default of a loan, as determined by the administering state department, or upon the request of the loan recipient as a method to repay the loan, the department of treasury shall withhold state payments from the loan recipient in amounts consistent with the repayment schedule in the loan agreement until the loan is repaid. The department of treasury shall deposit these withheld funds into the fund until the loan is repaid.

(8) Loan payments and interest shall be deposited in the fund.

(9) Upon default of a loan, as determined by the administering state department, or upon the request of the loan recipient as a method to repay the loan, the

department of treasury shall withhold from the loan recipient state payments in amounts consistent with the repayment schedule in the loan agreement until the loan is repaid. The department of treasury shall deposit these withheld funds into the fund until the loan is repaid.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998
Popular Name: Act 451
Popular Name: NREPA

324.19613 Grants and loans under MCL 324.19608; conditions.
Sec. 19613. Of the funds to be used to provide grants and loans under section 19608(1)(a)(iv), all of the following conditions apply:

(a) A recipient of a grant shall receive not more than 1 grant per year not to exceed $1,000,000.00 per grant.

(b) A recipient of a loan shall receive a maximum of 1 loan per year not to exceed $1,000,000.00 per loan.

(c) A grant shall be awarded only if the department determines that both of the following apply:

(i) The property is a facility as defined in section 20101.

(ii) The proposed development of the property will result in measurable economic benefit in excess of the grant amount requested by the applicant.

(d) A loan shall be awarded only if the department determines that both of the following apply:

(i) The property is a facility as defined in section 20101 or is suspected of being a facility.

(ii) The property has economic development potential based on the applicant's planned use of the property.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998
Popular Name: Act 451
Popular Name: NREPA

324.19614 Recovery of costs.
Sec. 19614. The department and the department of the attorney general may recover costs expended pursuant to section 19608(1)(a)(i) to (iv) for corrective actions, response activities, site assessments, and all other recoverable costs under part 201 from persons who are liable under part 201. Actions to recover costs shall be undertaken in the manner provided in part 201.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998
Popular Name: Act 451
Popular Name: NREPA

324.19615 Performance audit.
Sec. 19615. Every 2 years that state programs funded with money from the fund continue to be administered, the auditor general shall conduct a performance audit of these programs. Upon completion of a performance audit under this section, the auditor general shall submit a copy of the performance audit to the audited department and to the legislature.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998
Popular Name: Act 451
Popular Name: NREPA

324.19616 Rules.
Sec. 19616. The department may promulgate rules as are necessary to implement this part.

History: Add. 1998, Act 288, Eff. Dec. 1, 1998
Popular Name: Act 451
Popular Name: NREPA

B. BUILDING & LAND ACQUISITION & DISPOSAL

ISSUANCE OF BONDS FOR SLUM CLEARANCE AND REDEVELOPMENT
Act 167 of 1952

AN ACT to provide for the issuance of bonds or other obligations by cities for the purpose of refinancing slum clearance and redevelopment costs.

History: 1952, Act 167, Imd. Eff. Apr. 24, 1952

The People of the State of Michigan enact:

125.971 Clearance of slum or blighted areas; issuance of bonds by cities, maximum, sale.

Sec. 1. Any city which has been or is financing the cost of clearance, reconstruction or redevelopment of slum or blighted areas, including land acquisition, demolition or other land preparation work, by tax levies or through tax obligations is authorized to issue bonds or other obligations of the type and character authorized by and issued pursuant to Act No. 18 of the Public Acts of the Extra Session of 1933, as amended, being sections 125.651 to 125.698, inclusive, of the Compiled Laws of 1948, or Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to 125.83, inclusive, of the Compiled Laws of 1948, for the purpose of reimbursement to the city for the amount, or any part thereof, of the proceeds of such tax levies and tax obligations expended since January 1, 1950, for such purposes: Provided, The maximum principal amount of such bonds or other obligations that may be issued therefor under such acts shall not in any event exceed the total amount of the proceeds of such tax levies and tax obligations thus expended or the total amount of any such bonds or obligations which the federal government under title I of the housing act of 1949 agrees to purchase, whichever is the lesser amount. Any such city is hereby authorized to enter into contracts for the sale of and to sell to the federal government any of the bonds or obligations authorized to be issued under this act, upon such terms and conditions as may be mutually agreed upon between such city and the federal government.

History: 1952, Act 167, Imd. Eff. Apr. 24, 1952

SALE OF PROPERTY ACQUIRED FOR PUBLIC USE
Act 188 of 1952

AN ACT to authorize the sale of certain property or properties acquired and held by municipalities for public uses.

History: 1952, Act 188, Imd. Eff. Apr. 29, 1952

The People of the State of Michigan enact:

211.651 Authorizing sale of certain property located in slum area acquired and held by municipalities; certain limitations, removal.

Sec. 1. Any municipality having acquired any property or properties for public use under the provisions of sections 7 and 8 of Act No. 155 of the Public Acts of 1937, as amended, being sections 211.357 and 211.358, respectively, of the

Compiled Laws of 1948, which said property or properties are located in a slum or blighted area, planned for clearance and redevelopment, in accordance with the redevelopment plan adopted by the legislative body of the municipality, may sell such property or properties singly, in groups or together with other properties in the area in such a manner and under such conditions of sale and use thereof as the legislative body of said municipality shall provide, without any other restriction or limitation thereof: Provided further, That as to all conveyances heretofore made by any municipality of property or properties acquired for public uses under the provisions of sections 7 and 8 of Act No. 155 of the Public Acts of 1937, as amended, being sections 211.357 and 211.358, respectively, of the Compiled Laws of 1948, the municipality, whenever the property shall have been sold at public auction or shall have been held for public purposes for a period of 10 years prior to conveyance, shall not be deemed to have been bound by the limitations on the sale thereof contained therein, and the director of conservation, on behalf of the state, shall execute the necessary corrective conveyance or conveyances to carry out the provisions of this proviso.

History: 1952, Act 188, Imd. Eff. Apr. 29, 1952 ;-- Am. 1954, Act 123, Imd. Eff. Apr. 19, 1954

THE UNIFORM CONDEMNATION PROCEDURES ACT
Act 87 of 1980

AN ACT to provide procedures for the condemnation, acquisition, or exercise of eminent domain of real or personal property by public agencies or private agencies; to provide for an agency's entry upon land for certain purposes; to provide for damages; to prescribe remedies; and to repeal certain acts and parts of acts.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980 ;-- Am. 1988, Act 189, Eff. July 1, 1988

The People of the State of Michigan enact:

213.51 Definitions.
Sec. 1. As used in this act:

(a) “Acquire” or “take” means to secure transfer of ownership of property to an agency by involuntary expropriation.

(b) “Acquisition” or “taking” means the transfer of ownership of property to an agency by involuntary expropriation.

(c) “Agency” means a public agency or private agency.

(d) “Appraisal” means an expert opinion of the value of property taken or damaged, or other expert opinion pertaining to the amount of just compensation.

(e) “Constructive taking” or “de facto taking” means conduct, other than regularly established judicial proceedings, sufficient to constitute a taking of property within the meaning of section 2 of article X of the state constitution of 1963.

(f) “Owner” means a person, fiduciary, partnership, association, corporation, or a governmental unit or agency having an estate, title, or interest, including beneficial, possessory, and security interest, in a property sought to be condemned.

(g) “Parcel” means an identifiable unit of land, whether physically contiguous or not, having substantially common beneficial ownership, all or part of which is being acquired, and treated as separate for valuation purposes.

(h) “Private agency” means a person, partnership, association, corporation, or entity, other than a public agency, authorized by law to condemn property.

(i) “Property” means land, buildings, structures, tenements, hereditaments, easements, tangible and intangible property, and property rights whether real, personal, or mixed, including fluid mineral and gas rights.

(j) “Public agency” means a governmental unit, officer, or subdivision authorized by law to condemn property.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980 ;-- Am. 1996, Act 474, Imd. Eff. Dec. 26, 1996

213.51a Short title.

Sec. 1a. This act shall be known and may be cited as “the uniform condemnation procedures act”.

History: Add. 1980, Act 309, Imd. Eff. Dec. 4, 1980

213.52 Standards provided; limitations; applicable laws and court rules; commencement of condemnation action; proof of taking of property; certificate of public necessity as condition of instituting judicial proceedings.

Sec. 2. (1) This act provides standards for the acquisition of property by an agency, the conduct of condemnation actions, and the determination of just compensation. It does not confer the power of eminent domain, and does not prescribe or restrict the purposes for which or the persons by whom that power may be exercised. All laws and court rules applicable to civil actions shall apply to condemnation proceedings except as otherwise provided in this act.

(2) If property is to be acquired by an agency through the exercise of its power of eminent domain, the agency shall commence a condemnation action for that purpose. An agency shall not intentionally make it necessary for an owner of property to commence an action, including an action for constructive taking or de facto taking, to prove the fact of the taking of the property.

(3) If a private agency is required by law to secure a certificate of public necessity from the public service commission or other public agency before it may acquire property, the private agency shall not institute judicial proceedings to acquire the property until it has secured the required certificate.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980

213.53 Fluid mineral and gas rights.

Sec. 3. Fluid mineral and gas rights shall be considered excluded from an instrument by which an agency acquires an interest in land unless specifically included in the instrument. The exercise of the fluid mineral and gas rights, as permitted by law, shall not interfere with the use of the property acquired for a public purpose.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980

213.54 Payment of just compensation for property if practical value or utility of remainder destroyed; zoning variance; entry upon property; purpose; notice; restitution for actual damages; "actual damage" defined; civil action for order permitting entry; contents of complaint; granting limited license for entry; terms; manner of entry under subsection (3); "environmental inspection" defined.

Sec. 4. (1) If the acquisition of a portion of a parcel of property actually needed by an agency would destroy the practical value or utility of the remainder of

that parcel, the agency shall pay just compensation for the whole parcel. The agency may elect whether to receive title and possession of the remainder of the parcel. The question as to whether the practical value or utility of the remainder of the parcel of property is in fact destroyed shall be determined by the court or jury and incorporated in its verdict.

(2) If the acquisition of a portion of a parcel of property actually needed by an agency would leave the remainder of the parcel in nonconformity with a zoning ordinance, the agency, before or after acquisition, may apply for a zoning variance for the remainder of the parcel. In determining whether to grant the zoning variance, the governmental entity having jurisdiction to grant the variance shall consider the potential benefits of the public use for which the property would be acquired, in addition to those criteria applicable under the relevant zoning statute, ordinance, or regulation. The agency must actually acquire the portion of the parcel of property for the proposed public use for the zoning variance to become effective for the remainder. If a variance is granted under this subsection, the property shall be considered by the governmental entity to be in conformity with the zoning ordinance for all future uses with respect to the nonconformity for which that variance was granted. However, if the property was also nonconforming for other reasons, the grant of that variance has no effect on the status of those other preexisting nonconformities. An owner shall not increase the nonconformity for which a variance is granted under this section without the consent of the governmental entity. An agency has the same right to appeal action on a zoning variance as would a property owner seeking a zoning variance. This section does not deprive a governmental entity of its discretion to grant or deny a variance.

(3) An agency or an agent or employee of an agency may enter upon property before filing an action for the purpose of making surveys, measurements, examinations, tests, soundings, and borings; taking photographs or samplings; appraising the property; conducting an environmental inspection; conducting archaeological studies pursuant to section 106 of title I of the national historic preservation act, Public Law 89-665, 16 U.S.C. 470f; or determining whether the property is suitable to take for public purposes. The entry may be made upon reasonable notice to the owner and at reasonable hours. An entry made pursuant to this subsection shall not be construed as a taking. The owner or his or her representative shall be given a reasonable opportunity to accompany the agency's agent or employee during the entry upon the property. The agency shall make restitution for actual damage resulting from the entry, which may be recovered by special motion before the court or by separate action if an action

for condemnation has not been filed. The term “actual damage” as used in this subsection does not include, and an agency shall not make restitution for, response activity, as defined in section 20101 of part 201 (environmental remediation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.20101 of the Michigan Compiled Laws, or diminution in the value or utility of a parcel that is caused by the discovery of information as the result of a survey, an appraisal, a measurement, photography, or an environmental inspection made pursuant to this section.

(4) If reasonable efforts to enter under subsection (3) have been obstructed or denied, the agency may commence a civil action in the circuit court in the county in which the property or any part of the property is located for an order permitting entry. The complaint shall state the facts making the entry necessary, the date on which entry is sought, and the duration and the method proposed for protecting the defendant against damage. The court may grant a limited license for entry upon such terms as justice and equity require, including the following:

(a) A description of the purpose of the entry.

(b) The scope of activities that are permitted.

(c) The terms and conditions of the entry with respect to the time, place, and manner of the entry.

(5) An entry made under subsection (3) or (4) shall be made in a manner that minimizes any damage to the property and any hardship, burden, or damage to a person in lawful possession of the property.

(6) As used in this section, “environmental inspection” means the testing or inspection including the taking of samples of the soil, groundwater, structures, or other materials or substances in, on, or under the property for the purpose of determining whether chemical, bacteriological, radioactive, or other environmental contamination exists and, if it exists, the nature and extent of the contamination.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980 ;-- Am. 1988, Act 189, Eff. July 1, 1988 ;-- Am. 1996, Act 58, Imd. Eff. Feb. 26, 1996 ;-- Am. 1996, Act 474, Imd. Eff. Dec. 26, 1996

213.55 Just compensation; amount; written notice to occupants; offer; review of appraisal; filing complaint for acquisition; "comparable replacement dwelling" defined; financial information; documents; determination of just compensation; items annexed to complaint; deposit; payment of additional amount for property which is principal residence; "taxable value" defined.

Sec. 5. (1) Before initiating negotiations for the purchase of property, the agency shall establish an amount that it believes to be just compensation for the property and promptly shall submit to the owner a good faith written offer to acquire the property for the full amount so established. At the same time, if the taking of the property might require relocation, the agency shall provide written notice to the occupants of the property stating that an eminent domain proceeding has commenced and outlining the occupants' basic legal rights in the process, including, but not limited to, the fact that any person who has a leasehold interest of less than 6 months is entitled to a $3,500.00 moving allowance as provided under section 2 of 1965 PA 40, MCL 213.352, and that an individual who is a residential occupant may not be displaced until moving expenses or a moving allowance is paid as provided under 1965 PA 40, MCL 213.351 to 213.355, and the person has had a reasonable opportunity, not to exceed 180 days after the payment date of moving expenses or the moving allowance as provided under 1965 PA 40, MCL 213.351 to 213.355, to relocate to a comparable replacement dwelling. If there is more than 1 owner of a parcel, the agency may make a single, unitary good faith written offer. The good faith offer shall state whether the agency reserves or waives its rights to bring federal or state cost recovery actions against the present owner of the property arising out of a release of hazardous substances at the property and the agency's appraisal of just compensation for the property shall reflect such reservation or waiver. The amount shall not be less than the agency's appraisal of just compensation for the property. If the owner fails to provide documents or information as required by subsection (2), the agency may base its good faith written offer on the information otherwise known to the agency whether or not the agency has sought a court order under subsection (2). The agency shall provide the owner of the property and the owner's attorney with an opportunity to review the written appraisal, if an appraisal has been prepared, or if an appraisal has not been prepared, the agency shall provide the owner or the owner's attorney with a written statement and summary, showing the basis for the amount the agency established as just compensation for the property. If an agency is unable to agree with the owner for the purchase of the property, after making a good faith written offer to purchase the property, the agency may file a complaint for the acquisition of the property in the circuit court in the county in which the property is located. If a parcel of property is situated in 2 or more

counties and an owner resides in 1 of the counties, the complaint shall be filed in the county in which the owner is a resident. If a parcel of property is situated in 2 or more counties and an owner does not reside in 1 of the counties, the complaint may be filed in any of the counties in which the property is situated. The complaint shall ask that the court ascertain and determine just compensation to be made for the acquisition of the described property. As used in this subsection, "comparable replacement dwelling" means any dwelling that is all of the following:

(a) Decent, safe, and sanitary.

(b) Adequate in size to accommodate the occupants.

(c) Within the financial means of the individual.

(d) Functionally equivalent.

(e) In an area not subject to unreasonable adverse environmental conditions.

(f) In a location generally not less desirable than the location of the individual's dwelling with respect to public utilities, facilities, services, and the individual's place of employment.

(2) During the period in which the agency is establishing just compensation for the owner's parcel, the agency has the right to secure tax returns, financial statements, and other relevant financial information for a period not to exceed 5 years before the agency's request. The owner shall produce the information within 21 business days after receipt of a written request from the agency. The agency shall reimburse the owner for actual, reasonable costs incurred in reproducing any requested documents, plus other actual, reasonable costs of not more than $1,000.00 incurred to produce the requested information. Within 45 days after production of the requested documents and other information, the owner shall provide to the agency a detailed invoice for the costs of reproduction and other costs sought. The owner is not entitled to a reimbursement of costs under this subsection if the reimbursement would be duplicative of any other reimbursement to the owner. If the owner fails to provide all documents and other information requested by the agency under this section, the agency may file a complaint and proposed order to show cause in the circuit court in the county specified in subsection (1). The court shall immediately hold a hearing on the agency's proposed order to show cause. The

court shall order the owner to provide documents and other information requested by the agency that the court finds to be relevant to a determination of just compensation. An agency shall keep documents and other information that an owner provides to the agency under this section confidential. However, the agency and its experts and representatives may utilize the documents and other information to determine just compensation, may utilize the documents and other information in legal proceedings under this act, and may utilize the documents and other information as provided by court order. If the owner unreasonably fails to timely produce the documents and other information, the owner shall be responsible for all expenses incurred by the agency in obtaining the documents and other information. This section does not affect any right a party may otherwise have to discovery or to require the production of documents and other information upon commencement of an action under this act. A copy of this section shall be provided to the owner with the agency's request.

(3) In determining just compensation, all of the following apply:

(a) If an owner claims that the agency is taking property other than the property described in the good faith written offer or claims a right to compensation for damage caused by the taking, apart from the value of the property taken, and not described in the good faith written offer, the owner shall file a written claim with the agency stating the nature and substance of that property or damage. The owner's written claim shall provide sufficient information and detail to enable the agency to evaluate the validity of the claim and to determine its value. The owner shall file the claim within 90 days after the good faith written offer is made pursuant to section 5(1) or 180 days after the complaint is served, whichever is later, unless a later date is set by the court for reasonable cause. If the appraisal or written estimate of value is provided within the established period for filing written claims, the owner's appraisal or written estimate of value may serve as the written claim under this act. If the owner fails to timely file the written claim under this subsection, the claim is barred.

(b) The parties shall exchange the agency's updated appraisal reports, if any, and the owner's appraisal report within 90 days after the expiration of the period for filing written claims, unless a later date is set by the court in accordance with section 11(1) for reasonable cause. If the agency believes that the information provided by the owner is not sufficient to allow the evaluation of the claim, the agency may request additional information from the owner and, if that information is not provided, may ask the court to compel the owner

to provide additional information to enable the agency to evaluate the validity of the claim and to determine its value. If the owner fails to provide sufficient information after being ordered to do so by the court, the court may assess an appropriate sanction in accordance with the Michigan court rules for failing to comply with discovery orders, including, but not limited to, barring the claim. In addition, the court also shall consider any failure to provide timely information when it determines the maximum reimbursable attorney fees under section 16.

(c) For any claim that has not fully accrued or is continuing in nature when the claim is filed, the owner shall provide information then reasonably available that would enable the agency to evaluate the claim, subject to the owner's continuing duty to supplement that information as it becomes available. The owner shall provide all supplementary information at least 90 days before trial, and the court shall afford the agency a reasonable opportunity for discovery once all supplementary information is provided and allow that discovery to proceed until 30 days before trial. For reasonable cause, the court may extend the time for the owner to provide information to the agency and for the agency to complete discovery. If the owner fails to provide supplementary information as required under this subdivision, the court may assess an appropriate sanction in accordance with the Michigan court rules for failing to comply with discovery orders, including, but not limited to, barring the claim. In addition, the court also shall consider any failure to provide timely supplemental information when it determines the maximum reimbursable attorney fees under section 16.

(d) After receiving a written claim from an owner, the agency may provide written notice that it contests the compensability of the claim, establish an amount that it believes to be just compensation for the claim, or reject the claim. If the agency establishes an amount it believes to be just compensation for the claim, the agency shall submit a good faith written offer for the claim. The sum of the good faith written offer for all claims submitted under this subsection or otherwise disclosed in discovery for all items of property or damage plus the original good faith written offer constitutes the good faith written offer for purposes of determining the maximum reimbursable attorney fees under section 16.

(e) If the owner files a claim that is frivolous or in bad faith, the agency is entitled to recover from the owner its actual and reasonable expenses incurred to evaluate the validity and to determine the value of the claim.

(f) A residential tenant's leasehold interest of less than 6 months in the property is not a compensable claim under this act.

(4) In addition to other allegations required or permitted by law, the complaint shall contain or have annexed to it all of the following:

(a) A plan showing the property to be taken.

(b) A statement of purpose for which the property is being acquired, and a request for other relief to which the agency is entitled by law.

(c) The name of each known owner of the property being taken.

(d) A statement setting forth the time within which motions for review under section 6 shall be filed; the amount that will be awarded and the persons to whom the amount will be paid in the event of a default; and the deposit and escrow arrangements made under subsection (5).

(e) A declaration signed by an authorized official of the agency declaring that the property is being taken by the agency. The declaration shall be recorded with the register of deeds of each county within which the property is situated. The declaration shall include all of the following:

(i) A description of the property to be acquired sufficient for its identification and the name of each known owner.

(ii) A statement of the estate or interest in the property being taken. Fluid mineral and gas rights and rights of access to and over the highway are excluded from the rights acquired unless the rights are specifically included.

(iii) A statement of the sum of money estimated by the agency to be just compensation for each parcel of property being acquired.

(iv) Whether the agency reserves or waives its rights to bring federal or state cost recovery actions against the present owner of the property.

(5) When the complaint is filed, the agency shall deposit the amount estimated to be just compensation with a bank, trust company, or title company in the business of handling real estate escrows, or with the state treasurer, municipal

treasurer, or county treasurer. The deposit shall be set aside and held for the benefit of the owners, to be disbursed upon order of the court under section 8.

(6) If the property being taken is a principal residence for which an exemption from certain local taxation is granted under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc, the agency is obligated to pay an additional amount to the owner or owners, which shall be deposited along with the amount estimated to be just compensation as provided in subsection (5). The additional amount shall be determined by subtracting the taxable value from the state equalized value, multiplying that amount by the total property tax millage rate applicable to the property taken, and multiplying that result by the number of years the owner or owners have owned the principal residence, but not more than 5 years.

(7) As used in this section, "taxable value" means that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980 ;-- Am. 1985, Act 68, Imd. Eff. July 1, 1985 ;-- Am. 1993, Act 308, Eff. Jan. 28, 1994 ;-- Am. 1996, Act 474, Imd. Eff. Dec. 26, 1996 ;-- Am. 2006, Act 439, Eff. Dec. 23, 2006

213.56 Challenge by owner; motion to review necessity; hearing; determination by public agency binding on court; judicial determination of public necessity in acquisition by private agency; certificate by public service commission or federal agency as prima facie case; decision of court; final judgment; appeal; conclusive presumption of necessity.
Sec. 6. (1) Within the time prescribed to responsively plead after service of a complaint, an owner of the property desiring to challenge the necessity of acquisition of all or part of the property for the purposes stated in the complaint may file a motion in the pending action asking that the necessity be reviewed. The hearing shall be held within 30 days after the filing of the motion.

(2) With respect to an acquisition by a public agency, the determination of public necessity by that agency is binding on the court in the absence of a showing of fraud, error of law, or abuse of discretion.

(3) Except as otherwise provided in this section, with respect to an acquisition by a private agency, the court at the hearing shall determine the public necessity of the acquisition of the particular parcel. The granting of a permanent or temporary certificate by the public service commission or by a federal agency authorized by federal law to make determinations of public convenience and

necessity as to condemnation constitutes a prima facie case that the project in furtherance of which the particular parcel would be acquired is required by the public convenience and necessity. The granting of a certificate of public convenience and necessity by the public service commission pursuant to the electric transmission line certification act, Act No. 30 of the Public Acts of 1995, being sections 460.561 to 460.575 of the Michigan Compiled Laws, is binding on the court.

(4) The court shall render a decision within 60 days after the date on which the hearing is first scheduled.

(5) The court's determination of a motion to review necessity is a final judgment.

(6) Notwithstanding section 309 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.309 of the Michigan Compiled Laws, an order of the court upholding or determining public necessity or upholding the validity of the condemnation proceeding is appealable to the court of appeals only by leave of that court pursuant to the general court rules. In the absence of a timely filed appeal of the order, an appeal shall not be granted and the order is not appealable as part of an appeal from a judgment as to just compensation.

(7) If a motion to review necessity is not filed as provided in this section, necessity shall be conclusively presumed to exist and the right to have necessity reviewed or further considered is waived.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980 ;-- Am. 1995, Act 31, Imd. Eff. May 17, 1995 ;-- Am. 1996, Act 474, Imd. Eff. Dec. 26, 1996

213.56a Reversal of agency's election of reservation of rights; revised good faith offer; stipulation to reverse agency election and waive cost recovery claim against owner.

Sec. 6a. (1) If an agency elects to reserve its rights to bring a state or federal cost recovery claim against an owner, the court upon motion of the owner, which must be filed within the time prescribed to responsively plead after service of a complaint, may reverse that election and order the agency to waive its claims, if the owner establishes by affidavit, and after an evidentiary hearing if requested by the agency in the time prescribed to provide an answer to a

motion, 1 or more of the following circumstances exist with respect to the property:

(a) The property is a single family residence and has been used solely for residential purposes.

(b) The property is "agricultural property" as defined in section 20101 of part 201 (environmental remediation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.20101 of the Michigan Compiled Laws, and the reservation of rights arises out of a release of hazardous substances caused by the application of a fertilizer, soil conditioner, agronomically applied manure, or a pesticide or a combination of these substances according to label directions and according to generally accepted agricultural and management practices, as defined by the Michigan right to farm act, Act No. 93 of the Public Acts of 1981, being sections 286.471 to 286.474 of the Michigan Compiled Laws.

(c) The owner is the only identified potentially responsible party, the extent of contamination and cost of remediation has been reasonably quantified, and the estimated cost of remediation does not exceed the agency's appraised value of the property.

(2) If the court reverses the agency's election of reservation of rights under subsection (1), the agency shall submit to the owner a revised good faith offer. The revised good faith offer shall be considered the good faith offer for purposes of sections 5 and 16.

(3) An agency and an owner may stipulate that the agency will reverse its election and waive its rights to bring a state or federal cost recovery claim against an owner.

History: Add. 1993, Act 308, Eff. Jan. 28, 1994 ;-- Am. 1996, Act 58, Imd. Eff. Feb. 26, 1996

213.57 Vesting of title in agency; vesting of right to just compensation; delay or denial.

Sec. 7. (1) If a motion to review necessity is not filed under section 6, the title to the property described in the petition shall vest in the agency as of the date on which the complaint was filed. The right to just compensation shall then vest in the persons entitled to the compensation and be secured as provided in this act. If the motion to review necessity is denied after a hearing and after any

further right to appeal has terminated, title to the property shall also vest in the agency as of the date on which the complaint was filed or such other date as the court may set upon motion of the agency.

(2) Vesting of title in the agency shall not be delayed or denied because of any of the following:

(a) A motion filed under section 6a, challenging the agency's election to reserve its rights to bring federal or state cost recovery actions.

(b) A motion challenging the agency's escrow under section 8.

(c) An allegation that the agency should have offered a higher amount for the property.

(d) An allegation that the agency should have included additional property in its good faith written offer.

(e) Any other reason except a challenge to the necessity of the acquisition filed under section 6.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980 ;-- Am. 1993, Act 308, Eff. Jan. 28, 1994 ;-- Am. 1996, Act 474, Imd. Eff. Dec. 26, 1996

213.58 Payment by escrowee of money deposited; funds remaining in escrow as security for remediation costs; court order; released funds; circumstances; reversal of agency's election under MCL 213.56a(1); applicability of subsections (2) and (3); "principal residence" defined.
Sec. 8. (1) Except as provided in subsections (2) and (3), if a motion for review under section 6 is not filed or is denied and the right to appeal has terminated or if interim possession is granted under section 9, the court shall order the escrowee to pay the money deposited under section 5 for or on account of the just compensation that may be awarded under section 13. Except as provided in subsections (2) and (3), if a motion for review under section 6 is not filed, the court shall, within 30 days, order the escrowee to pay the money deposited under section 5 for or on account of the just compensation that may be awarded under section 13. Upon the motion of any party, the court shall apportion the estimated compensation among the claimants to the compensation.

(2) Except as provided in subsection (5), if the agency reserves its rights to bring a state or federal cost recovery claim against an owner, under circumstances that the court considers just, the court may allow any portion of the money deposited under section 5 to remain in escrow as security for remediation costs of environmental contamination on the condemned parcel. An agency shall present an affidavit and environmental report establishing that the funds placed on deposit under section 5 are likely to be required to remediate the property. The amount in escrow shall not exceed the likely costs of remediation if the property were used for its highest and best use. This subsection does not limit or expand an owner's or agency's rights to bring federal or state cost recovery claims.

(3) Notwithstanding any order entered by the court requiring money deposited pursuant to section 5 to remain in escrow for the payment of estimated remediation costs of contaminated property, the funds in escrow, plus interest subject to section 15, shall be released among the claimants to the just compensation under circumstances that the court considers just, including any of the following circumstances:

(a) The court finds that the applicable statutory requirements for remediation have changed and the amount remaining in escrow is no longer required in full or in part to remediate the alleged environmental contamination.

(b) The court finds that the anticipated need for the remediation of the alleged environmental contamination is not required or is not required to the extent of the funds remaining on deposit.

(c) If the remediation of the property is not initiated by the agency within 2 years of surrender of possession pursuant to section 9 and the agency is unable to show good cause for delay.

(d) The costs actually expended for remediation are less than the estimated costs of remediation or less than the amount of money remaining in escrow.

(e) A court issues an order of apportionment of remediation responsibility.

(4) If the court orders the agency to reverse its election under section 6a(1), the court shall order the escrowee to pay the amount of the revised good faith written offer for or on account of the just compensation that may be awarded pursuant to section 13, and to pay the balance of the escrow to the agency. If

the agency seeks possession before the court decides whether to reverse the agency's election or before submitting a revised good faith offer, the agency may request that the court order a portion of the escrow withheld in anticipation of a reduction in the revised good faith offer, with the balance to be paid by the escrowee for or on account of the just compensation that may be awarded pursuant to section 13. If the court denies the request to reverse the agency's election or when the revised good faith offer is submitted, the court shall order the escrowee to pay any unpaid portion of it for or on account of the owner and to pay any balance to the agency.

(5) Subsections (2) and (3) do not apply to money deposited under section 5 in escrow for the payment of just compensation for an owner's principal residence, if the principal residential structure is actually taken or the amount of the property taken leaves less property contiguous to the principal residential structure than the minimum lot size if the local governing unit has implemented a minimum lot size by zoning ordinance. This subsection does not limit or expand an owner's or agency's rights to bring federal or state cost recovery claims. As used in this subsection, "principal residence" means a principal residence for which an exemption from certain local taxation is granted under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980 ;-- Am. 1993, Act 308, Eff. Jan. 28, 1994 ;-- Am. 1996, Act 474, Imd. Eff. Dec. 26, 1996 ;-- Am. 2006, Act 438, Eff. Dec. 23, 2006

213.59 Surrender of possession of property to agency; time and terms; enforcement; granting interim possession to private agency; indemnity bond; appeal; liability for damages; repayment as condition of order setting aside determination of public necessity; delay or denial; escrow payment; relocation; "comparable replacement dwelling" defined.

Sec. 9. (1) If a motion for review under section 6 is not filed, upon expiration of the time for filing the motion for review, or, if a motion for review is filed, upon final determination of the motion, the court shall fix the time and terms for surrender of possession of the property to the agency and enforce surrender by appropriate order or other process. The court also may require surrender of possession of the property after the motion for review filed under section 6 has been heard, determined and denied by the circuit court, but before a final determination on appeal, if the agency demonstrates a reasonable need.

(2) If interim possession is granted to a private agency, the court, upon motion of the owner, may order the private agency to file an indemnity bond in an

amount determined by the court as necessary to adequately secure just compensation to the owner for the property taken.

(3) If an order granting interim possession is entered, an appeal from the order or any other part of the proceedings shall not act as a stay of the possession order. An agency is liable for damages caused by the possession if its right to possession is denied by the trial court or on appeal.

(4) Repayment of all sums advanced shall be a condition precedent to entry of a final order setting aside a determination of public necessity.

(5) Although the court shall not order possession to be surrendered to the agency before it orders that the escrow be distributed under section 8(1) or (4) or retained under section 8(2), the court shall not delay or deny surrender of possession because of any of the following:

(a) A motion filed pursuant to section 6a, challenging the agency's decision to reserve its rights to bring federal or state cost recovery actions.

(b) A motion challenging the agency's escrow under section 8.

(c) An allegation that the agency should have offered a higher amount for the property.

(d) An allegation that the agency should have included additional property in its good faith written offer.

(e) Any other reason except a challenge to the necessity of the acquisition filed under section 6.

(6) The payment of escrow, as ordered under subsection (5), must be made no later than 30 days before physical dispossession. If there is a dispute after the payment is made, the dispute shall be resolved at an apportionment hearing held before physical dispossession.

(7) The following special provisions apply if the surrender of possession of property pursuant to the transfer of title to the property in condemnation proceedings requires the relocation of the owner or another occupant:

(a) If the surrender or possession of property requires the relocation of any individual who occupies a residential dwelling on the property, the individual shall not be required to move from his or her dwelling unless he or she has had a reasonable opportunity not to exceed 180 days after the payment date of moving expenses or the moving allowance provided under 1965 PA 40, MCL 213.351 to 213.355, to relocate to a comparable replacement dwelling.

(b) However, if the agency is complying with applicable federal regulations and procedures regarding payment of compensation or relocation requirements, those federal regulations and procedures take precedence over any conflicting provisions in this section.

(8) As used in this section, "comparable replacement dwelling" means any dwelling that is all of the following:

(a) Decent, safe, and sanitary.

(b) Adequate in size to accommodate the occupants.

(c) Within the financial means of the individual.

(d) Functionally equivalent.

(e) In an area not subject to unreasonable adverse environmental conditions.

(f) In a location generally not less desirable than the location of the individual's dwelling with respect to public utilities, facilities, services, and the individual's place of employment.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980 ;-- Am. 1993, Act 308, Eff. Jan. 28, 1994 ;-- Am. 1996, Act 474, Imd. Eff. Dec. 26, 1996 ;-- Am. 2006, Act 371, Eff. Dec. 23, 2006

213.60 Order fixing date for hearing.

Sec. 10. Upon filing the complaint, the court shall enter an order fixing a day for a hearing which shall not be less than 21 days after the complaint is served. The order shall recite or have annexed to the order the names of the persons mentioned in the complaint as owners, reasonably describe the property to be taken, state the purpose of the complaint, and order the persons to appear before the court at the time fixed in the order for the hearing on the complaint.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980

213.61 Scheduling order; exchange of appraisal reports; opportunity for discovery; appraisal report; testimony relating to value of real property; orders to facilitate compliance.

Sec. 11. (1) Upon motion of either party, the court shall issue a scheduling order to assure that the appraisal reports are exchanged and the parties are afforded a reasonable opportunity for discovery before a case is submitted to mediation, alternative dispute resolution, or trial.

(2) An appraisal report provided pursuant to this section shall fairly and reasonably describe the methodology and basis for the amount of the appraisal. If the testimony or opinion of a person relating to the value of real property would require a license under article 26 of the occupational code, Act No. 299 of the Public Acts of 1980, being sections 339.2601 to 339.2637 of the Michigan Compiled Laws, the appraisal shall comply with section 2609 of Act No. 299 of the Public Acts of 1980, being section 339.2609 of the Michigan Compiled Laws, and the standards adopted under section 2609 of Act No. 299 of the Public Acts of 1980 and the person shall not be permitted to testify or otherwise render an opinion relating to the value of real property unless the person is licensed under that article. An owner is not required to be licensed or to comply with professional appraisal standards to testify to the value of the owner's property.

(3) The court may issue orders to facilitate compliance with this section, including but not limited to orders to require mutual simultaneous exchange of the agency's updated appraisal report, if any, and the owner's appraisal report. If an appraisal report has not been provided pursuant to this section, the appraisal report shall not be considered in mediation or alternative dispute resolution proceedings unless specifically authorized by court order. If an appraisal report has not been provided pursuant to this section, the court may bar the taking of appraisal testimony from the appraisal expert, unless the court finds good cause for the failure and finds that the interests and opportunity of the other party to prepare have not been prejudiced.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980 ;-- Am. 1996, Act 474, Imd. Eff. Dec. 26, 1996

213.62 Just compensation; trial by jury.

Sec. 12. (1) A plaintiff or defendant may demand a trial by jury as to the issue of just compensation pursuant to applicable law and court rules. The jury shall consist of 6 qualified electors selected pursuant to chapter 13 of Act No. 236 of

the Public Acts of 1961, as amended, being sections 600.1301 to 600.1376 of the Michigan Compiled Laws, and shall be governed by court rules applicable to juries in civil cases in circuit court.

(2) Unless there is good cause shown to the contrary, there shall be a separate trial as to just compensation with respect to each parcel.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980

213.63 Just compensation; verdict; division of award.
Sec. 13. The jury or the court shall award in its verdict just compensation for each parcel. After awarding the verdict, on request of any party, the court shall divide the award among the respective parties in interest, whether the interest is that of mortgagee, lessee, lienor, or otherwise, in accordance with proper evidence submitted by the parties in interest.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980

213.63a Duplicative payment prohibited.
Sec. 13a. A person is not entitled to a payment in connection with the acquisition of all or part of that person's property under this act if that payment would be duplicative of any grant or other payment received under any state or federal statute or regulation.

History: Add. 1996, Act 474, Imd. Eff. Dec. 26, 1996

213.64 Notes and exhibits to assist jury.
Sec. 14. To assist the jury in arriving at its verdict the court may allow the jury when it retires to take with it notes and any map, plan, or other exhibit admitted in the case as an exhibit.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980

213.65 Interest on judgment amount.
Sec. 15. (1) The court shall award interest on the judgment amount or part of the amount from the date of the filing of the complaint to the date that payment of the amount or part of the amount is tendered. However, if a portion of the judgment is attributable to damages incurred after the date of surrender of possession, the court shall award interest on that portion of the judgment from the date the damage is incurred.

(2) Interest shall be computed at the interest rate applicable to a federal income tax deficiency or penalty. However, an owner remaining in possession after the date that the complaint is filed waives the interest for the period of the possession.

(3) If it is determined that a de facto acquisition occurred at a date earlier than the date of filing the complaint, interest awarded under this section shall be calculated from the earlier date.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980 ;-- Am. 1996, Act 474, Imd. Eff. Dec. 26, 1996

213.66 Witness fees and compensation; reimbursement of owner's attorney fees and other expenses; matters involving relocation of indigent person; "indigent person" defined.

Sec. 16. (1) Except as provided in this section, an ordinary or expert witness in a proceeding under this act shall receive from the agency the reasonable fees and compensation provided by law for similar services in ordinary civil actions in circuit court, including the reasonable expenses for preparation and trial.

(2) If the property owner, by motion to review necessity or otherwise, successfully challenges the agency's right to acquire the property, or the legal sufficiency of the proceedings, and the court finds the proposed acquisition improper, the court shall order the agency to reimburse the owner for actual reasonable attorney fees and other expenses incurred in defending against the improper acquisition.

(3) If the amount finally determined to be just compensation for the property acquired exceeds the amount of the good faith written offer under section 5, the court shall order reimbursement in whole or in part to the owner by the agency of the owner's reasonable attorney's fees, but not in excess of 1/3 of the amount by which the ultimate award exceeds the agency's written offer as defined by section 5. The reasonableness of the owner's attorney fees shall be determined by the court. If the agency or owner is ordered to pay attorney fees as sanctions under MCR 2.403 or 2.405, those attorney fee sanctions shall be paid to the court as court costs and shall not be paid to the opposing party unless the parties agree otherwise.

(4) If the agency settles a case before entry of a verdict or judgment, it may stipulate to pay reasonable attorney and expert witness fees.

(5) Expert witness fees provided for in this section shall be allowed with respect to an expert whose services were reasonably necessary to allow the owner to prepare for trial. For the purpose of this section, for each element of compensation, each party is limited to 1 expert witness to testify on that element of compensation unless, upon showing of good cause, the court permits additional experts. The agency's liability for expert witness fees shall not be diminished or affected by the failure of the owner to call an expert as a witness if the failure is caused by settlement or other disposition of the case or issue with which the expert is concerned.

(6) Except as provided in subsection (7), an agency is not required to reimburse attorney or expert witness fees attributable to an unsuccessful challenge to necessity or to the validity of the proceedings.

(7) In any matter under this act involving the relocation of an indigent person, other than a proceeding concerning the taking of property for the construction of a government-owned transportation project, the court may award reasonable attorney and expert witness fees attributable to an unsuccessful challenge to necessity or to the validity of the proceedings if the court finds that there was a reasonable and good faith claim that the property was not being taken for a public use. This subsection does not affect the right of an indigent person who successfully challenges the agency's right to acquire the property to recover attorney fees, ordinary or expert witness fees, and other expenses incurred in defending against the improper acquisition, as authorized by subsections (1) to (5). As used in this subsection, "indigent person" means an individual whose annual income is at or below 200% of the federal poverty guidelines published by the United States department of health and human services. This subsection does not apply after December 31, 2007.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980 ;-- Am. 1996, Act 474, Imd. Eff. Dec. 26, 1996 ;-- Am. 2006, Act 370, Eff. Dec. 23, 2006

213.67 Discontinuance.

Sec. 17. The agency shall not discontinue the action after the granting of possession or vesting of title to the property taken. In case of a discontinuance, the agency, as a condition of discontinuance, shall pay the actual expenses, reasonable attorney fees, and actual damages to all the parties affected by the discontinuance as determined by the court.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980

213.68 Reimbursement of expenses in evaluating agency's offer, preparing for trial, or negotiating settlement; enforcement of rights; filing claim.
Sec. 18. (1) If any agency acquires property without commencement of an action or abandons its efforts to acquire property after making the jurisdictional good faith written offer required by section 5 to the owners of the property and if the owners of the property reasonably relied upon the agency's action, the owners shall be reimbursed by the agency for the reasonable expenses incurred in evaluating the agency's good faith written offer, in preparing for trial, or in negotiating a settlement, if those expenses would have been taxable as costs under section 16. For the purpose of this section, the jurisdictional written offer includes only written offers made under threat of institution of judicial proceedings to acquire the property.

(2) The rights created by this section may be enforced in a court having jurisdiction over claims for damages against the agency, or in a court in which an action under this act for the acquisition of the property could have been filed.

(3) The claim for reimbursement of expenses shall be filed within 1 year after the date on which the property is acquired or after the date on which notice of abandonment of the intention to acquire the property is mailed to the owner.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980 ;-- Am. 1996, Act 474, Imd. Eff. Dec. 26, 1996

213.69 Agreement on compensation or method of determining compensation.
Sec. 19. At any stage of the proceedings, the agency and the owner may agree upon all or part of the compensation, or upon a method for determining all or a part of the compensation, and may proceed to have those parts not agreed upon determined as provided in this act. The agency may make payment of a part of the compensation agreed upon, or enter into a contract to pay in the future based upon an agreed method of determining the compensation.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980

213.70 Determination of fair market value.
Sec. 20. (1) A change in the fair market value before the date of the filing of the complaint which the agency or the owner establishes was substantially due to the general knowledge of the imminence of the acquiring by the agency, other than that due to physical deterioration of the property within the reasonable control of the owner, shall be disregarded in determining fair market value.

Except as provided in section 23, the property shall be valued in all cases as though the acquisition had not been contemplated.

(2) The general effects of a project for which property is taken, whether actual or anticipated, that in varying degrees are experienced by the general public or by property owners from whom no property is taken, shall not be considered in determining just compensation. A special effect of the project on the owner's property that, standing alone, would constitute a taking of private property under section 2 of article X of the state constitution of 1963 shall be considered in determining just compensation. To the extent that the detrimental effects of a project are considered to determine just compensation, they may be offset by consideration of the beneficial effects of the project.

(3) The date of acquiring and of valuation in a proceeding pursuant to this act shall be the date of filing unless the parties agree to a different date, or unless a different date is determined by a counterclaim filed under section 21. The value of each parcel, and of a part of a parcel remaining after the acquisition of a part of the parcel, shall be determined with respect to the condition of the property and the state of the market on the date of valuation. However, if anticipated damages are avoided because of changes in the taking or project or changes in the actual effect of the taking or project on the remaining property, the property shall be valued as if those damages had not been anticipated.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980 ;-- Am. 1996, Act 474, Imd. Eff. Dec. 26, 1996

213.71 Counterclaim.

Sec. 21. A defendant may assert as a counterclaim, any claim for damages based on conduct by an agency which constitutes a constructive or de facto taking of property.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980
Compiler's Notes: Former MCL 213.71 to 213.94, deriving from Act 124 of 1883 and pertaining to the taking of property by cities, villages, and counties, were repealed by Act 120 of 1967.

213.72 Lease, sale, or conveyance of property; terms; record.

Sec. 22. If property is acquired by an agency, the agency may lease, sell, or convey any portion not needed, on whatever terms the agency considers proper. A record of the leases and sales, showing the appraised value, the sale price, and other pertinent information, shall be kept in the office of the agency.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980
Compiler's Notes: Former MCL 213.71 to 213.94, deriving from Act 124 of 1883 and pertaining to the taking of property by cities, villages, and counties, were repealed by Act 120 of 1967.

213.73 Enhancement in value as consideration in determining compensation; complaint; compensation; requiring agency to acquire portion claimed to be enhanced; burden of proof.

Sec. 23. (1) Enhancement in value of the remainder of a parcel, by laying out, altering, widening, or other types of improvement; by changing the scope or location of the improvement; or by either action in combination with discontinuing an improvement, shall be considered in determining compensation for the taking.

(2) When enhancement in value is to be considered in determining compensation, the agency shall set forth in the complaint the fact that enhancement benefits are claimed and describe the construction proposed to be made which will create the enhancement. If the construction is not completed in substantial compliance with the plan upon which the agency based its claim of enhancement benefits, the owner may reopen the question of compensation within 1 year after the termination of construction. If the construction is not in substantial compliance, the owner is entitled to the difference between the value of the property as affected by the actual construction and the value of the property as it would have been, had construction been completed according to plan. The owner shall not recover more compensation than would have been payable if there was not a claim of enhancement benefits.

(3) Upon demand of the owner before trial, the court may require the agency to acquire that portion of the remainder of the tract which the agency claims to be enhanced if the agency claims enhancement. This subsection shall not apply if the agency withdraws its claim of enhancement benefits before trial.

(4) The agency has the burden of proof with respect to the existence of enhancement benefits.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980
Compiler's Notes: Former MCL 213.71 to 213.94, deriving from Act 124 of 1883 and pertaining to the taking of property by cities, villages, and counties, were repealed by Act 120 of 1967.

213.74 Coercive actions prohibited.

Sec. 24. In order to compel an agreement on the price to be paid for the property, an agency may not advance the time of condemnation, defer

negotiations or condemnation, defer the deposit of funds for the use of the owner, nor take any other action coercive in nature.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980
Compiler's Notes: Former MCL 213.71 to 213.94, deriving from Act 124 of 1883 and pertaining to the taking of property by cities, villages, and counties, were repealed by Act 120 of 1967.

213.75 Commencement of actions for acquisition of property.

Sec. 25. All actions for the acquisition of property by an agency under the power of eminent domain shall be commenced pursuant to and be governed by this act. Amendments made to this act by the amendatory act that added this sentence shall apply to all good faith written offers made after the effective date of the amendatory act that added this sentence.

History: 1980, Act 87, Imd. Eff. Apr. 8, 1980 ;-- Am. 1980, Act 309, Imd. Eff. Dec. 4, 1980 ;-- Am. 1985, Act 68, Imd. Eff. July 1, 1985 ;-- Am. 1996, Act 474, Imd. Eff. Dec. 26, 1996
Compiler's Notes: Former MCL 213.71 to 213.94, deriving from Act 124 of 1883 and pertaining to the taking of property by cities, villages, and counties, were repealed by Act 120 of 1967.

213.76, 213.77 Repealed. 1996, Act 474, Imd. Eff. Dec. 26, 1996.

Compiler's Notes: The repealed sections pertained to repeal of MCL 213.26 to 213.41, 213.366 to 213.390, and 486.252a to 486.252j.

ALLOWANCES FOR MOVING PERSONAL PROPERTY FROM ACQUIRED REAL PROPERTY
Act 40 of 1965

AN ACT to authorize and require public agencies to pay allowances for the expense of moving personal property from real property acquired for public purposes.

History: 1965, Act 40, Imd. Eff. May 19, 1965

The People of the State of Michigan enact:

213.351 Property acquired for public purposes; definitions.

Sec. 1. As used in this act:

(a) “Occupant” means an individual, family, business, including the operation of a farm, or a nonprofit organization, required by a public agency to vacate real property because of a public improvement project.

(b) “Family” means 2 or more persons who are living together in the same quarters.

(c) “Moving expense” means the cost of dismantling, disconnecting, crating, loading, insuring, temporary storing, transporting, unloading, reassembling, reconnecting and reinstalling of personal property, exclusive of trade fixtures and exclusive of the cost of any improvements, alterations or any other changes in or to any structure in effecting such reinstallation.

History: 1965, Act 40, Imd. Eff. May 19, 1965

213.352 Occupant who vacates real property; moving expense for personal property; conditions; “personal property” explained; attorney fees and costs; precedence of federal regulations and procedures.

Sec. 2. (1) An occupant who vacates real property on or after May 15, 1965, pursuant to the provisions of a written agreement to purchase the property or pursuant to the provisions of a written agreement for possession and use of the property or pursuant to the transfer of title to the property in condemnation proceedings, shall be reimbursed by the public agency for the reasonable and necessary moving expense for moving his or her personal property not more than 50 miles, subject to the following conditions:

(a) The maximum payment to an individual or family shall not exceed $5,250.00. The maximum payment to a business, including the operation of a farm, or a nonprofit organization shall not exceed $15,000.00.

(b) An individual or a family may elect to receive a fixed moving allowance, in lieu of actual moving expense, based on a schedule of payments established by the acquiring agency taking into consideration the maximum payment allowed, the number of rooms and other factors.

(c) Instead of any other payment under this act, other state law, or federal law, an occupant of residential property who has a leasehold interest of less than 6 months is entitled to elect a fixed payment of $3,500.00. If the occupant does not elect this fixed payment, the occupant may receive a moving allowance as determined under subdivisions (a) and (b).

(d) Except as provided in section 9 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.59, payment shall not be made to an occupant until

after the occupant has vacated the real property unless the payment is required to enable the occupant to relocate.

(2) As used in this section, "personal property" does not include a fixture, whether removable or not.

(3) The court may award reasonable attorney fees and costs to an individual described in subsection (1)(c) who brings a successful action to recover a fixed payment or a moving allowance under subsection (1).

(4) Notwithstanding subsections (1) to (3), if the public agency is complying with applicable federal regulations and procedures regarding moving allowances and relocation requirements, those federal regulations and procedures take precedence over any conflicting provisions in this section.

History: 1965, Act 40, Imd. Eff. May 19, 1965 ;-- Am. 1991, Act 21, Imd. Eff. May 16, 1991 ;-- Am. 2006, Act 369, Eff. Dec. 23, 2006

213.353 Payments allowed by federal regulation; payments, number.
Sec. 3. The maximum payments imposed by section 2 do not prohibit payments made in accordance with applicable regulations for federal reimbursement which payments are hereby authorized, provided such payments are at least equal to payments under section 2. If payment is made in accordance with applicable federal regulation, payment shall not also be made pursuant to section 2. In no event shall more than 1 payment be made to the same occupant for the same occupancy. After the occupant has vacated the property, no payment may thereafter be paid to any party with respect to the subsequent occupancy of the same property.

History: 1965, Act 40, Imd. Eff. May 19, 1965

213.354 Moving allowances; paid for highway projects.
Sec. 4. Moving allowances paid because of highway projects are deemed to be a highway purpose and a cost of highway construction.

History: 1965, Act 40, Imd. Eff. May 19, 1965

213.355 Moving allowances; additional to compensation; not considered in condemnation proceedings.

Sec. 5. Moving allowances are independent of and in addition to compensation for land, buildings or property rights. The cost of moving personal property is not subject to consideration in condemnation proceedings for the acquisition of land, buildings or property rights.

History: 1965, Act 40, Imd. Eff. May 19, 1965

C. CONVENTION, TOURISM & RECREATION

COUNTY AND REGIONAL PARKS
Act 261 of 1965

AN ACT to authorize the creation and to prescribe the powers and duties of county and regional parks and recreation commissions; and to prescribe the powers and duties of county boards of commissioners with respect to county and regional parks and recreation commissions.

History: 1965, Act 261, Imd. Eff. July 21, 1965 ;-- Am. 2000, Act 496, Imd. Eff. Jan. 11, 2001

The People of the State of Michigan enact:

46.351 County parks and recreation commission; creation; membership; terms; vacancy; commission as county agency; rules and regulations; compensation.

Sec. 1. (1) The county board of commissioners of a county, by resolution adopted by a 2/3 vote of all its members, may create a county parks and recreation commission, which shall be under the general control of the board of commissioners.

(2) The county parks and recreation commission shall consist of the following members:

(a) The chairperson of the county road commission or another road commissioner designated by the board of county road commissioners.

(b) The county drain commissioner or an employee of the drain commissioner's office designated in writing by the drain commissioner.

(c) One of the following:

(i) In a county that elects a county executive under section 9 of 1973 PA 139, MCL 45.559, the county executive or a designee of the county executive.

(ii) In a county with a population of 1,000,000 or less, the chairperson of the county planning commission or another member of the county planning commission designated by the county planning commission. In a county that does not have a county planning commission, the chairperson of the regional planning commission shall serve on the county parks and recreation commission if that person is a resident of that county. If the chairperson of the regional planning commission is not a resident of that county, then the board shall, by a 2/3 vote, appoint a member of the regional planning commission who is a resident of that county to serve on the county parks and recreation commission.

(d) Seven members appointed by the county board of commissioners, not less than 1 and not more than 3 of whom shall be members of the board of commissioners.

(e) For counties with a population greater than 750,000 but less than 1,000,000, the county board of commissioners shall appoint a neighborhood representative. The appointee under this subdivision shall be an officer of the homeowners or property owners association that represents the largest area geographically that is located totally or partially within 1,000 feet of the property boundary of the most frequently used county park who is willing to serve on the county parks and recreation commission. If a homeowners or property owners association is not located within 1,000 feet of that park or no officer is willing to serve, then the appointee shall be a resident who lives within 1/2 mile of that park and who is willing to serve on the county parks and recreation commission. If no resident lives within 1/2 mile of that park or no resident is willing to serve, then the appointee shall be a resident of the city, village, or township in which that park is located who is willing to serve on the county parks and recreation commission. The first appointment under this subdivision shall be made not more than 60 days from October 17, 2003 or not more than 60 days from the date a county qualifies for an appointment under this subdivision.

(3) Of the members first appointed by the county board of commissioners, 2 shall be appointed for a term ending 1 year from the following January 1, 2 for a term ending 2 years from the following January 1, and 3 for a term ending 3 years from the following January 1. The first member appointed by a qualifying county under subsection (2)(e) shall be appointed for a term ending 2 years

from the following January 1. From then on, each appointed member shall be appointed for a term of 3 years and until his or her successor is appointed and qualified. Each term shall expire at noon on January 1. A vacancy shall be filled by the county board of commissioners for the unexpired term.

(4) The county parks and recreation commission is an agency of the county. The county board of commissioners may make rules and regulations with respect to the county parks and recreation commission as the board of commissioners considers advisable. The members of the county parks and recreation commission are not full-time officers. The county board of commissioners shall fix the compensation of the members.

History: 1965, Act 261, Imd. Eff. July 21, 1965 ;-- Am. 1981, Act 223, Eff. Mar. 31, 1982 ;-- Am. 1986, Act 99, Imd. Eff. May 14, 1986 ;-- Am. 1990, Act 84, Imd. Eff. May 25, 1990 ;-- Am. 2000, Act 496, Imd. Eff. Jan. 11, 2001 ;-- Am. 2003, Act 187, Imd. Eff. Oct. 17, 2003 ;-- Am. 2006, Act 588, Imd. Eff. Jan. 3, 2007

46.352 Regional parks and recreation commission; creation; membership; terms; vacancies; compensation.

Sec. 2. The county boards of commissioners of 2 or more contiguous counties, by resolution adopted by a 2/3 vote of the members of each board, may create a regional parks and recreation commission. The commission shall consist of 4 members from each county including the chairperson of the county road commission or another road commissioner designated by the board of county road commissioners, and 3 members appointed by the county board of commissioners, at least 1 and not more than 2 of whom shall be members of the board of commissioners. Of the members first appointed, 1 each shall be appointed for terms ending 1, 2, and 3 years from the following January 1. Thereafter, each appointed member shall be appointed for a term of 3 years and until his or her successor is appointed and qualified. A vacancy shall be filled by the county board of commissioners for the unexpired term. Members of the regional parks and recreation commission shall not be full-time officers, and the regional parks and recreation commission shall fix the compensation of its members.

History: 1965, Act 261, Imd. Eff. July 21, 1965 ;-- Am. 1986, Act 99, Imd. Eff. May 14, 1986

46.353 County commission and regional commission; election and terms of officers; treasurer; quorum; conducting business at public meeting; notice of meeting; bylaws; contracts.

Sec. 3. Each January a county commission and a regional commission shall elect from its membership a president, a secretary, and other officers as it considers necessary. The officers shall hold office for the calendar year in which they are elected and until their successors are elected and qualified. The county treasurer shall be treasurer of a county commission and the county treasurer of the county furnishing the larger portion of the approved budget shall be treasurer of a regional commission. A majority of the members of the commission shall constitute a quorum for the transaction of business and the business which a county or regional commission may perform shall be conducted at a public meeting of the county or regional commission held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. The county board of commissioners may authorize a county commission to adopt bylaws and enter into contracts. A regional commission may adopt bylaws and enter into contracts.

History: 1965, Act 261, Imd. Eff. July 21, 1965 ;-- Am. 1966, Act 242, Imd. Eff. July 11, 1966 ;-- Am. 1977, Act 167, Imd. Eff. Nov. 17, 1977

46.354 County commission; appropriation for expenses.

Sec. 4. The board of supervisors in its annual budget may provide for the expenses of a county commission, which shall be limited in its expenditures to amounts so appropriated unless a further appropriation is made by the board of supervisors.

History: 1965, Act 261, Imd. Eff. July 21, 1965

46.355 Regional commission; appropriation or tax levy; annual budget, approval, effect.

Sec. 5. The boards of supervisors of each county included in a region shall provide funds for a regional commission's operations by an appropriation from the general fund of the county, or by a tax levy for this purpose authorized by a vote of the qualified electors in each county. The commission annually shall present a budget to the boards of supervisors of the counties in the region. Upon approval of such budget by a majority of each of the boards of supervisors, the proposed budget shall be effective in all counties in the region. That part of the approved budget which is not financed by receipts from fees, gifts and other private sources shall be apportioned among the several counties on the basis of tax valuation. All appropriations shall be paid to the commission and disbursed under its direction.

History: 1965, Act 261, Imd. Eff. July 21, 1965

46.356 County and regional commissions; study of facilities and needs, plan.

Sec. 6. A county or regional commission may study and ascertain the county or regions park, preserve, parkway and recreation and other conservation facilities, the need for such facilities and the extent to which such needs are being currently met, and prepare and adopt a coordinated plan of areas and facilities to meet such needs.

History: 1965, Act 261, Imd. Eff. July 21, 1965

46.357 Filing of records, proposals, plans, and programs; availability of certain writings to public.

Sec. 7. (1) A county or regional commission shall file with the department of natural resources a record of its land ownership, proposals for acquisition of land, and its general development plans and programs for improvement and maintenance of the land.

(2) A writing prepared, owned, used, in the possession of, or retained by a county or regional commission, in the performance of an official function shall be available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1965, Act 261, Imd. Eff. July 21, 1965 ;-- Am. 1966, Act 242, Imd. Eff. July 11, 1966 ;-- Am. 1977, Act 167, Imd. Eff. Nov. 17, 1977

46.358 County and regional commissions; acquisition of property.

Sec. 8. A county commission may acquire in the name of the county and a regional commission may acquire in its name by gift, purchase, lease, agreement, or otherwise, in fee or with conditions, suitable real property, within the county or region, or contiguous with or adjacent thereto, for public parks, preserves, parkways, playgrounds, recreation centers, wildlife areas, lands reserved for flood conditions for impounding runoff water, and other conservation purposes. In acquiring or accepting land, due consideration shall be given to its scenic, historic, archaeologic, recreational or other special features.

History: 1965, Act 261, Imd. Eff. July 21, 1965

46.359 County and regional commissions; condemnation of private property.

Sec. 9. A county operating under this act or a regional commission may take private property necessary for any purpose within the scope of its powers under this act, for the use or benefit of the public, and institute and prosecute proceedings for that purpose under and in accordance with Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948.

History: 1965, Act 261, Imd. Eff. July 21, 1965

46.359a County and regional commissions; condemnation of property in another county.

Sec. 9a. A county or regional commission desiring to acquire real property in another county not a member of a regional commission, shall notify the board of supervisors of the county wherein the real property to be taken is located of its intentions to institute proceedings under section 9; and, unless the members of the board of supervisors by a majority vote disapprove the contemplated action within 60 days of the receipt of notification by certified mail of such contemplated action the county or regional commission may proceed to institute proceedings pursuant to the provisions of section 9.

History: Add. 1968, Act 102, Imd. Eff. June 7, 1968

46.360 County and regional commission; acceptance of gifts and bequests, grants-in-aid.

Sec. 10. A county commission may accept in the name of the county and a regional commission may accept in its name gifts, bequests, grants-in-aid, contributions and appropriations of money and other personal property for conservation purposes.

History: 1965, Act 261, Imd. Eff. July 21, 1965 ;-- Am. 1966, Act 242, Imd. Eff. July 11, 1966

46.361 County and regional commissions; development and operation of facilities.

Sec. 11. A county or regional commission may plan, develop, preserve, administer, maintain and operate park and recreational places and facilities and construct, reconstruct, alter and renew buildings and other structures.

History: 1965, Act 261, Imd. Eff. July 21, 1965

46.362 County and regional commissions; custody, control and management of property.
Sec. 12. A county or regional commission shall have the custody, control and management of all real and personal property acquired by the county or a regional commission for public parks, preserves, parkways, playgrounds, recreation centers, wildlife areas, lands reserved for flood conditions for impounding runoff water, and other county conservation or recreation purposes.

History: 1965, Act 261, Imd. Eff. July 21, 1965

46.363 County and regional commissions; installation and maintenance of roads and parking facilities.
Sec. 13. A county or regional commission may install and maintain road and parking facilities within areas under its control.

History: 1965, Act 261, Imd. Eff. July 21, 1965

46.364 County and regional commissions; rules; violation of rules as misdemeanor; penalty; prohibited operation of vehicle as municipal civil infraction; enforcement; park rangers; police services.
Sec. 14. (1) A county or regional commission may adopt, amend, or repeal rules for the protection, regulation, and control of its facilities and areas with the approval of the county board or boards of commissioners.

(2) Rules shall not be contrary to or inconsistent with the laws of this state. Rules shall not take effect until all of the following occur:

(a) The elapse of 9 days after the rules are adopted by the county or regional commission.

(b) The publication of the rules once a week for 2 consecutive weeks in a newspaper of general circulation in the county in which the area or facility to which the rules apply is located.

(c) The posting of a copy of the rules near each gate or principal entrance to the area or facility.

(3) Except as provided in subsection (4), a person who violates a rule adopted by a county or regional commission is guilty of a misdemeanor punishable by a

fine of not more than $100.00 and costs of prosecution or by imprisonment for not more than 90 days, or both.

(4) The operation of a vehicle on a recreational trailway at a time, in a place, or in a manner prohibited by a rule adopted by a county or regional commission is a municipal civil infraction, whether or not so designated by the rule. A civil fine ordered for a municipal civil infraction described in this subsection shall not exceed the maximum amount of a fine provided by the rule or $500.00, whichever is less. An act or omission described in this subsection is not a municipal civil infraction if that act or omission constitutes a violation or crime that is excluded from the definition of municipal civil infraction in section 113 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.113 of the Michigan Compiled Laws.

(5) A county or regional commission may appoint park rangers who may be deputized by a sheriff to enforce the laws of this state. Whether deputized or not, park rangers may enforce the rules adopted by a county or regional commission and have the powers, privileges, and immunities conferred upon peace officers by the laws of this state. A park ranger shall not be appointed unless he or she meets the minimum standards established by the law enforcement officers training council. Park rangers shall exercise their authority and powers only on lands, waters, and property administered by or under the jurisdiction of a county or regional commission.

(6) A county or regional commission may contract with townships, cities, villages, or sheriffs for police services required under this section and may appropriate and expend funds for those services.

History: 1965, Act 261, Imd. Eff. July 21, 1965 ;-- Am. 1968, Act 216, Eff. Aug. 1, 1968 ;-- Am. 1994, Act 84, Eff. Oct. 1, 1994

46.365 County and regional commissions; charges and fees, collection, payment to county treasurer, uses.

Sec. 15. A county or regional commission may charge and collect reasonable fees for the use of the facilities, privileges and conveniences provided. All charges and fees for the use of county facilities, privileges and conveniences shall be paid over to the county treasurer, and for the use of regional facilities, privileges and conveniences shall be used for the expenses of the regional commission.

History: 1965, Act 261, Imd. Eff. July 21, 1965

46.366 County and regional commission; employment of personnel, executive officer.
Sec. 16. A county commission may employ such personnel as may be authorized by the board of supervisors, including an executive officer. A regional commission may employ its personnel, including an executive officer.

History: 1965, Act 261, Imd. Eff. July 21, 1965

46.367 Park and recreational places; revenue bonds; resolution; issuance of bonds or notes; negotiability; interest; tax exemption; limitations; applicable law; amount of borrowings.
Sec. 17. (1) Any county operating under this act, by resolution adopted by a majority of the members elect of its governing body, and with a vote of the majority of the electors of the county voting on the question, may borrow money, pledge its full faith and credit for repayment, and issue its bonds or notes to pay all or part of the cost of acquiring, planning, and developing park and recreational places, and constructing, reconstructing, altering, or renewing buildings and other structures related to said park and recreational places.

(2) The revenue bonds shall be issued pursuant to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, or any other applicable act.

(3) Bonds or notes shall be authorized by a resolution adopted by a majority of the members elect of the governing body of the county operating under this act. The full faith and credit of the county may be pledged for the prompt payment of the principal and interest on any borrowing by a county pursuant to this act. The county's full faith and credit may be pledged to the payment of principal and interest of revenue bonds notwithstanding any provision of law. Any bonds or notes shall be issued in the name of the county operating under this act and shall be executed by the chairperson of the county board of commissioners and the county clerk, who shall also cause their facsimile signatures to be affixed to any interest coupons to be attached to any bonds. The county clerk shall affix to the bonds or notes the seal of the county. Bonds or notes issued under this act are negotiable instruments and shall mature in not more than 40 years from the date of issue. The bonds or notes and the interest on the bonds and notes are exempt from taxation by this state or by any taxing authority within this state.

(4) The issuance of bonds or notes under this act is subject to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The amount of borrowings by a county pursuant to this act shall not be subject

to any limitations or provisions contained in any law applicable to the county except that a county may not borrow pursuant to this act in an amount which taken together with other indebtedness of the county will exceed 10% of the assessed valuation of the county as last equalized by the state.

History: Add. 1969, Act 104, Eff. Mar. 20, 1970 ;-- Am. 1983, Act 177, Imd. Eff. Oct. 14, 1983 ;-- Am. 2002, Act 200, Imd. Eff. Apr. 29, 2002

ACQUISITION OF PARKS
Act 153 of 1996

AN ACT to provide for the acquisition and improvement of parks by certain local units of government; to provide for special assessments; and to provide for the issuance of bonds.

History: 1996, Act 153, Imd. Eff. Apr. 3, 1996

The People of the State of Michigan enact:

141.321 Definitions.
Sec. 1. As used in this act:

(a) “Park” means an area of land or water, or both, dedicated to 1 or more of the following uses:

(i) Recreational purposes, including but not limited to landscaped tracts; picnic grounds; playgrounds; athletic fields; camps; campgrounds; zoological and botanical gardens; swimming, boating, hunting, fishing, and birding areas; and foot and bridle paths.

(ii) Open or scenic space.

(iii) Environmental, conservation, nature, or wildlife areas.

(b) “Record owner” means an individual, partnership, corporation, limited liability company, association, or other legal entity, possessed of the most recent fee title or a land contract vendee's interest in land as shown by the records of the county register of deeds.

History: 1996, Act 153, Imd. Eff. Apr. 3, 1996

141.322 Acquisition or improvement of parks; financing; establishment of special assessment district; petition; acquisition by condemnation prohibited; scope of powers.

Sec. 2. (1) The county board of commissioners of a county may acquire or improve a park, defray all or part of the cost of the park acquisition or improvement by special assessments, and finance the park acquisition or improvement by borrowing money and issuing bonds in anticipation of the collection of the special assessments, in the same manner as a board of county road commissioners proceeding under sections 1 to 17 of Act No. 246 of the Public Acts of 1931, being sections 41.271 to 41.287 of the Michigan Compiled Laws. However, the proceedings for the establishment of a special assessment district shall be initiated by filing with the county board of commissioners a petition meeting both of the following requirements:

(a) The petition is signed by record owners of land constituting not less than 2/3 of the total land area in the special assessment district as finally established.

(b) The petition is signed by 2/3 of the record owners of land in the special assessment district as finally established.

(2) The city council of a city organized under the fourth class city act, Act No. 215 of the Public Acts of 1895, being sections 81.1 to 113.20 of the Michigan Compiled Laws, may acquire or improve a park, defray all or part of the cost of the park acquisition or improvement by special assessments, and finance the park acquisition or improvement by borrowing money and issuing bonds in anticipation of the collection of the special assessments, in the same manner as authorized in an ordinance adopted under chapter XXIVA of Act No. 215 of the Public Acts of 1895, being sections 104A.1 to 104A.5 of the Michigan Compiled Laws. However, the proceedings for the establishment of a special assessment district shall be initiated by the filing of a petition meeting both of the following requirements:

(a) The petition is signed by record owners of land constituting not less than 2/3 of the total land area in the special assessment district as finally established.

(b) The petition is signed by 2/3 of the record owners of land in the special assessment district as finally established.

(3) The legislative body of a city organized under the home rule city act, Act No. 279 of the Public Acts of 1909, being sections 117.1 to 117.38 of the

Michigan Compiled Laws, may acquire or improve a park, defray all or part of the cost of the park acquisition or improvement by special assessments, and finance the park acquisition or improvement by borrowing money and issuing bonds in anticipation of the collection of the special assessments, in the same manner as authorized for other public improvements in charter provisions adopted under sections 4a(7) and 4d of Act No. 279 of the Public Acts of 1909, being sections 117.4a and 117.4d of the Michigan Compiled Laws. However, the proceedings for the establishment of a special assessment district shall be initiated by the filing of a petition meeting both of the following requirements:

(a) The petition is signed by record owners of land constituting not less than 2/3 of the total land area in the special assessment district as finally established.

(b) The petition is signed by 2/3 of the record owners of land in the special assessment district as finally established.

(4) The legislative body of a village or the township board of a township may acquire or improve a park, defray all or part of the cost of the park acquisition or improvement by special assessments, and finance the park acquisition or improvement by borrowing money and issuing bonds in anticipation of the collection of special assessments, in the same manner as authorized by sections 1, 2, 3, and 4 of the township and village public improvement and public service act, Act No. 116 of the Public Acts of 1923, being sections 41.411, 41.412, 41.413, and 41.414 of the Michigan Compiled Laws. The proceedings for the establishment of a special assessment district shall be initiated by filing a petition meeting both of the following requirements:

(a) The petition is signed by record owners of land constituting not less than 2/3 of the total land area in the special assessment district as finally established.

(b) The petition is signed by 2/3 of the record owners of land in the special assessment district as finally established.

History: 1996, Act 153, Imd. Eff. Apr. 3, 1996

141.323 Condemnation prohibited.

Sec. 3. A county, township, city, or village shall not acquire property for a park under this act by condemnation. Property shall instead be acquired from a willing seller.

History: 1996, Act 153, Imd. Eff. Apr. 3, 1996

141.324 Additional powers not limited.
Sec. 4. The powers granted by this act are in addition to, and not a limitation on, those granted by law or charter.

History: 1996, Act 153, Imd. Eff. Apr. 3, 1996

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPTS)
Act 451 of 1994

PART 19
NATURAL RESOURCES TRUST FUND,

324.1901 Definitions.
Sec. 1901. As used in this part:

(a) "Board" means the Michigan natural resources trust fund board established in section 1905.

(b) "Economic development revenue bonds (oil and gas revenues), series 1982A, dated December 1, 1982" includes bonds refunding these bonds, provided that any refunding bonds mature no later than September 1, 1994.

(c) "Local unit of government" means a county, city, township, village, school district, the Huron-Clinton metropolitan authority, or any authority composed of counties, cities, townships, villages, or school districts, or any combination thereof, which authority is legally constituted to provide public recreation.

(d) "Total expenditures" means the amounts actually expended from the trust fund as authorized by section 1903(1) and (2).

(e) "Trust fund" means the Michigan natural resources trust fund established in section 35 of article IX of the state constitution of 1963.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.1902 Michigan natural resources trust fund; establishment; contents; transfer of amount to Michigan state parks endowment fund; receipts; investment; report on accounting of revenues and expenditures; "Michigan state parks endowment fund" defined.

Sec. 1902. (1) In accordance with section 35 of article IX of the state constitution of 1963, the Michigan natural resources trust fund is established in the state treasury. The trust fund shall consist of all bonuses, rentals, delayed rentals, and royalties collected or reserved by the state under provisions of leases for the extraction of nonrenewable resources from state owned lands. However, the trust fund shall not include bonuses, rentals, delayed rentals, and royalties collected or reserved by the state from the following sources:

(a) State owned lands acquired with money appropriated from the former game and fish protection fund or the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010.

(b) State owned lands acquired with money appropriated from the subfund account created by former section 4 of former 1976 PA 204.

(c) State owned lands acquired with money appropriated from related federal funds made available to the state under 16 USC 669 to 669i, commonly known as the federal aid in wildlife restoration act, or 16 USC 777 to 777l, commonly known as the federal aid in fish restoration act.

(d) Money received by the state from net proceeds allocable to the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986, 26 USC 29, as provided for in section 503.

(2) Notwithstanding subsection (1), until the trust fund reaches an accumulated principal of $500,000,000.00, $10,000,000.00 of the revenues from bonuses, rentals, delayed rentals, and royalties described in this section, but not including money received by the state from net proceeds allocable to the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986, 26 USC 29, as provided for in section 503, otherwise dedicated to the trust fund that are received by the trust fund each state fiscal year shall be transferred to the state treasurer for deposit into the Michigan state parks endowment fund. However, until the trust fund reaches an accumulated principal of $500,000,000.00, in any state fiscal year, not more than 50% of the total revenues from bonuses, rentals, delayed rentals, and royalties described in this section, but not including net proceeds allocable to the nonconventional fuel credit contained in section 29 of

the internal revenue code of 1986, 26 USC 29, as provided in section 503, otherwise dedicated to the trust fund that are received by the trust fund each state fiscal year shall be transferred to the Michigan state parks endowment fund. To implement this subsection, until the trust fund reaches an accumulated principal of $500,000,000.00, the department shall transfer 50% of the money received by the trust fund each month pursuant to subsection (1) to the state treasurer for deposit into the Michigan state parks endowment fund. The department shall make this transfer on the last day of each month or as soon as practicable thereafter. However, not more than a total of $10,000,000.00 shall be transferred in any state fiscal year pursuant to this subsection.

(3) In addition to the contents of the trust fund described in subsection (1), the trust fund shall consist of money transferred to the trust fund pursuant to section 1909.

(4) The trust fund may receive appropriations, money, or other things of value.

(5) The state treasurer shall direct the investment of the trust fund. The state treasurer shall have the same authority to invest the assets of the trust fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140l.

(6) The department shall annually prepare a report containing an accounting of revenues and expenditures from the trust fund. This report shall identify the interest and earnings of the trust fund from the previous year, the investment performance of the trust fund during the previous year, and the total amount of appropriations from the trust fund during the previous year. This report shall be provided to the senate and house of representatives appropriations committees and the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to natural resources and the environment.

(7) As used in this section, "Michigan state parks endowment fund" means the Michigan state parks endowment fund established in section 35a of article IX of the state constitution of 1963 and provided for in section 74119.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1996, Act 134, Imd. Eff. Mar. 19, 1996 ;-- Am. 2002, Act 52, Eff. Sept. 21, 2002 ;-- Am. 2004, Act 587, Eff. Dec. 23, 2006
Compiler's Notes: Enacting section 2 of Act 587 of 2004 provides:"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular Name: Act 451
Popular Name: NREPA

324.1903 Expenditures.
Sec. 1903. (1) Subject to the limitations of this part and of section 35 of article IX of the state constitution of 1963, the interest and earnings of the trust fund in any 1 state fiscal year may be expended in subsequent state fiscal years only for the following purposes:

(a) The acquisition of land or rights in land for recreational uses or protection of the land because of its environmental importance or its scenic beauty.

(b) The development of public recreation facilities.

(c) The administration of the fund, including payments in lieu of taxes on state owned land purchased through the trust fund.

(2) In addition to the money described in subsection (1), 33-1/3% of the money, exclusive of interest and earnings, received by the trust fund in any state fiscal year may be expended in subsequent state fiscal years for the purposes described in subsection (1). However, the authorization for the expenditure of money provided in this subsection does not apply after the state fiscal year in which the total amount of money in the trust fund, exclusive of interest and earnings and amounts authorized for expenditure under this section, exceeds $500,000,000.00.

(3) An expenditure from the trust fund may be made in the form of a grant to a local unit of government, subject to the following conditions:

(a) The grant is used for the purposes described in subsection (1) and meets the requirements of either subdivision (b) or (c).

(b) A grant for the purposes described in subsection (1)(a) is matched by the local unit of government or public authority with at least 25% of the total cost of the project.

(c) A grant for the purposes described in subsection (1)(b) is matched by the local unit of government with 25% or more of the total cost of the project.

(4) Not less than 25% of the total amounts made available for expenditure from the trust fund from any state fiscal year shall be expended for acquisition of land and rights in land, and not more than 25% of the total amounts made available for expenditure from the trust fund from any state fiscal year shall be expended for development of public recreation facilities.

(5) If property that was acquired with money from the trust fund is subsequently sold or transferred by the state to a nongovernmental entity, the state shall forward to the state treasurer for deposit into the trust fund an amount of money equal to the following:

(a) If the property was acquired solely with trust fund money, the greatest of the following:

(i) The net proceeds of the sale.

(ii) The fair market value of the property at the time of the sale or transfer.

(iii) The amount of money that was expended from the trust fund to acquire the property.

(b) If the property was acquired with a combination of trust fund money and other restricted funding sources governed by federal or state law, an amount equal to the percentage of the funds contributed by the trust fund for the acquisition of the property multiplied by the greatest of subdivision (a)(i), (ii), or (iii).

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 2002, Act 52, Eff. Sept. 21, 2002
Popular Name: Act 451
Popular Name: NREPA

324.1904 Limitation on amount accumulated in trust fund; deposit and distribution of amount.

Sec. 1904. The amount accumulated in the trust fund shall not exceed $500,000,000.00, exclusive of interest and earnings and amounts authorized for expenditure under this part. Any amount of money that would be a part of the trust fund but for the limitation stated in this section shall be deposited in the Michigan state parks endowment fund created in section 74119, until the Michigan state parks endowment fund reaches an accumulated principal of $800,000,000.00. After the Michigan state parks endowment fund reaches an

accumulated principal of $800,000,000.00, any money that would be part of the Michigan state parks endowment fund but for this limitation shall be distributed as provided by law.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 2002, Act 52, Eff. Sept. 21, 2002
Popular Name: Act 451
Popular Name: NREPA

324.1905 Michigan natural resources trust fund board; establishment; powers and duties of transferred agency; cooperation, aid, offices, and equipment; appointment and terms of members; removal; vacancies; expenses; compensation.

Sec. 1905. (1) The Michigan natural resources trust fund board is established within the department. The board shall have the powers and duties of an agency transferred under a type I transfer pursuant to section 3 of the executive organization act of 1965, Act No. 380 of the Public Acts of 1965, being section 16.103 of the Michigan Compiled Laws. The board shall be administered under the supervision department and the department shall offer its cooperation and aid to the board and shall provide suitable offices and equipment for the board.

(2) The board shall consist of 5 members. The members shall include the director or a member of the commission as determined by the commission, and 4 residents of the state to be appointed by the governor with the advice and consent of the senate.

(3) The terms of the appointive members shall be 4 years, except that of those first appointed, 1 shall be appointed for 1 year, 1 shall be appointed for 2 years, 1 shall be appointed for 3 years, and 1 shall be appointed for 4 years.

(4) The appointive members may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office.

(5) Vacancies on the board shall be filled for the unexpired term in the same manner as the original appointments.

(6) The board may incur expenses necessary to carry out its powers and duties under this part and shall compensate its members for actual expenses incurred in carrying out their official duties.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.1906 Board; election of chairperson; administrative procedures; conducting business at public meeting; notice; meetings of board; availability of writings to public; reports.
Sec. 1906. (1) The board shall elect a chairperson and establish its administrative procedures. The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. The board shall meet not less than bimonthly and shall record its proceedings. A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) Before January 16 of each year, the board shall report to the governor and to the legislature detailing the operations of the board for the preceding 1-year period. The board shall also make special reports as requested by the governor or the legislature.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.1907 List of lands, rights in land, and public recreation facilities to be acquired or developed; estimates of total costs; guidelines; legislative approval.
Sec. 1907. (1) The board shall determine which lands and rights in land within the state should be acquired and which public recreation facilities should be developed with money from the trust fund and shall submit to the legislature in January of each year a list of those lands and rights in land and those public recreation facilities that the board has determined should be acquired or developed with trust fund money, compiled in order of priority. In preparing the list under this subsection, the board shall give particular consideration to the acquisition of land and rights in land for recreational trails that intersect the downtown areas of cities and villages.

(2) This list shall be accompanied by estimates of total costs for the proposed acquisitions and developments.

(3) The board shall supply with each list a statement of the guidelines used in listing and assigning the priority of these proposed acquisitions and developments.

(4) The legislature shall approve by law the lands and rights in land and the public recreation facilities to be acquired or developed each year with money from the trust fund.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 2008, Act 229, Imd. Eff. July 17, 2008
Popular Name: Act 451
Popular Name: NREPA

324.1907a Project status; report.
Sec. 1907a. If within 2 years after a parcel of property that is approved for acquisition or development by the legislature has not been acquired or developed in the manner determined by the board and is not open for public use, the board shall report to the standing committees of the senate and the house of representatives with jurisdiction over issues related to natural resources and the environment on the status of the project and the reason why the property has not been purchased or developed in the manner determined by the board.

History: Add. 2002, Act 52, Eff. Sept. 21, 2002
Popular Name: Act 451
Popular Name: NREPA

324.1908 Adopting decisions of state recreational land acquisition trust fund board of trustees; completion of projects; validity and expenditure of appropriations; deposit and appropriation of unexpended funds; appropriation of funds available under former law; deposit of interest and earnings on unexpended money.
Sec. 1908. (1) Beginning on October 1, 1985, the board shall adopt as its own any decision made by the state recreational land acquisition trust fund board of trustees under the Kammer recreational land trust fund act of 1976, former Act No. 204 of the Public Acts of 1976, and shall administer to completion any project pending under that act.

(2) Appropriations made pursuant to former Act No. 204 of the Public Acts of 1976 shall remain valid after October 1, 1985 and may be expended until the projects approved through the appropriations are complete. Any funds appropriated pursuant to former Act No. 204 of the Public Acts of 1976 but unexpended after completion of the projects funded under that act shall be deposited in the trust fund and may be appropriated as natural resources trust funds.

(3) Funds available for appropriation under former Act No. 204 of the Public Acts of 1976 as of October 1, 1985, but not appropriated as of that date, may be appropriated by the legislature under the terms and conditions of that act. Any funds appropriated as provided in this subsection but unexpended after completion of the projects for which the money was appropriated shall be deposited in the trust fund and may be appropriated as natural resources trust funds.

(4) The interest and earnings on money appropriated pursuant to former Act No. 204 of the Public Acts of 1976 or subsection (3) but not expended shall be deposited in the trust fund.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.1909 Duties of state treasurer. ,
Sec. 1909. On October 1, 1985, the state treasurer shall do the following:

(a) Transfer to the game and fish protection fund created in part 435 any money in the subfund account created by former section 4 of the Kammer recreational land trust fund act of 1976, former Act No. 204 of the Public Acts of 1976.

(b) Transfer to the trust fund any money remaining in the state recreational land acquisition trust fund created in the Kammer recreational land trust fund act of 1976, former Act No. 204 of the Public Acts of 1976, after the transfer required by subdivision (a) is accomplished.

(c) Transfer to the trust fund any money or other assets in the heritage trust fund created in the heritage trust fund act of 1982, former Act No. 327 of the Public Acts of 1982.

(d) Transfer from the general fund to the trust fund an amount of money equal to all the money received by the general fund between December 22, 1984, the date on which section 35 of article IX became part of the state constitution of 1963, and October 1, 1985, the effective date of former Act No. 101 of the Public Acts of 1985, from bonuses, rentals, delayed rentals, and royalties collected or reserved by the state under provisions of leases for the extraction of nonrenewable resources from state owned lands, except money from bonuses, rentals, delayed rentals, and royalties excluded from the trust fund under 1902(1).

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.1910 Transfer of writings or documents by department of natural resources and department of treasury.
Sec. 1910. (1) On October 1, 1985, the department shall transfer any writing or document prepared, owned, used, in the possession of, or retained by the state recreational land acquisition trust fund board of trustees under former Act No. 204 of the Public Acts of 1976 to the board.

(2) On October 1, 1985, the department of treasury shall transfer any writing or document prepared, owned, used, in the possession of, or retained by the heritage trust fund board of trustees under former Act No. 327 of the Public Acts of 1982 to the board or the bondholder protection board, as appropriate to the function of each board.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

PART 713
RECREATION BOND AUTHORIZATION

324.71301 Bonds; authorization; limitation; purpose.
Sec. 71301. The state shall borrow a sum not to exceed $140,000,000.00 and issue the general obligation bonds of this state, pledging the full faith and credit of the state for the payment of principal and interest on the bonds, to finance state and local public recreation projects.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71302 Bonds; conditions, methods, and procedures.
Sec.71302. Bonds shall be issued in accordance with conditions, methods, and procedures established by law.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71303 Bonds; disposition of proceeds and interest.
Sec. 71303. The proceeds of the sale of the bonds or any series of the bonds, any premium and accrued interest received on the delivery of the bonds, and any interest earned on the proceeds of the bonds shall be deposited in the state treasury and credited to the recreation bond fund created in part 715 and shall be disbursed from that fund only for the purposes for which the bonds have been authorized, including the expense of issuing the bonds. The proceeds of the sale of the bonds or any series of the bonds, any premium and accrued interest received on the delivery of the bonds, and any interest earned on the proceeds of the bonds shall be expended for the purposes set forth in this part in a manner as provided by law.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71304 Submission of question to electors.
Sec. 71304. The question of borrowing a sum not to exceed $140,000,000.00 and the issuance of the general obligation bonds of the state for the purposes set forth in this part shall be submitted to a vote of the electors of the state qualified to vote on the question in accordance with section 15 of article IX of the state constitution of 1963, at the next general election following September 9, 1988. The question submitted to the electors shall be substantially as follows:

"Shall the state of Michigan borrow a sum not to exceed $140,000,000.00 and issue general obligation bonds of the state, pledging the full faith and credit of the state for the payment of principal and interest on the bonds, to finance state and local public recreation projects, the method of repayment of the bonds to be from the general fund of this state?

Yes.....

No..... ."

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71305 Duties of secretary of state.
Sec. 71305. The secretary of state shall perform all acts necessary to properly submit the question prescribed by section 71304 to the electors of this state qualified to vote on the question at the next general November election following September 9, 1988.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71306 Appropriation; purpose; executive budget recommendations.
Sec. 71306. (1) After the issuance of the bonds authorized by this part, there shall be appropriated from the general fund of the state each fiscal year a sufficient amount to pay promptly, when due, the principal of and interest on all outstanding bonds authorized by this part and the costs incidental to the payment of the bonds.

(2) The governor shall include the appropriation provided in subsection (1) in his or her annual executive budget recommendations to the legislature.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71307 Majority vote of electors required.
Sec. 71307. Bonds shall not be issued unless the question set forth in section 71304 is approved by a majority vote of the qualified electors voting on the question.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

Part 715
RECREATION BOND IMPLEMENTATION

324.71501 Definitions.
Sec. 71501. As used in this part:

(a) "Bonds" means the bonds issued under part 713 or former Act No. 327 of the Public Acts of 1988.

(b) "Fund" means the recreation bond fund created in section 71506.

(c) "Local public recreation project" means capital improvement projects including, but not limited to, the construction, expansion, development, or rehabilitation of recreational facilities, and the restoration of the natural environment. Local public recreation project does not include the operation, maintenance, or administration of those facilities, wages, or administration of projects or purchase of facilities already dedicated to public recreational purposes.

(d) "Local unit of government" means a county, city, township, village, school district, the Huron-Clinton metropolitan authority, or any authority composed of counties, cities, townships, villages, or school districts, or any combination of those entities, which authority is legally constituted to provide public recreation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71502 Legislative finding and declaration.
Sec. 71502. The legislature finds and declares that the construction, expansion, development, and rehabilitation of state and local recreational facilities and the restoration of the natural environment under this part are a public purpose in the interest of the health, safety, and general welfare of the citizens of this state.
History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71503 Bonds; requirements generally.
Sec. 71503. (1) The bonds issued under part 713 shall be issued in 1 or more series, each series to be in a principal amount, to be dated, to have the

maturities that may be either serial, term, or term and serial, to bear interest at a rate or rates, to be subject or not subject to prior redemption and, if subject to prior redemption, with or without call premiums, to be payable at a place or places, to have or not have provisions for registration as to principal only or as to both principal and interest, to be in a form and to be executed in a manner as shall be determined by resolution to be adopted by the state administrative board, and to be subject to or granting those covenants, directions, restrictions, or rights specified by resolution to be adopted by the state administrative board as necessary to ensure the marketability, insurability, or tax-exempt status. The state administrative board shall rotate legal counsel when issuing bonds.

(2) The state administrative board may refund bonds issued under this part by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption. The state administrative board may issue bonds to partly refund bonds issued under this part and partly for any other purpose provided by this part. The principal amount of any refunding bonds issued under this section shall not be counted against the limitation on principal amount imposed by the vote of the people on November 8, 1988. Further, refunding bonds issued under this section shall not be subject to the restrictions of section 71507.

(3) The state administrative board may authorize and approve insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds, and any other transaction to provide security to assure timely payment or purchase of any bond issued under this act.

(4) The state administrative board may authorize the state treasurer, but only within limitations that are contained in the authorizing resolution of the board, to do 1 or more of the following:

(a) Sell and deliver and receive payment of the bonds.

(b) Deliver bonds partly to refund bonds and partly for other authorized purposes.

(c) Select which outstanding bonds will be refunded, if any, by the new issue of bonds.

(d) Buy bonds so issued at not more than their face value.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, purchase prices, purchase dates, remarketing dates, denominations, dates of issuance, interest payment dates, redemption rights at the option of the state or the owner, the place and time of delivery and payment, and other matters and procedures necessary to complete the authorized transactions.

(f) Execute, deliver, and pay the cost of remarketing agreements, insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds or notes, and any other transaction to provide security to assure timely payments or purchase of any bond issued under this part.

(5) The bonds are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) The bonds or any series of the bonds shall be sold at a price and at a publicly advertised sale or a competitively negotiated sale as determined by the state administrative board. If bonds are issued at a competitively negotiated sale, the state administrative board shall use its best efforts to include firms based in this state in the sale of the bonds.

(7) Except as provided in subsection (8), the bonds shall be sold in accordance with the following schedule, beginning during the first year after December 1, 1988:

(a) Not more than 34% shall be sold during the first year.

(b) Not more than 33% shall be sold during the second year.

(c) Not more than 33% shall be sold during the third year.

(d) After the third year any remaining bonds may be sold at the discretion of the state administrative board.

(8) The state administrative board may alter the schedule for issuance of the bonds provided in subsection (7) if amendments to the internal revenue code of 1986 would impair the tax-exempt status of the bonds.

(9) The issuance of bonds and notes under this section is subject to the agency financing reporting act.

(10) For the purpose of more effectively managing its debt service, the state administrative board may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the state administrative board.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1995, Act 72, Imd. Eff. June 6, 1995 ;-- Am. 2002, Act 388, Imd. Eff. May 30, 2002
Popular Name: Act 451
Popular Name: NREPA

324.71504 Bonds negotiable; tax exemption.

Sec. 71504. Bonds issued under part 713 shall be fully negotiable under the uniform commercial code, Act No. 174 of the Public Acts of 1962, being sections 440.1101 to 440.11102 of the Michigan Compiled Laws. The bonds and the interest on the bonds shall be exempt from all taxation by the state or any political subdivision of the state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71505 Bonds as securities.

Sec. 71505. Bonds issued under part 713 are made securities in which banks, savings and loan associations, investment companies, credit unions, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all administrators, executors, guardians, trustees, and other fiduciaries may properly and legally invest funds, including capital, belonging to them or within their control.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71506 Recreation bond fund; creation; composition; restricted subaccounts.

Sec. 71506. (1) The recreation bond fund is created in the state treasury.

(2) The fund shall consist of all of the following:

(a) The proceeds of sales of general obligation bonds issued pursuant to part 713 and any premium and accrued interest received on the delivery of the bonds.

(b) Any interest or earnings generated by the proceeds described in subdivision (a).

(c) Any repayments of principal and interest made under a loan program authorized for in this part.

(d) Any federal funds received.

(3) The department of treasury may establish restricted subaccounts within the fund as necessary to administer the fund.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71507 Disposition of bond proceeds; investment of fund; allocation of interest and earnings; crediting and use of repayments of principal and interest; disposition of unencumbered balance; submission and contents of list of projects; appropriations; report.
Sec. 71507. (1) The proceeds of the bonds issued under part 713 shall be deposited into the fund.

(2) The state treasurer shall direct the investment of the fund. Except as otherwise may be required by the resolution authorizing the issuance of the bonds in order to maintain the exclusion from gross income of the interest paid on the bonds or to comply with state or federal law, interest and earnings from investment of the proceeds of any bond issue shall be allocated in the same proportion as earned on the investment of the proceeds of the bond issue.

(3) Except as otherwise may be required by the resolution authorizing the issuance of the bonds in order to maintain the exclusion from gross income of the interest paid on the bonds or to comply with state or federal law, all repayments of principal and interest earned under a loan program provided in this part shall be credited to the appropriate restricted subaccounts of the fund and used for the purposes authorized for the use of bond proceeds deposited in that subaccount or to pay debt service on any obligation issued which pledges

the loan repayments and the proceeds of which are deposited in that subaccount.

(4) The unencumbered balance in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(5) The department shall annually submit to the governor, the committees of the house of representatives and the senate with jurisdiction pertaining primarily to natural resources and the environment, and the appropriations committees of the house of representatives and the senate a list of all projects that are recommended to be funded under this part. This list shall be submitted to the legislature not later than February 15 of each year. This list shall also be submitted before any request for supplemental appropriation of bond funds. The list shall include the name, address, and telephone number of the eligible recipient or participant; the nature of the eligible project; the county in which the eligible project is located; an estimate of the total cost of the eligible project; and other information considered pertinent by the department. The estimated cost of eligible local public recreation projects on the list for each year in which there is a limitation on borrowing under section 71503(5) shall not exceed 1/3 of the amount authorized for local public recreation projects under section 71508(1)(b) and (c).

(6) The legislature shall appropriate prospective or actual bond proceeds for projects proposed to be funded. Appropriations shall be carried over to succeeding fiscal years until the project for which the funds are appropriated is completed.

(7) Not later than December 31 of each year, the department shall report to the governor, the committees of the house of representatives and the senate with jurisdiction pertaining primarily to natural resources and the environment, and the committees of the house of representatives and the senate on appropriations for the department a list of the projects financed under this part. The list shall include the name, address, and telephone number of the recipient or participant; the nature of the project; the amount of money received; the county in which the project is located; and other information considered pertinent by the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71508 Use of fund generally.
Sec. 71508. (1) Except as otherwise provided in this section, money in the fund shall be used as follows:

(a) $70,000,000.00 of the bond revenues shall be used to construct, expand, and develop recreational facilities at state parks pursuant to the "5 year capital outlay program" published by the department and approved by the commission, and for other state recreation facilities for which matching funds are available. The department may deviate from the uses of the bond revenues provided in this subdivision only upon recommendation of the commission and approval of the legislature.

(b) $65,000,000.00 of the bond revenues shall be used to provide grants and loans to local units of government for local public recreation projects pursuant to this part.

(c) $5,000,000.00 of the bond revenues shall be used to provide grants and loans to local units of government for the purpose of discouraging development of open space and undeveloped lands that on December 1, 1988 are not zoned for industrial use. Grants and loans made under this subdivision shall be used to redevelop and reuse vacant manufacturing facilities or abandoned industrial sites for recreational facilities.

(2) Money in the fund that is allocated for local public recreation projects under subsection (1)(b) shall be used for any of the following:

(a) Public recreation infrastructure improvements that involve the replacement of or structural improvements relating specifically to existing public recreation facilities, including, but not limited to, recreation centers, sports fields, beaches, trails, historical structures, playgrounds, and restoration of the natural environment.

(b) The development of public recreation facilities on waterfront sites for the purpose of increasing recreation opportunities that encourage further private investments in the area. Public recreation facilities on waterfront sites shall include, but shall not be limited to, shoreline stabilization and beautification, breakwaters, bulkheads, fishing piers, amphitheaters, shoreline walkways, and pedestrian bridges.

(c) The construction of community public recreation facilities for the purpose of addressing the recreational needs of local residents, including, but not limited to, playgrounds, sports fields and courts, community and senior centers, and fishing sites.

(d) The development of public recreation improvements that will attract tourists or otherwise increase tourism, where such developments are reasonably expected to have a substantial positive impact, relative to cost, on the local, regional, or state economy, including, but not limited to, campgrounds, beaches, historical sites, fishing access sites, and recreational development of abandoned railroad rights-of-way.

(e) Intermediate school districts for environmental education capital outlay projects that are consistent with the long-term recreation and parks plan for the local unit or units of government which the intermediate school district serves.

(3) Money in the fund for other state recreation purposes shall be used for infrastructure projects for fisheries, wildlife, recreational boating, or state forest campgrounds, for which not less than 50% of the cost of the project is available from any combination of federal, private, or restricted funds.

(4) Money in the fund shall not be used for land acquisition.

(5) Money in the fund shall not be expended for sports facilities, arenas, or stadiums intended as the primary home of a professional sports team, for commercial theme parks, or for any purpose that may result in the siting of casino gambling in this state.

(6) Money in the fund may be used by the department of treasury to pay for the cost of issuing bonds under part 713 and by the department to pay department costs as provided in this subsection. Not more than 3% of the total amount specified in this section shall be available for appropriation to the department to pay department costs directly associated with the completion of a project described in subsection (1)(a), (b), or (c) for which bonds are issued as provided under this part. Bond proceeds shall not be available to pay indirect, administrative overhead costs incurred by any organizational unit of the department not directly responsible for the completion of a project. Department costs shall be deducted proportionately from the amounts stated in subsection (1). It is the intent of the legislature that general fund appropriations to the

department shall not be reduced as a result of department costs funded pursuant to this subsection.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71509 Making and allocating grants and loans to local units of government; division of state into regions; match by local unit; rules; sale, disposal, or use of facility.
Sec. 71509. (1) Grants and loans made to local units of government under section 71508(1)(b) shall be made by the department and allocated as follows:

(a) Each region provided for in subsection (2) shall receive $6.50 per capita based upon the 1985 census figures in the document entitled "estimated state spending by county fiscal year 1985-86" published by the senate fiscal agency, dated October, 1987.

(b) The balance of the money remaining after the distribution under subdivision (a) shall be used for local public recreation projects that are regional parks as defined by rules promulgated by the department. An application under this subdivision shall not preclude an application under subdivision (a).

(2) For purposes of the distribution of grants and loans for local public recreation projects under section 71508(1)(b), the state is divided into the following 3 regions:

(a) Region 1—all of the counties of the Upper Peninsula.

(b) Region 2—Emmet, Charlevoix, Cheboygan, Presque Isle, Leelanau, Antrim, Otsego, Montmorency, Alpena, Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, Alcona, Manistee, Wexford, Missaukee, Roscommon, Ogemaw, Iosco, Mason, Lake, Osceola, Clare, Gladwin, Arenac, Isabella, Midland, Bay, Huron, Saginaw, Tuscola, and Sanilac counties.

(c) Region 3—Oceana, Newaygo, Mecosta, Muskegon, Montcalm, Gratiot, Ottawa, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer, St. Clair, Allegan, Barry, Eaton, Ingham, Livingston, Oakland, Macomb, Van Buren, Kalamazoo, Calhoun, Jackson, Washtenaw, Wayne, Berrien, Cass, St. Joseph, Branch, Hillsdale, Lenawee, and Monroe counties.

(3) A grant made under this part to a local unit of government shall require a 25% match by the local unit of government. Not more than 50% of the local unit of government's contribution under this subsection may be in the form of goods and services directly rendered to the construction of the project, or federal funds, or both. A local unit of government shall establish to the satisfaction of the department the cost or fair market value, whichever is less as of the date of the notice of approval by the department, of any of the above items with which it seeks to meet its local unit portion.

(4) The department shall promulgate rules that establish criteria for grants and loans made under this part, an application process, the definition of regional parks, and a process for disbursement of grants and loans to local units of government.

(5) A facility funded under this section shall not be sold, disposed of, or converted to a use not specified in the application for the grant or loan without express approval of the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71510 Grant or loan program; rules; maximum participation; considerations in determining appropriateness of grant or loan program; considerations in making grant or loan.
Sec. 71510. (1) The department shall assure maximum participation by local units of government by promulgating rules that provide for a grant or loan program, where appropriate. In determining whether a grant or a loan program is appropriate, the department shall consider whether the project is likely to be undertaken without state assistance; the availability of state funds from other sources; the degree of private sector participation in the type of project under consideration; the extent of the need for the project as a demonstration project; and other factors considered important by the department.

(2) Prior to making a grant or loan authorized by this part, the department shall consider the extent to which the making of the grant or loan contributes to the achievement of a balanced distribution of grants and loans throughout the state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71511 Application for grant or loan; form; information.
Sec. 71511. An application for a grant or a loan authorized under this part shall be made on a form prescribed by the department. The department may require the applicant to provide any information reasonably necessary to allow the department to make determinations required by this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71512 Conditions to making grant or loan.
Sec. 71512. The department shall not make a grant or a loan under this part unless all of the following conditions are met:

(a) The applicant demonstrates that the proposed project is in compliance with all applicable state laws and rules.

(b) The applicant demonstrates to the department the capability to implement the proposed project.

(c) The applicant provides the department with evidence that a licensed professional engineer has approved the plans and specifications for the project, if appropriate.

(d) The applicant demonstrates to the department that there is an identifiable source of funds for the maintenance and operation of the proposed project.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71513 Recipient of grant or loan; duties; noncompliance; recovery of grant; withholding grant or loan.
Sec. 71513. (1) A recipient of a grant or a loan made under this part shall be subject to all of the following:

(a) A recipient shall keep an accounting of the money spent on the project or facility in a generally accepted manner. The accounting shall be subject to a postaudit.

(b) A recipient shall obtain authorization from the department before implementing a change that significantly alters the proposed project or facility.

(2) The department may revoke a grant or a loan made by it under this part or withhold payment if the recipient fails to comply with the terms and conditions of the grant or loan or with the requirements of this part or the rules promulgated under this part.

(3) The department may recover a grant if the project for which the grant was made never operates.

(4) The department may withhold a grant or a loan until the department determines that the recipient is able to proceed with the proposed project or facility.

(5) To assure timely completion of a project, the department may withhold 10% of the grant or loan amount until the project is complete.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.71514 Rules generally.

Sec. 71514. The department shall promulgate rules as are necessary or required to implement this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

D. REHABILITATION AND REDEVELOPMENT

BLIGHTED AREA REHABILITATION
Act 344 of 1945

AN ACT to authorize counties, cities, villages and townships of this state to adopt plans to prevent blight and to adopt plans for the rehabilitation of blighted areas; to authorize assistance in carrying out such plans by the acquisition of real property, the improvement of such real property and the disposal of real property in such areas; to prescribe the methods of financing the exercise of these powers; and to declare the effect of this act.

History: 1945, Act 344, Imd. Eff. May 31, 1945 ;-- Am. 1986, Act 320, Imd. Eff. Dec. 26, 1986

The People of the State of Michigan enact:

125.71 Legislative findings and declaration.

Sec. 1. The legislature finds and declares that large areas in the municipalities of the state have become blighted and significant areas in the municipalities of the state are deteriorating in a manner which leads to severe blight, with the consequent impairment of taxable values upon which, in large part, municipal revenues depend; that those blighted areas are detrimental or inimical to the health, safety, morals, and general welfare of the citizens, and to the economic welfare of the municipality; that in order to improve and maintain the general character of the municipality, it is necessary to rehabilitate those blighted areas; that the conditions found in blighted areas cannot be remedied by the ordinary operations of private enterprise, with due regard to the general welfare of the public, without public participation in the planning, property acquisition or disposition, and related implementation and financing of the remedies; that the purposes of this act are to rehabilitate those areas by improving or acquiring and developing properties within the areas for the protection of the health, safety, morals and general welfare of the municipality, to preserve existing values of other properties within or adjacent to the areas, and to preserve the taxable value of the property within the areas; and that the necessity in the public interest for provisions enacted in this act is hereby declared as a matter of legislative determination to be a public purpose and a public use.

History: 1945, Act 344, Imd. Eff. May 31, 1945 ;-- CL 1948, 125.71 ;-- Am. 1986, Act 320, Imd. Eff. Dec. 26, 1986

125.72 Definitions.

Sec. 2. As used in this act:

(a) "Blighted area" means a portion of a municipality, developed or undeveloped, improved or unimproved, with business or residential uses, marked by a demonstrated pattern of deterioration in physical, economic, or social conditions, and characterized by such conditions as functional or economic obsolescense of buildings or the area as a whole, physical deterioration of structures, substandard building or facility conditions, improper or inefficient division or arrangement of lots and ownerships and streets and other open spaces, inappropriate mixed character and uses of the structures, deterioration in the condition of public facilities or services, or any other similar characteristics which endanger the health, safety, morals, or general

welfare of the municipality, and which may include any buildings or improvements not in themselves obsolescent, and any real property, residential or nonresidential, whether improved or unimproved, the acquisition of which is considered necessary for rehabilitation of the area. It is expressly recognized that blight is observable at different stages of severity, and that moderate blight unremedied creates a strong probability that severe blight will follow. Therefore, the conditions that constitute blight are to be broadly construed to permit a municipality to make an early identification of problems and to take early remedial action to correct a demonstrated pattern of deterioration and to prevent worsening of blight conditions.

(b) "Blighted property" means property that meets any of the following criteria:

(i) The property has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.

(ii) The property is an attractive nuisance because of physical condition or use.

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

(iv) The property has had the utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for a period of 1 year or more so that the property is unfit for its intended use.

(v) The property is tax reverted property owned by a municipality, by a county, or by this state. The sale, lease, or transfer of tax reverted property by a municipality, a county, or this state shall not result in the loss to the property of eligibility for any project authorized under this act for the rehabilitation of a blighted area, platting authorized under this act, or tax relief or assistance, including financial assistance, authorized under this act or any other act.

(vi) The property is owned or is under the control of a land bank fast track authority under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774. The sale, lease, or transfer of the property by a land bank fast track authority shall not result in the loss to the property of eligibility for any project authorized under this act for the rehabilitation of a blighted area, platting authorized under this act, or tax relief or assistance, including financial assistance, authorized under this act or any other act.

(vii) The property is improved real property that has remained vacant for 5 consecutive years and that is not maintained in accordance with applicable local housing or property maintenance codes or ordinances.

(viii) The property has code violations posing a severe and immediate health or safety threat and has not been substantially rehabilitated within 1 year after the receipt of notice to rehabilitate from the appropriate code enforcement agency or final determination of any appeal, whichever is later.

(c) "Municipality" means a county, city, village, or township in the state.

(d) "Development plan" means a plan for the rehabilitation of all or any part of a blighted area.

(e) "Development area" means that portion of a blighted area to which a development plan is applicable.

(f) "Real property" means land, buildings, improvements, land under water, waterfront property, and any and all easements, franchises and hereditaments, corporeal or incorporeal, and every estate, interest, privilege, easement, franchise and right therein, or appurtenant thereto, legal or equitable, including rights of way, terms for years, and liens, charges, or incumbrances by mortgage, judgment, or otherwise.

(g) "Local taxes" means state, county, city, village, township and school taxes, any special district taxes, and any other tax on real property, but does not include special assessment for local benefit improvements.

(h) "Public use" when used with reference to land reserved for public use means only such uses as are for the general use and benefit of the public as a whole, such as schools, libraries, public institutions, administration buildings, parks, boulevards, playgrounds, streets, alleys, or easements for sewers, public lighting, water, gas, or other similar utilities.

(i) "Project" means all of the undertakings authorized in this act for the rehabilitation of a blighted area.

History: 1945, Act 344, Imd. Eff. May 31, 1945 ;-- Am. 1947, Act 237, Eff. Oct. 11, 1947 ;-- CL 1948, 125.72 ;-- Am. 1952, Act 222, Imd. Eff. May 2, 1952 ;-- Am. 1957, Act 296, Eff. Sept. 27, 1957 ;-- Am. 1965, Act 227, Imd. Eff. July 16, 1965 ;-- Am. 1986, Act 320, Imd. Eff. Dec. 26,

1986 ;-- Am. 2006, Act 677, Imd. Eff. Jan. 10, 2007
Compiler's Notes: In subdivision (a) of this section, the word “obsolescense” evidently should read “obsolescence”.

125.73 Powers of municipality.
Sec. 3. A municipality may bring about the rehabilitation of blighted areas and the prevention, reduction, or elimination of blight, blighting factors, or causes of blight, and for that purpose may do any of the following:

(a) Acquire real property by purchase, gift, or exchange.

(b) Acquire under this act blighted property by condemnation.

(c) Lease, sell, renovate, improve, or exchange blighted property or other real property acquired by other means in accordance with the state constitution of 1963 and this act.

History: 1945, Act 344, Imd. Eff. May 31, 1945 ;-- CL 1948, 125.73 ;-- Am. 1986, Act 320, Imd. Eff. Dec. 26, 1986 ;-- Am. 2006, Act 677, Imd. Eff. Jan. 10, 2007

125.74 Plans, statements, and actions as requirements and conditions for exercise of powers; plans to be adopted by local legislative body; designation of district areas; provisions governing citizens' district councils; consultation between local official and citizens' district council; record; notice of zoning change, hearing, or condemnation proceedings; public hearing; information; coordinating council on community redevelopment; adoption of development plan; compliance; information on housing available to displaced families and individuals; conditions to determination of blighted area; notice of approval or disapproval of development plan.
Sec. 4. (1) As used in this section:

(a) “District area” means a portion of a municipality consisting of 1 or more adjacent or nearby development areas and any surrounding territory that will be significantly affected by the plan for the development area or areas, where a majority of residents in the district area reside in the development area or areas.

(b) “Development plan” and “development area” mean those terms as defined in section 2.

(c) “Citizens' district council” means a citizens' district council established under this act.

(d) “Coordinating council on community redevelopment” means any coordinating council on community redevelopment established under this act.

(2) Except as provided in subsection (7), the plans, statements, and actions prescribed in subsections (3) to (11) are requirements and conditions for the exercise of the powers granted by this act for the acquisition, sale, or lease of real property for the carrying out of a development plan in a development area.

(3) The following plans shall be adopted by the local legislative body of the municipality in which the development area is located:

(a) A master plan of the municipality or a master plan which is sufficiently advanced to designate areas in need of rehabilitation or in need of measures to prevent blight.

(b) A plan of the general features of development of the district within which the development area lies and of other districts adjacent to the development area, of such extent, content, and particularity as is necessary to the coordination of the development area plan with the future development of the territory surrounding the development area, or, if no future development is planned, then in coordination with the present development.

(4) District areas shall be designated for all development areas that have been approved by a local legislative body and subject to the terms of this act as of January 1, 1968, and all subsequent development areas that are so approved. A district area shall not be designated unless the local legislative body first holds a public hearing on the designation. The legislative body shall give notice of the public hearing not less than 20 nor more than 30 days before the date for the public hearing.

(5) Citizens' district councils are governed by the following:

(a) Except as otherwise provided in this subdivision, for each district area, a citizens' district council of not less than 12 nor more than 25 members shall be selected in a manner that ensures that the citizens' district council is to the maximum extent possible representative of the residents of the area and of other persons with a demonstrable and substantial interest in the area. The majority of

the citizens' district council shall be composed of citizens living in the development area.

(b) The term of office on the councils shall be 3 years. If terms of council members are not staggered, then, upon the expiration of the terms of the members of the citizens' district council, 1/3 shall be elected or appointed for 3 years, 1/3 for 2 years and 1/3 for 1 year.

(c) Members of the council may be selected by direct election by the residents of the area and other persons with a demonstrable and substantial interest in the area, or may be appointed by the chief executive officer of the municipality after consultation with local community groups and residents of the area, or by a combination of appointment and election. The method of selection of the citizens' district council, and any appointments to the council by the chief executive officer, shall be determined with the approval of the local legislative body after a public hearing has been held, with public notice of such hearing distributed throughout the district area at least 20 days before the date of the hearing. Citizens' district councils shall be established within 45 days of any initial designation of a development area by any local planning agency or local legislative body.

(d) In a city of over 1,000,000, the local legislative body shall adopt an ordinance governing the composition and method of selecting the members of the citizens' district councils, with the limitation that such an ordinance shall provide for a majority of the citizens' district council to be composed of citizens living in a development area or areas.

(6) The local official responsible for preparation of the development plan within the district area shall periodically consult with and advise the citizens' district council regarding all aspects of the plan, including the development of new housing for relocation purposes located either inside or outside of the development area. The consultation shall begin before any final decisions by any local planning agency or local legislative body regarding the development plan other than the designation of the development area. The consultation shall continue throughout the various stages of the development plan, including the final implementation of the plan. The local officials responsible for the development of the plan shall incorporate into the development plan the desires and suggestions of the citizens' district council to the extent feasible. A local commission, public agency, or local legislative body of any municipality shall not approve any development plan for a development area unless there has

previously been consultation between the citizens' district council and the local officials responsible for the development plan. A record of the meetings, including information and data presented, shall be maintained and included in official presentation of the proposed development plan to the local legislative body.

(7) The chief executive officer of the municipality shall give the citizens' district council written notice of any contemplated zoning change, hearing, or condemnation proceedings within the district area. The notice shall be given at least 20 days before the effective date of the change or the date of the hearing or proceedings. Upon receiving a request from the citizens' district council, the local legislative body shall hold a public hearing on the proposed zoning change or condemnation proceedings. Each citizens' district council may call upon any city department for information.

(8) In a municipality with 2 or more district areas, each citizens' district council shall elect 4 of its members who shall compose the entire membership of the coordinating council on community redevelopment. The committee shall advise local units of government on proposed policy on urban renewal, make recommendations for new projects, and promote better relations between local units of government and residents of urban renewal areas. Notwithstanding any other provisions of this act, the formation of a coordinating council on community redevelopment shall not be a requisite for or condition of the exercise of the powers granted by this act for the acquisition, sale, or lease of real property, or the carrying out of a development plan in a development area.

(9) The local legislative body shall adopt a development plan after consultation with a citizens' district council, if required, and a public hearing on the development plan as provided in subsection (11), for the development area in which the land proposed to be acquired is located or for the effectuation or protection of which development the proposed land acquisition is deemed necessary. A development plan shall comply with the following:

(a) The plan shall designate the location and extent of streets and other public facilities within the area and shall designate the location, character, and extent of the categories of public and private land uses proposed for and within the area, such as residential, recreation, business, industry, schools, open spaces, and others, and shall also include a feasible method for the relocation of families who will be displaced from the area in decent, safe, and sanitary dwelling accommodations and without undue hardship to those families, and

such other general features of the proposed rehabilitation as may be determined by the local legislative body. A feasible method for relocation of displaced families shall demonstrate that standard housing units are or will be available to the displaced families and individuals at rents or prices within their financial means, in reasonably convenient locations not less desirable than the development area with respect to utilities and facilities.

(b) The plan shall designate the location, extent, character, and estimated cost of the improvements contemplated for the area and may include any or all of the following improvements:

(i) Partial or total vacation of plats, or replatting.

(ii) Opening, widening, straightening, extending, vacating, or closing streets, alleys, or walkways.

(iii) Locating or relocating water mains, sewers, or other public or private utilities.

(iv) Paving of streets, alleys, or sidewalks in special situations.

(v) Acquiring parks, playgrounds, or other recreational areas or facilities.

(vi) Street tree planting, green belts, or buffer strips.

(vii) Property renovation in accordance with this act.

(viii) Parking facilities.

(ix) Commercial area promotion.

(x) Economic restructuring of commercial areas.

(xi) Recruiting of new businesses.

(xii) Other appropriate public improvements and activities which address rehabilitation or blight prevention in accordance with this act.

(c) The plan shall include estimates of the number of persons residing in the development area and the number of families and individuals to be displaced; a survey of their income and racial composition; a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the annual rate of turnover of the various types of housing, and the range of rents and sale prices; an estimate of the total demand for housing in the community; and the estimated capacity of private and public housing available to displaced families and individuals.

(10) A local administrative agency shall be designated to provide information concerning private and public housing available to displaced families and individuals and to advise and assist in their relocation.

(11) Before the determination of a blighted area and a determination that there is a feasible method for relocation of families and individuals who will be displaced from the area, and before adoption of a development plan, the local legislative body shall hold a public hearing, which hearing shall comply with the following:

(a) Notice of the time and place of the hearing shall be given by publication in a newspaper of general circulation not less than 30 days before the date set for the hearing. Notice of the hearing shall be distributed in the blighted area at least 25 days before the hearing. Notice of the hearing shall be mailed at least 25 days before the hearing to the last known owner of each parcel of land in the blighted area at the last known address of that owner as shown by the records of the assessor. The notice shall contain a description of the development area. For purposes of this notice it shall be sufficient to describe the boundaries of the development area by its location in relation to highways, streets, streams, or otherwise. The notice shall further contain a statement that maps, plats, and a particular description of the development plan, including the method of relocating families and individuals who will be displaced from the area, are available for public inspection at a place to be designated in the notice, and that all aspects of the development plan will be open for discussion at the public hearing.

(b) At the time set for hearing the local legislative body shall provide an opportunity for all persons interested to be heard and shall receive and consider communications in writing with reference to the development plan. The hearing shall provide the fullest opportunity for expression of opinion, for argument on

the merits of the development plan, and for introduction of documentary evidence pertinent to the development plan.

(c) The local legislative body shall make and preserve a record of the public hearing, including specific findings of fact with respect to its determination of the blighted area and its determination that there is a feasible method for relocation of families and individuals who will be displaced from the area, all data presented at the public hearing and all other data which the legislative body considered in making its determinations. If no individuals reside in the development area, the legislative body is not required to determine a feasible method for relocating residents.

(12) Within 10 days after the completion of the public hearing as provided in subsection (11), the citizens' district council for the district within which the proposed development area is located shall notify the local legislative body in writing of its approval or disapproval of the development plan. If the citizens' district council approves the plan or fails to notify the local legislative body of its approval or disapproval of the plan, the local legislative body is free to act on the plan. If the citizens' district council disapproves the plan and so notifies in writing the local legislative body, the local legislative body shall not adopt the plan for at least 30 days after receipt of the notice and during that period shall consult with the citizens' district council concerning its objections.

History: 1945, Act 344, Imd. Eff. May 31, 1945 ;-- Am. 1947, Act 237, Eff. Oct. 11, 1947 ;-- CL 1948, 125.74 ;-- Am. 1957, Act 296, Eff. Sept. 27, 1957 ;-- Am. 1968, Act 189, Imd. Eff. June 22, 1968 ;-- Am. 1969, Act 173, Imd. Eff. Aug. 5, 1969 ;-- Am. 1986, Act 320, Imd. Eff. Dec. 26, 1986

125.74a Racial segregation in housing; consultation and assistance of state civil rights commission.

Sec. 4a. No action taken under this act shall have the effect of promoting or perpetuating racial segregation in housing. To secure this objective, the local legislative body, municipal officials and agencies, citizens' district councils, and the coordinating council on urban redevelopment may consult with and seek the assistance of the state civil rights commission.

History: Add. 1968, Act 189, Imd. Eff. June 22, 1968

125.75 Rehabilitation of blighted areas; acquisition of property; proceedings under power of eminent domain; condemnation; dispossession.

Sec. 5. (1) For the accomplishment of the purposes of this act, the municipality shall acquire fee simple title in real property by purchase, gift, or exchange, and may acquire under this act title to blighted property by condemnation. The municipality shall then apply that blighted property acquired by condemnation under this act and other real property acquired by other means to the expressed purposes of this act.

(2) By authority of this act for blighted property, or by authority of other state law authorizing the condemnation of property for other public uses, the local legislative body may institute and prosecute proceedings under the power of eminent domain in accordance with the state constitution of 1963 and the laws of the state or provisions of any local charter relative to condemnation. A resident owner in a development area may not be dispossessed after condemnation under the provisions of this act until other adequate housing accommodations are available, to the people displaced.

History: 1945, Act 344, Imd. Eff. May 31, 1945 ;-- Am. 1947, Act 237, Eff. Oct. 11, 1947 ;-- CL 1948, 125.75 ;-- Am. 1957, Act 296, Eff. Sept. 27, 1957 ;-- Am. 2006, Act 677, Imd. Eff. Jan. 10, 2007

125.75a Rehabilitation of blighted areas; urban renewal plat.

Sec. 5a. Where, pursuant to the development of a project, disposition of acquired lands in accordance with the development plan is hampered by reason of the size or character of the lots or tracts of land within the development area, and where diversification of ownership within the development area prohibits redesign by means of a proprietor's plat, the municipality, by action of its governing body, may authorize a plat or replat of the area or any part thereof to be made by a registered civil engineer or a registered land surveyor.

The plat shall be prepared, approved and recorded as provided in Act No. 172 of the Public Acts of 1929, as amended, being sections 560.1 to 560.80 of the Compiled Laws of 1948, except that the certificate of the county and city treasurer relating to tax titles and tax liens shall not be required, and in lieu of the signature of the proprietor of the land the dedication shall be signed by the director of urban renewal or by the administrative officer of the municipality and shall refer to this act as the authority for certification. There shall be set forth in the title of the plat the words “urban renewal plat” or “urban renewal replat”. Unplatted and previously platted lands may be included in the same plat, and such plat shall supersede all previously recorded plats in the area covered by the urban renewal plat or urban renewal replat.

All lands within the development area, whether publicly or privately owned, may be included in the urban renewal plat or urban renewal replat, and all land so platted shall be divided into lots and be numbered in accordance with the development plan, except that no lot shall include property in both public and private ownership, nor in 2 or more individual private ownerships, unless such division is of a lot in a recorded subdivision which was so divided prior to the making of the urban renewal plat or urban renewal replat.

The plat or replat shall state in the dedication that necessary rights to all highways, streets, alleys and public places, including parks, green belts and buffer strips, have been acquired by the municipality by purchase, dedication, condemnation or adverse possession for public use, prior to the making of the urban renewal plat or urban renewal replat.

All easements retained by the municipality for the development of the project shall be designated on the urban renewal plat or urban renewal replat and become a part thereof.

An urban renewal plat or urban renewal replat shall conform in all respects to the urban renewal project plan for the area in which said plat or replat may be located. An urban renewal plat or urban renewal replat, when approved by the governing body where the lands are located, shall not be rejected for the reason that any lot shown thereon fails to meet minimum requirements as to width as prescribed by Act No. 172 of the Public Acts of 1929, as amended.

An urban renewal plat or urban renewal replat, when recorded and filed, shall be treated in respect to assessment, return of taxes and sale of lands for delinquent taxes and for all other purposes, the same as if made by the proprietor under the general provisions of Act No. 172 of the Public Acts of 1929, as amended.

History: Add. 1959, Act 244, Imd. Eff. Aug. 13, 1959

125.76 Acquisition of property; jurisdiction of public agencies.

Sec. 6. After the acquisition of the real property, such property as will be used by public agencies shall be transferred to or placed under the jurisdiction of the appropriate public agencies for public use as defined in this act. The remainder of the land which, in accordance with the development plan, is to be devoted to private uses shall be sold, leased or exchanged to corporations, companies or individuals, or to urban redevelopment corporations whose use of such property

shall be in accordance with the limitations and conditions provided in the development plan.

Any such sale, lease or exchange may be made without public bidding but only after public hearing by the local legislative body upon the proposed sale, lease or exchange and the provisions thereof. The sale, lease or exchange shall be under terms and conditions fixed by the local legislative body and shall contain provisions that the development plan for the property shall be carried out.

History: 1945, Act 344, Imd. Eff. May 31, 1945 ;-- CL 1948, 125.76

125.77 Repealed. 1957, Act 296, Eff. Sept. 27, 1957.

Compiler's Notes: The repealed sections authorized municipalities to finance rehabilitation of blighted areas by taxation, bonds, or assessment to a special district.

125.77a Municipal bonds or notes.

Sec. 7a. A municipality may issue bonds or notes from time to time in its discretion to finance the undertaking of any project authorized by this act including, but not limited to, the payment of principal and interest on advances or loans made for surveys and plans for projects authorized by this act. The bonds or notes shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from or held in connection with its undertaking and carrying out of projects under this act. Payment of the bonds or notes both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution due or to become due from the federal government or other source in aid of projects of the municipality under this act. Bonds or notes issued under this section shall not constitute an indebtedness within the meaning of constitutional, statutory, or charter debt limitations or restrictions, and may be issued without vote of the electors of the municipality. Bonds or notes issued under this section are declared to be issued for an essential public and, governmental purpose, and, together with interest thereon and income therefrom, shall be exempted from all taxes. Bonds or notes issued under this section shall be authorized by resolution or ordinance of the legislative body of the municipality. Bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: Add. 1957, Act 296, Eff. Sept. 27, 1957 ;-- Am. 1974, Act 65, Imd. Eff. Apr. 1, 1974 ;-- Am. 1983, Act 32, Imd. Eff. May 6, 1983 ;-- Am. 2002, Act 202, Imd. Eff. Apr. 29, 2002

125.77b General obligation bonds of municipality; purpose; resolution; pledge of full faith and credit; "cost of any project" and "net project cost" defined; issuance and sale of bonds; maximum amount; designation and approval of bonds; legislative determination; assessed value of real and personal property; validation of actions and bonds; limitation on time of sale; provisions governing bonds.

Sec. 7b. (1) For the purpose of providing funds to pay all or part of the cost of any project undertaken under this act or the net project cost of any project undertaken under this act with federal financial assistance, a municipality may provide by resolution duly adopted by its legislative body and without vote of the electors of the municipality for borrowing money and issuing general obligation bonds of the municipality, which bonds shall pledge the full faith and credit of the municipality.

(2) As used in this section:

(a) "Cost of any project" means any or all of the following items: Cost of land acquisition, demolition of buildings, land and site improvements, plans, surveys, appraisals, and all other costs relating to the acquisition, rehabilitation, financing, and disposal of any project or any part of a project under the terms of this act.

(b) "Net project cost" means that term as defined in former section 110 of the housing act of 1949, 42 U.S.C. 1460.

(3) The bonds may be issued and sold from time to time during the progress of any project undertaken under this act, in which event the maximum amount of bonds issued shall not exceed the estimated cost of any project undertaken under this act or the estimated net cost of any project undertaken under this act with federal assistance. The legislative body in the resolution authorizing issuance of the bonds shall set forth the estimate or the bonds may be issued when any project has been completed. Bonds issued under this section shall be designated "rehabilitation bonds". All bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. It being the determination of this legislature that urban blight constitutes a serious menace to public health, welfare, and safety of municipalities and their inhabitants and that the financing of projects designed to prevent or eliminate urban blight is necessary for the public health, welfare, and safety, the bonds authorized to be issued under this section are declared to be issued for an essential public and governmental purpose. The maximum

principal amount of bonds that may be authorized under this section in any year shall not exceed an amount equal to 5% of the assessed value of the real and personal property in the municipality less the taxes actually levied for the year exclusive of debt service tax levies and taxes levied under other laws, and less budget bonds authorized for the year issued or authorized to be issued and less any bonds authorized in the year to be issued under sections 6a and 6b of 1949 PA 208, MCL 125.946a and 125.946b. For the purposes of this section, the assessed value of real and personal property in the municipality shall include the assessed value equivalent of money received during the municipality's fiscal year under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. All actions previously taken by a municipality authorizing the issuance of bonds and all bonds previously issued by a municipality are validated. Any bonds authorized to be issued under this section shall be sold not later than 3 full fiscal years from the end of the fiscal year in which the bonds are authorized to be issued. The maximum amount of bonds issued under this section that may be outstanding at any one time shall not, together with other outstanding indebtedness of the municipality, exceed the maximum limitations on bonded indebtedness of the municipality imposed by law.

(4) Except as otherwise provided in this act, the bonds shall not be subject to the provisions of any other law or charter provision relating to their issuance or sale.

(5) The legislative body of any municipality issuing bonds under this section in the resolution authorizing issuance of the bonds shall estimate the period of usefulness of the planned improvements to be installed in the development area after the project is completed.

History: Add. 1957, Act 296, Eff. Sept. 27, 1957 ;-- Am. 1958, Act 60, Imd. Eff. Apr. 8, 1958 ;-- Am. 1970, Act 223, Eff. Apr. 1, 1971 ;-- Am. 1972, Act 119, Imd. Eff. Apr. 18, 1972 ;-- Am. 1973, Act 76, Imd. Eff. July 31, 1973 ;-- Am. 1978, Act 346, Imd. Eff. July 12, 1978 ;-- Am. 1983, Act 32, Imd. Eff. May 6, 1983 ;-- Am. 1986, Act 320, Imd. Eff. Dec. 26, 1986 ;-- Am. 2002, Act 202, Imd. Eff. Apr. 29, 2002

125.77c Tax revenues.

Sec. 7c. As an additional and alternative method of financing part or all of the costs of any project undertaken under this act, any municipality may use general tax revenues levied for the purpose or not otherwise earmarked.

History: Add. 1957, Act 296, Eff. Sept. 27, 1957

125.78 Loans and grants; acceptance, federal assistance, conditions; labor wages and standards.

Sec. 8. Municipalities are authorized and permitted to accept loans and grants from other government agencies to finance the purposes of this act, to borrow money and may issue bonds or notes therefor, to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal government, the state, county, municipality or other public body or from any sources, public or private, for the purposes of this act, to give such security as may be required and to enter into and carry out contracts in connection therewith. A municipality, notwithstanding the provisions of any other law, may include in any contract for financial assistance with the federal government for a project as defined in this act such conditions imposed pursuant to federal law, to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law, in the undertaking or carrying out of a project as defined in this act as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this act, and to include in any contract let in connection with such a project provisions to fulfill such of said conditions as it may deem reasonable and appropriate, including the payment of prevailing salaries and wages and compliance with federal labor standards.

History: 1945, Act 344, Imd. Eff. May 31, 1945 ;-- CL 1948, 125.78 ;-- Am. 1952, Act 222, Imd. Eff. May 2, 1952 ;-- Am. 1957, Act 296, Eff. Sept. 27, 1957

125.79 Modification of plan; hearing.

Sec. 9. If previous to the lease, sale or exchange of any real property in the development area, the local legislative body desires to modify the development plan, it shall hold a public hearing thereon, notice of such hearing to be given as provided in section 4 of this act. If the modification be approved by the local legislative body, it shall become a part of the approved development plan.

The part of a development plan which directly applies to a parcel of real property in the area, may be modified by the local legislative body at any time or times after the transfer or lease or sale of the parcel of real property in the area provided that the modification be consented to by the lessee or purchaser.

History: 1945, Act 344, Imd. Eff. May 31, 1945 ;-- CL 1948, 125.79

125.80 Work done in accordance with plan.

Sec. 10. On and after the date when a plan has been approved for the rehabilitation of an area by the local legislative body, no permit shall be issued

for work or work done in the area which is not in accordance with the plan officially adopted and made effective by the local legislative body: Provided, however, That the local legislative body shall provide by ordinance that the zoning board of appeals, if the municipality has such a board, or if not, then a board of appeals created for the purpose, shall have the power on appeal filed with it by the owner of real property in the area to approve a minor deviation from the plan for the area in any case in which such board finds upon the evidence presented to it, that the application of the plan results in unnecessary hardship or practical difficulties and a minor deviation from the development plan is required by considerations of justice and equity. Before taking any such action, the board shall hold a public hearing thereon, at least 10 days' notice of the time and place of which shall be given by public notice in a newspaper published or circulated generally in the municipality and by notice to all property owners within 200 feet of the property in question, such notice to be by mail addressed to the respective owners at the address given in the last assessment roll.

History: 1945, Act 344, Imd. Eff. May 31, 1945 ;-- CL 1948, 125.80

125.81 Designation of administrative agency.
Sec. 11. The local legislative body may designate an administrative agency to be responsible for the administration of this act or by ordinance may create a commission for that purpose consisting of not more than 7 members, the majority of whom shall be residents of the municipality, and by suitable action shall establish regulations for the guidance of the agency or commission in the effectuation of the purposes of this act.

History: 1945, Act 344, Imd. Eff. May 31, 1945 ;-- CL 1948, 125.81 ;-- Am. 1961, Act 147, Imd. Eff. May 31, 1961

125.82 Action by ordinance or resolution; validation of prior actions.
Sec. 12. All actions of local legislative bodies under the provisions of this act shall be by ordinance or resolution and such ordinance or resolution shall be subject to the same provisions regarding procedure and executive veto as are applicable to other ordinances or resolutions of the legislative body. Any provision in this or any other act or in the charter of any municipality to the contrary notwithstanding, any action of local legislative bodies relating to the approval or modification of a development plan heretofore taken under the provisions of this act by resolution and all actions subsequent thereto dependent on such earlier actions are validated. Any development plan heretofore approved by resolution may thereafter be modified by resolution.

History: 1945, Act 344, Imd. Eff. May 31, 1945 ;-- CL 1948, 125.82 ;-- Am. 1968, Act 189, Imd. Eff. June 22, 1968

125.83 Powers deemed additional.

Sec. 13. The powers granted in this act shall be in addition to powers granted to municipalities, the local legislative bodies thereof and other officials and bodies thereof under the statutes and local charters. Nothing herein contained shall be construed to amend or repeal any of the provisions of Act No. 18 of the Public Acts of 1933 as amended.

History: 1945, Act 344, Imd. Eff. May 31, 1945 ;-- CL 1948, 125.83
Compiler's Notes: "Act No. 18 of the Public Acts of 1933" evidently should read "Act No. 18 of the Public Acts of 1933, Ex. Sess." See MCL 125.651 et seq.

125.84 Urban renewal projects.

Sec. 14. For any urban renewal project initiated under this act:

(a) Where the project was initiated prior to June 22, 1968, the local legislative body by resolution may exempt the project from the provisions of section 4, as amended, relating to district areas, citizens' district councils and coordinating councils on community redevelopment if on that date, of the persons residing in the project area at the time of project initiation and requiring relocation, 50% of such persons had relocated in accordance with law, or if on June 22, 1968, there were fewer than 100 such persons remaining to be relocated. The provisions of this subsection do not apply to a city of over 500,000 population.

(b) Where the number of business establishments in the project area exceeds the number of occupied dwelling units in the area, the majority of the citizens' district council need not be composed of citizens living in the development area.

(c) Where a citizens' district council is established pursuant to this act, it shall serve in lieu of and shall be deemed to satisfy all requirements relating to an urban renewal neighborhood advisory council required to be appointed pursuant to section 3 of Act No. 323 of the Public Acts of 1966, being section 125.963 of the Compiled Laws of 1948.

(d) Where a hearing is required to be held prior to the adoption of a development plan, in the case of a neighborhood development program to be carried out under applicable regulations and guidelines of the United States department of housing and urban development, notwithstanding the notice

requirements of section 4, notice of the hearing shall be deemed sufficient if such notice is distributed door-to-door and mailed to known property owners only in the specific area or areas where property is to be acquired or rehabilitated and mailed to all community organizations known to be interested in the project and posted in appropriate public buildings and appropriate other places of public gathering.

(e) The boundaries of the district area may be revised by the local legislative body if the existing citizens' district council is notified in writing by the local legislative body at least 10 days prior to final action on the revised boundaries. If new area is included in the revised district area, persons residing in or having a demonstrable and substantial interest in the newly included area may be elected or appointed to the revised citizens' district council in the same manner of selection as the original citizens' district council. Notwithstanding the maximum size prescribed for citizens' district councils, the number of persons to be selected to represent the newly included area shall be determined by the local legislative body. If the existing citizens' district council disapproves the revised boundaries or number of persons to be elected or appointed to the revised citizens' district council and so notifies the local legislative body in writing within the 10-day period, final action on the revised boundaries or the number of persons to be elected or appointed to the revised citizens' district council shall not be taken by the local legislative body for at least 30 days after receipt of the disapproval notice, during which time the local legislative body shall consult with the citizens' district council concerning its objections. Where a district area is revised persons serving on the citizens' district council as residents of the district area who no longer reside in the revised district area shall not thereafter serve on the citizens' district council for the revised area unless they are reappointed or reelected as persons with a demonstrable and substantial interest in the revised area.

(f) Vacancies on the citizens' district council may be filled by appointment of the chief executive officer of the municipality.

(g) The time provisions of section 4 are directory and not mandatory and any development plan adopted after consultation with a citizens' district council as provided in section 4 shall not be invalid because such time provisions were not strictly complied with.

(h) All citizens' district councils established as of the effective date of this section are validated notwithstanding noncompliance with the provisions of

section 4 and all development plans heretofore adopted and all other actions heretofore taken by a municipality after consultation as required in section 4 with a citizens' district council shall not be invalid for any irregularities in the establishment, appointment or selection of such citizens' district council.

History: Add. 1969, Act 336, Imd. Eff. Nov. 28, 1969
Compiler's Notes: Former MCL 125.84, a severability provision, was repealed by Act 129 of 1947.

URBAN REDEVELOPMENT CORPORATIONS LAW
Act 250 of 1941

AN ACT to provide for the creation of urban redevelopment corporations for the purpose of clearing, replanning, rehabilitating, modernizing, beautifying, and reconstructing substandard and insanitary areas; to provide for the powers and duties of urban redevelopment corporations and certain local units of government; to grant limited tax exemptions and powers of condemnation; and to provide for certain regulations and control by public agencies.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- Am. 1945, Act 102, Eff. Sept. 6, 1945 ;-- Am. 1968, Act 325, Imd. Eff. July 3, 1968 ;-- Am. 1992, Act 138, Imd. Eff. July 15, 1992

The People of the State of Michigan enact:

125.901 Urban redevelopment corporations law; short title; applicability to townships.

Sec. 1. (1) This act shall be known and may be cited as the “urban redevelopment corporations law.”

(2) This act applies to townships in the same manner and to the same extent as it applies to cities. However, the development area in a township shall be limited to property that was used for a state office, hospital, prison, institution of higher education, or other state facility.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.901 ;-- Am. 1992, Act 138, Imd. Eff. July 15, 1992
Compiler's Notes: The catchlines following the act section numbers were incorporated as part of the act as enacted.

125.902 Legislative findings; policy of state; purpose of act.

Sec. 2. It is declared that in the cities of the state substandard and insanitary areas exist which have resulted from inadequate planning, excessive land

coverage, lack of proper light, air, and open space, pollution, neglect, defective design and arrangement of buildings, lack of proper sanitary facilities, and the existence of buildings, which, by reason of age, obsolescence, inadequate or outmoded design, or physical deterioration, have become economic or social liabilities, or both; that such conditions are prevalent in areas where substandard, insanitary, outworn or outmoded industrial, commercial or residential buildings and polluted and neglected water courses prevail, and are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, crime and poverty; that such conditions impair the economic value of large areas, infecting them with economic blight, and that such areas are characterized by depreciated values, impaired investments, and reduced capacity to pay taxes; that such conditions are chiefly in areas which are so subdivided into small parcels in divided ownerships and frequently with defective titles, that their assembly for purposes of clearance, replanning, rehabilitation and reconstruction is difficult and costly; that the existence of such conditions and the failure to clear, replan, rehabilitate or reconstruct these areas result in a loss of population in some areas, and congestion and over-crowding in other areas and further deterioration, accompanied by added costs to the communities for creation of new public facilities and services elsewhere; that it is difficult and uneconomic for individual owners independently to undertake to remedy such conditions; that it is desirable to encourage owners of property or holders of claims thereon in such areas to join together and with outsiders in corporate groups for the purpose of the clearance, replanning, rehabilitation, modernization, improvement and reconstruction of such areas by joint action; that it is necessary to create, with proper safeguards, inducements and opportunities for the employment of private investment and equity capital in the clearance, replanning, rehabilitation, modernization, improvement and reconstruction of such areas; that such conditions require the employment of such capital on an investment rather than a speculative basis, allowing, however, the widest latitude in the amortization of any indebtedness created thereby; that such conditions further require the acquisition at fair prices of adequate areas, the gradual clearance of such areas through demolition of existing obsolete, inadequate, unsafe and insanitary buildings and the redevelopment of such areas under proper supervision with appropriate planning, land use and construction policies; that the clearance, replanning, rehabilitation, modernization, improvement and reconstruction of such areas on a large scale basis are necessary for the public welfare; that the clearance, replanning, reconstruction, modernization, improvement and rehabilitation of such areas are public uses and purposes for which private property may be acquired; that such substandard and insanitary areas constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the

state; that such conditions require the creation of the agencies, instrumentalities and corporations hereinafter described, which are hereby declared to be agencies and instrumentalities of the state, for the purpose of attaining the ends herein recited; that the protection and promotion of the health, safety, morals, welfare and reasonable comfort of the citizens of the state are matters of public concern; and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.902 ;-- Am. 1968, Act 325, Imd. Eff. July 3, 1968

125.903 Urban redevelopment corporations law; definitions.
Sec. 3. The following terms, whenever used or referred to in this act, shall, unless a different intent clearly appears from the context, be construed as follows:

The term “area” shall mean a portion of a city which a planning commission has found or shall find to be substandard or insanitary, so that the clearance, replanning, rehabilitation, modernization, improvement or reconstruction thereof is necessary or advisable to effectuate the public purposes declared in section 2. An area may include any buildings or improvements not in themselves substandard or insanitary, and any real property, whether improved or unimproved, the inclusion of which is deemed necessary for the effective clearance, replanning, reconstruction, modernization, improvement or rehabilitation of the area of which such buildings, improvements or real property form a part.

The term “assessed valuation” with respect to any local tax on any parcel of real property shall mean the value of such parcel, including therein buildings and improvements as well as land, as assessed by the respective official, bureau, board, commission or agency charged with assessing the same for such local tax.

The term “city” shall mean and be deemed to relate to any city in the state.

The term “development” shall mean a specific work, repair or improvement to put into effect a development plan. The term shall include the real property, buildings, and improvements owned, constructed, managed or operated by a redevelopment corporation.

The term “development area” shall mean that portion of an area to which a development plan is applicable.

The term “development cost” shall mean the amount determined by the supervising agency to be the actual cost of the development, or of the part thereof for which such determination is made, and shall include, among other costs, the reasonable costs of planning the development, including preliminary studies and surveys, neighborhood planning, and architectural, engineering and other professional services, the reasonable value of the services performed by or for the incorporators of a redevelopment corporation in connection with the development plan prior to the time when the redevelopment corporation was incorporated or became a redevelopment corporation, the costs of financing the development, including carrying charges during construction, working capital in such reasonable amount as shall be approved by the supervising agency, the actual cost of the real property or any part thereof where acquired partly or wholly in exchange for securities, plus an amount which shall be approved by the supervising agency as being equal to the reasonable value of the real property acquired therefor, the actual cost of demolition of existing structures, the actual cost of utilities, landscaping and roadways and improvement and beautification of water courses, the actual cost of construction, equipment and furnishing of buildings and improvements, including architectural, engineering, builder's and other professional fees, the actual cost of reconstruction, rehabilitation, remodeling or initial repair of existing buildings and improvements, reasonable management and operation costs until the development is ready for use, and the actual cost of improving that portion of the development area which is to remain as open space, and the cost of relocating families displaced by the redevelopment, together with such additions to development cost as shall equal the actual cost of additions to or changes in the development in accordance with the original development plan or after approved changes in or amendments thereto.

The term “development plan” shall mean a plan for the redevelopment of all or any part of an area, and shall include any amendments thereto approved in accordance with the requirements of paragraph 5 of section 4.

The term “dividend year” shall mean, whether or not there exists a maximum exemption period with respect to any 1 or more parcels of real property, any of the recurrent periods of 1 year each ending on the last day of the calendar month immediately preceding the calendar month in which the assessment rolls for the purpose of city taxes on real property are finally warranted to the

official, bureau, board, commission or agency charged with collecting such taxes. The first dividend year may be a period of less than 1 year commencing with the beginning of the execution of the development plan and ending on such last day of such calendar month.

The term “local legislative body” shall mean the board of aldermen, common council, commission or other board or body vested by the charter of the city or other law with jurisdiction to adopt or enact ordinances or local laws.

The terms “local taxation” and “local tax” shall include state, county, city, and school taxes, any special district taxes, and any other tax on real property, but shall not include special assessments for local benefit improvements.

The term “maximum assessed valuation” shall mean, with respect to any local tax on any parcel of real property, the assessed valuation of such parcel appearing on the first assessment roll warranted to the official, bureau, board, commission or agency charged with collecting the particular local tax involved, after the completion of the development plan for the particular parcel and together with certification to that effect by the supervising agency to the official, bureau, board, commission or agency charged with the duty of determining and fixing the valuation of real property for local taxation purposes.

The term “maximum exemption period” shall mean, with respect to any parcel of real property, the period of maximum assessed valuation for that particular parcel as designated in the ordinance or local law adopted or enacted by the local legislative body pursuant to paragraph 1 of section 12.

The term “maximum dividend” shall mean, with respect to any dividend year an amount equal to 10% of the development cost less all amounts payable during the dividend year as interest on, but not as amortization of, any indebtedness of the redevelopment corporation. The maximum dividend, however, may be apportioned in accordance with the provisions of section 13. The maximum dividend may change from time to time in accordance with changes in development cost, in outstanding indebtedness and in capital structure due to refunding operations.

The term “mortgage” shall mean a mortgage, trust indenture, deed of trust, building and loan contract or other instrument creating a lien on real property, and the indebtedness secured by each of them.

The term “neighborhood unit” shall mean a primarily residential district having the facilities necessary for well-rounded family living, such as schools, parks, playgrounds, parking areas and local shopping districts.

The term “planning commission” shall mean the official bureau, board, commission or agency of the city authorized to prepare, adopt and amend or modify plans for the development and improvement of the city generally.

The term “real property” shall include lands, buildings, improvements, land under water, waterfront property, and any and all easements, franchises and hereditaments, corporeal or incorporeal, and every estate, interest, privilege, easement, franchise and right therein, or appurtenant thereto, legal or equitable, including right of ways, terms for years and liens, charges, or incumbrances by mortgage, judgment or otherwise.

The term “redevelopment” shall mean the clearance, replanning, reconstruction or rehabilitation of a substandard or insanitary area, and the provision of such industrial, commercial, residential or public structures and spaces as may be appropriate, including recreational and other facilities incidental or appurtenant thereto.

The term “redevelopment corporation” shall mean a corporation organized pursuant to the corporation laws of the state whose certificate of incorporation shall comply with the requirements of section 6.

The term “state” shall mean the state of Michigan.

The term “supervising agency” shall mean the official, bureau, commission or agency appointed, established or designated pursuant to section 5.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- Am. 1945, Act 102, Eff. Sept. 6, 1945 ;-- CL 1948, 125.903 ;-- Am. 1968, Act 325, Imd. Eff. July 3, 1968

125.904 Development plans; contents; approval; requirements; amendments; fees.

Sec. 4. Development plans and approval thereof.

1. A development plan shall contain:

(a) A metes and bounds or a statement of the boundaries by streets, or other reasonably definite legal description of the redevelopment area;

(b) A statement of the various stages, if more than 1 stage is intended, by which the development is proposed to be constructed or undertaken, and the estimated time within which each stage is to be completed. The initial stage of the redevelopment plan shall be stated in reasonable detail. Subsequent stages shall be stated by brief general description in the original redevelopment plan, and in reasonable detail in amendments to the redevelopment plan made pursuant to subsection 5 of this section;

(c) A provision for all reasonable costs of relocating persons displaced during the completion of a stage of the redevelopment plan in decent, safe and sanitary dwellings adequate to their needs and within their financial means in reasonably convenient locations not less desirable than the development area with respect to utilities and facilities;

(d) Each redevelopment plan or stage thereof presented for approval shall contain such of the following items relevant to the proposed plan or stage;

(i) A description of the existing buildings or improvements in the development area, to be demolished immediately, if any;

(ii) A description of existing buildings or improvements, in the development area not to be demolished immediately, if any, and the approximate period of time during which the demolition, if any, of each such building or improvement is to take place;

(iii) A description of the proposed improvements, if any, to each building not to be demolished immediately, any proposed repairs or alterations to such building, and the approximate period of time during which such improvements, repairs or alterations are to be made;

(iv) A description of the type, number and character of each new industrial, commercial, residential or other building or improvement to be erected or made;

(v) A description of those portions, if any, of the development area which may be permitted or will be required to be left as open space, the use to which each such open space is to be put, the period of time each such open space will be

required to remain an open space and the manner in which it will be improved and maintained, if at all;

(vi) A description of those portions, if any, of the development area which the redevelopment corporation proposes to sell, donate, exchange or lease to, with or from the city, and an outline of the terms of such proposed sale, donation, exchange or lease;

(vii) A statement of the proposed changes, if any, in zoning ordinances or maps, necessary or desirable for the development and its protection against blighting influences;

(viii) A description of the proposed changes, if any, in streets or street levels and any proposed street closings;

(ix) Reasonable estimates of the character of the existing dwelling accommodations, if any, in the area covered by the redevelopment plan or stage, the approximate number of families residing therein, the rentals being paid by them, the vacancies in such accommodations and of the rental demand therefor;

(x) A statement of the character, approximate number of units, approximate rentals and approximate date of availability of the proposed dwelling accommodations, if any, to be furnished during construction and upon completion of the development;

(xi) A statement of the proposed method of financing the redevelopment or stage, in sufficient detail to evidence the probability that the redevelopment corporation will be able to finance or arrange to finance the development;

(e) A statement of persons who it is proposed will be active in or associated with the management of the redevelopment corporation during a period of at least 1 year from the date of the approval of the development plan.

The development plan, and any application to the planning commission or supervising agency for approval thereof, may contain in addition such other statements or materials as may be deemed relevant by the proposer thereof, including limits on the amounts which may be paid as compensation for services to the officers and employees of the redevelopment corporation, suggestions for the clearance, replanning, reconstruction or rehabilitation of 1

or more areas which may be larger than the development area but which include it, and any other provisions for the redevelopment of such area or areas.

(f) A description of the means through which a representative council of residents of the redevelopment area shall be established and consulted throughout all stages of the planning of the redevelopment so that the desires of residents shall be incorporated into the plans for the area to the extent feasible.

(g) A description of the means through which, to the extent feasible, the housing to be developed shall reasonably be within the financial means of the residents of the general area.

(h) A description of the means through which persons displaced by the redevelopment shall have priority in occupying any new housing in the redevelopment area, if they meet reasonable requirements of responsibility.

2. No development shall be initiated until certificates of approval of the development plan therefor shall have been issued by both the planning commission and the supervising agency.

3. A planning commission may approve a development plan, but no certificate of approval thereof shall be issued by it unless and until an application for approval has been filed with it, together with the development plan, and unless and until the planning commission shall determine:

(a) That the area within which the development area is included is substandard or insanitary or is polluted or neglected and that the redevelopment of the development area in accordance with the development plan is necessary or advisable to effectuate the public purposes declared in section 2;

(b) That the development plan is in accord with the master plan, or city map, if any, of the city;

(c) That the development area is of sufficient size to allow its redevelopment in an efficient and economically satisfactory manner;

(d) That the various stages, if any, by which the development is proposed to be constructed or undertaken, as stated in the development plan, are practicable and in the public interest;

(e) That public facilities, including, but not limited to school, fire, police, transportation, park, playground and recreation, are presently adequate, or will be adequate, at the time that the development is ready for use, to service the development area;

(f) That the proposed changes, if any, in zoning ordinances or maps and in streets and street levels, or any proposed street closings, are necessary or desirable for the development and its protection against blighting influences and for the city as a whole;

(g) Upon data submitted by or on behalf of the redevelopment corporation, or upon data otherwise available to the planning commission, that there will be available for occupation by families, if any, then occupying dwelling accommodations in the development area similar accommodations at substantially similar rentals in the development area or elsewhere in a suitable location in the city, and that the carrying into effect of the development plan will not cause undue hardship to such families.

Any such determination shall be conclusive evidence of the facts so determined except upon proof of fraud or wilful misfeasance. In arriving at such determination, the planning commission shall consider only those elements of the development plan relevant to such determination under subparagraphs (a) through (g) of this paragraph 3 of section 4 and to the type of development which is physically desirable for the development area concerned from a city planning viewpoint, and from a neighborhood unit viewpoint if the development plan provides that the development area is to be primarily residential. Upon approval of a development plan by the planning commission, it shall forthwith issue a certificate of approval thereof.

A planning commission may state general standards of city and neighborhood unit planning to which a development plan should conform to be approved by it. Such standards, however, shall be as flexible as possible and only for the guidance of prospective proponents of development plans. Variations therefrom shall be freely allowed upon a showing of their advisability, to the end that individual initiative be encouraged.

4. A supervising agency may approve a development plan, but no certificate of approval thereof shall be issued by it unless and until the planning commission shall first have approved thereof and there has been filed with the supervising agency the development plan, the certificate of approval by the planning

commission and an application for approval by the supervising agency, and unless and until the supervising agency shall determine:

(a) That the proposed method of financing the development is feasible and that it is probable that the redevelopment corporation will be able to finance or arrange to finance the development;

(b) That the persons who it is proposed will be active in or associated with the management of the redevelopment corporation during a period of at least 1 year from the date of the approval of the development plan have sufficient ability and experience to cause the development to be undertaken, consummated and managed in a satisfactory manner.

Any such determination shall be conclusive evidence of the facts so determined except upon proof of fraud or wilful misfeasance. In considering whether or not a certificate of approval of the development plan shall be issued, the supervising agency shall consider only those elements of the development plan relevant to such determination under subparagraphs (a) and (b) of this paragraph 4 of section 4. Upon approval of a development plan by the supervising agency, it shall forthwith issue a certificate of approval thereof.

5. The planning commission and the supervising agency may approve an amendment or amendments to a development plan, but no such amendment to a development plan which has theretofore been approved by the planning commission and the supervising agency shall be approved unless and until an application therefor has been filed with the planning commission or the supervising agency by the redevelopment corporation containing that part of the material required by paragraph 1 of this section 4 which shall be relevant to the proposed amendment, and unless and until the planning commission or the supervising agency, as the case may be, shall make the determinations required by paragraph 3 or 4 of this section 4 which shall be relevant to the proposed amendment.

6. The planning commission and the supervising agency may each adopt a schedule of fees to be paid upon the filing of the development plan, amendments thereto and other instruments in connection therewith. The amount of these fees shall not exceed the reasonable cost of the examining, inspectional and supervisory services required under this act.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.904 ;-- Am. 1968, Act 325, Imd. Eff. July 3, 1968

125.905 Supervising agency; appointment.

Sec. 5. The local legislative body of a city is hereby authorized by general ordinance or local law to appoint, establish or designate the chief financial officer of the city or some other official or bureau, commission or agency as the person or body to exercise the powers and perform the duties held by or incumbent upon a supervising agency pursuant to this act.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.905 ;-- Am. 1968, Act 325, Imd. Eff. July 3, 1968

125.906 Redevelopment corporation; organization; articles; forfeiture of rights; name.

Sec. 6. 1. At any time 1 or more natural persons, corporations or partnerships may incorporate a redevelopment corporation on making, subscribing, acknowledging and filing in the corporation and securities commission a certificate pursuant to the general corporation law, which shall be entitled and endorsed "certificate of incorporation of ..... redevelopment corporation, pursuant to the general corporation law," the blank space being filled in with the remainder of the name of the corporation. Such certificate shall contain the provisions required in, and may contain any provisions consistent with the provisions of this act permitted in, a certificate of incorporation filed pursuant to the general corporation law, except that:

(a) Included among the purposes for which the corporation is formed shall be the formulation, obtaining the approval of, and putting into effect of a development plan, the acquisition of real property in a development area, and the construction, maintenance and operation of a development pursuant to this act;

(b) The duration of the corporation shall not be less than 20 years;

(c) The certificate may provide for the issuance of income debentures, in which case the holders of such debentures may be allowed such voting rights as shall be specified therein;

(d) The certificate may provide that the corporation shall have the power to cooperate with and participate in any programs of the federal or state governments which have been or may be enacted for purposes of the

development or redevelopment of areas of cities which are substandard, insanitary, polluted or neglected.

(e) The certificate may provide that the corporation shall have the power to guarantee, purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of any bonds, securities or evidence of indebtedness created by any person or other legal entity related to properties or businesses located in the redevelopment area.

(f) The certificate shall contain a declaration that the redevelopment corporation has been organized to serve a public purpose, and that it shall be subject to supervision and control as provided in this act. A copy of such certificate shall be filed with the planning commission and the supervising agency having jurisdiction within 10 days of its being filed in the corporation and securities commission.

2. At any time any domestic corporation which is not a redevelopment corporation, but which has been incorporated pursuant to the general corporation law may become a redevelopment corporation by filing an appropriate certificate or certificates pursuant to the general corporation law changing the provisions of its certificate of incorporation to eliminate any provisions therein inconsistent with the provisions of this act and adding or substituting the provisions required by this section by changing its name to a name corresponding to the form "..... redevelopment corporation," and making all the other changes necessary to enable it to conform with all of the provisions of this act. Any such certificate shall be prepared and filed pursuant to the general corporation law, except that in addition to citing such law in the title of such certificate, the title shall also state that it is being made pursuant to section 6.

3. If a redevelopment corporation shall not have obtained the certificates of approval of its development plan required by section 4 within 12 months of the date upon which it became a redevelopment corporation, or shall not substantially comply with the development plan within the time limit for the completion of each stage thereof as therein stated, reasonable delays caused by unforeseen difficulties excepted, then upon the filing in the department of state of a certified copy of the order of the court establishing such failure to obtain such certificate or substantially so to comply, obtained pursuant to section 14, such redevelopment corporation shall cease to have the special rights, powers and privileges granted to, or be subject to the special duties, liabilities and

restrictions imposed upon, a redevelopment corporation by this act, and shall thereafter change its name to remove the word “redevelopment” therefrom. In such event, however, such corporation may thereafter continue in existence as a corporation, subject to the general corporation law. In the event that a certified copy of such order shall be so filed, all real property acquired by or for such redevelopment corporation by condemnation shall be disposed of, either alone or in conjunction with additional real property not so acquired, within a reasonable time by bona fide sale conducted in such a manner as may be prescribed by ordinance of the local legislative body. All amounts received by the redevelopment corporation for such real property in excess of an amount equal to that portion of the development cost allocable to the real property being disposed of, shall be paid to the city.

4. No corporation now organized under the laws of the state shall change its name to a name, and no such corporation hereafter organized shall have a name, containing the word “redevelopment” as a part thereof, unless and until such corporation is or becomes a redevelopment corporation. No foreign corporation now authorized to do business in the state shall change its name to a name, and no such corporation shall hereafter be authorized to do business in the state with a name, containing the word “redevelopment” as a part thereof.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.906 ;-- Am. 1968, Act 325, Imd. Eff. July 3, 1968

125.907 Limitations imposed upon redevelopment corporations; limitations.

Sec. 7. Limitation of redevelopment corporations. No redevelopment corporation shall:

1. Undertake any clearance, reconstruction, improvement, alteration or construction in connection with any development until the certificates of approval required by section 4 of this act have been issued;

2. Change, alter, amend, add to or depart from the development plan within 20 years of the issuance of the certificates of approval required by section 4 of this act, until the planning commission or the supervising agency, as the case may be, has issued a certificate of approval of that portion of such change, alteration, amendment, addition or departure relevant to the determination required to be made by it as set forth in section 4 of this act;

3. After a development has been commenced, sell, transfer or assign any real property in the development area without first obtaining the consent of the supervising agency;

4. Undertake more than 1 development;

5. Pay interest on its income debentures, if any, except out of net earnings which would have been applicable to the payment of dividends on its capital stock if there were no such income debentures;

6. Pay as compensation for services to, or enter into contracts for the payment of compensation for services to, its officers or employees in an amount greater than the limit thereon contained in the development plan, or in default thereof, then in an amount greater than the reasonable value of the services performed or to be performed by such officers or employees;

7. Lease an entire building or improvement in the development area to any person or corporation without obtaining the approval of the supervising agency, which may be withheld only if the lease is being made for the purpose of evading the regulatory provisions of this act;

8. Mortgage any of its real property without obtaining the approval of the supervising agency;

9. Make any guarantee without obtaining the approval of the supervising agency;

10. Dissolve without obtaining the approval of the supervising agency, which may be given upon such conditions as the supervising agency may deem necessary or appropriate to the protection of the interest of the city in the proceeds of the sale of the real property acquired by condemnation as provided in paragraph 3 of section 6 of this act, such approval to be endorsed on the certificate of dissolution and such certificate not to be filed in the department of state in the absence of such endorsement;

11. Reorganize without obtaining the approval of the supervising agency.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.907

125.908 Corporation code; application to redevelopment corporations.
Sec. 8. Application of other corporation laws to redevelopment corporations. The provisions of the general corporation law as presently in effect and as hereafter from time to time amended, shall apply to redevelopment corporations, except where such provisions are in conflict with the provisions of this act. In the event that any action with respect to which the holders of income debentures shall have the right to vote is proposed to be taken, then notice of any meeting at which such action is proposed to be taken shall be given to such holders in the same manner and to the same extent as if they were stockholders entitled to notice of and to vote at such meeting, and any certificate filed pursuant to law in the department of state with respect to any such action, whether taken with or without meeting, and any affidavit required by law to be annexed to such certificate shall contain the same statements or recitals, and such certificate shall be subscribed and acknowledged, and such affidavit shall be made, in the same manner as if such holders were stockholders holding shares of an additional class of stock entitled to vote on such action, or with respect to the proceedings provided for in such certificate.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.908

125.909 Consideration for issuance of stock, bond or debentures.
Sec. 9. Consideration for issuance of stock, bonds, or income debentures. No redevelopment corporation shall issue stock, bonds or income debentures, except for money or property actually received for the use and lawful purposes of the corporation or services actually performed for the corporation.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.909

125.910 Determination of development cost; procedure.
Sec. 10. 1. Upon the completion of a development, a redevelopment corporation shall, or upon the completion of a principal part of a development, a redevelopment corporation may, file with the supervising agency an audited statement of the development cost thereof. Within a reasonable time after the filing of such statement, the supervising agency shall determine the development cost applicable to the development or such portion thereof and shall issue to the redevelopment corporation a certificate stating the amount thereof as so determined.

2. A redevelopment corporation may, at any time, whether prior or subsequent to the undertaking of any contract or expense, apply to the supervising agency for a ruling as to whether any particular item of cost therein may be included in

development cost when finally determined by the supervising agency, and the amount thereof. The supervising agency shall, within a reasonable time after such application, not to exceed 60 days, render a ruling thereon, and in the event that it shall be ruled that any item of cost may be included in development cost, or upon failure of the supervising agency to make such ruling within 60 days, the amount thereof as so determined shall be so included in development cost when finally determined.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.910 ;-- Am. 1968, Act 325, Imd. Eff. July 3, 1968

125.911 Regulation of corporation by supervising agency.
Sec. 11. Regulation of redevelopment corporations by supervising agency.

A redevelopment corporation shall:

1. Furnish to the supervising agency from time to time, as required by it, but with respect to regular reports not more often than once every 6 months, such financial information, statements, audited reports or other material as such supervising agency shall require, each of which shall conform to such standards of accounting and financial procedure as the supervising agency may by general regulation prescribe.

2. Establish and maintain such depreciation and other reserves, surplus and other accounts as the supervising agency may reasonably require.

3. Any provision of the general corporation law to the contrary notwithstanding, 1 member of the board of directors of a redevelopment corporation shall be a designee of the supervising agency, as long as any of the real property of the redevelopment corporation is entitled to the tax exemption provided for in section 12 of this act.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.911

125.912 Exemption from increase in assessed value; limitations; development plan; "qualified entity" defined.
Sec. 12.(1) A local legislative body is authorized by the adoption or enactment of an ordinance or local law to exempt real property located within the city or township owned by a redevelopment corporation or a qualified entity during a maximum exemption period that shall not exceed 40 years from any increase in

assessed value over the maximum assessed value. After the adoption or enactment of the ordinance or local law, every parcel of real property owned by any redevelopment corporation or a qualified entity in a development shall be exempt during the maximum exemption period from any increase in assessed value over or in excess of the maximum assessed value. An exemption described in this subsection shall not, however, apply to any improvement made upon the real property after the beginning of the maximum exemption period but the local legislative body may, by appropriate legislative action, establish a maximum assessed value and maximum exemption period, not to exceed 40 years, for those subsequent improvements.

(2) For the purpose of fixing the date of commencement of the maximum exemption period for a group of parcels of real property in a development area, the city or township is authorized with the approval of its local legislative body to contract with a redevelopment corporation to place in 1 or more groups the various parcels of real property in a development area. A contract described in this subsection may provide that all the parcels in each group shall be considered to have a common stated date of completion of the development by the redevelopment corporation or qualified entity.

(3) A development plan may include property located in a township only if that property was previously used by this state for an office, hospital, prison, institution of higher education, or other state facility.

(4) For purposes of this section, “qualified entity” means either of the following:

(a) A Michigan nonprofit corporation or a Michigan limited partnership having a Michigan nonprofit corporation as its sole general partner, if 1 or more of the following apply:

(i) A majority of each class of stock in the nonprofit corporation is owned by the redevelopment corporation.

(ii) A majority of the members of the board of directors of the nonprofit corporation are elected and removable by the redevelopment corporation.

(iii) The redevelopment corporation is the sole member of the nonprofit corporation.

(b) A for-profit corporation, partnership, or limited liability company formed or incorporated by the redevelopment corporation for the sole purpose of syndicating historic tax credits or low-income housing tax credits in connection with the redevelopment of a property that has been owned by the redevelopment corporation, if the redevelopment corporation maintains oversight responsibility for the management and operation of the property for which historic tax credits or low-income housing tax credits were syndicated and the for-profit entity does not engage in any other business activity unrelated to the property.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.912 ;-- Am. 1968, Act 325, Imd. Eff. July 3, 1968 ;-- Am. 1998, Act 385, Imd. Eff. Oct. 23, 1998

125.912a Redevelopment corporation; powers and authority.
Sec. 12a. Except as otherwise provided in this act, a redevelopment corporation may do all of the following:

(a) Form or incorporate nonprofit corporations under the laws of this state for any purpose not inconsistent with the purposes for which the redevelopment corporation was formed.

(b) Serve as a shareholder or member of a qualified nonprofit corporation organized under the laws of this state.

(c) Authorize, approve, execute, and file with the Michigan department of consumer and industry services those documents that are appropriate to form and continue 1 or more nonprofit corporations.

(d) Form or incorporate for-profit corporations, partnerships, and limited liability companies under the laws of this state for any purpose not inconsistent with the purposes for which the redevelopment corporation was formed.

History: Add. 1998, Act 385, Imd. Eff. Oct. 23, 1998

125.912b Redevelopment corporation; funds, grants, agreements.
Sec. 12b. (1) Funds for the operation of a redevelopment corporation may be loaned or granted by the city or township, this state, the federal government, or any agency or political subdivision of this state or the federal government. The city or township, through its local legislative body, may condition the provision of funds to the redevelopment corporation upon an agreement that the

redevelopment corporation shall as soon as possible reimburse the city or township for all money expended by it for the redevelopment corporation from revenues received from other sources.

(2) A redevelopment corporation may solicit, accept, and enter into agreements relating to grants from any public or private source, including this state, the federal government, or any agency or political subdivision of this state or the federal government, and may carry out any federal or state program related to the purposes for which the redevelopment corporation is created.

History: Add. 1998, Act 385, Imd. Eff. Oct. 23, 1998

125.913 Return on income debentures and stock; limitations.
Sec. 13. Limited return on income debentures and stock.

1. No redevelopment corporation shall pay any interest on its income debentures or dividends on its stock during any dividend year, unless there shall exist at the time of any such payment no default under any amortization requirements with respect to its indebtedness.

2. No redevelopment corporation shall pay or declare as interest on its income debentures and as dividends on its stock during any dividend year during any portion of which there shall exist pursuant to section 12 of this act any exemption from local taxation on any of its real property, in an amount in excess of the maximum dividend, except as provided in paragraphs 3 and 4 of this section 13.

3. In the event that in any dividend year the maximum exemption period with respect to some of the parcels of real property held by a redevelopment corporation shall have expired, and with respect to some such parcels shall not have expired, then that portion of its net earnings which may be paid or declared as interest on its income debentures and as dividends on its stock during such dividend year shall be determined as follows: Multiply the net earnings of the corporation subject to payment or declaration as such interest or dividends, by a fraction the numerator of which is the total of the maximum assessed valuation of all real property for which the maximum exemption period has not expired and the denominator of which is the total of the maximum assessed valuation of all the real property of the corporation; and the result will be the apportioned net earnings restricted as to payment as such interest or dividends; compute the amount of the maximum dividend as though

no apportionment of the same were to be affected and multiply the amount so arrived at by the same fraction; and the result will be the apportioned maximum dividend; only that portion of such apportioned net earnings which does not exceed such apportioned maximum dividend may be paid or declared as such interest or dividends; and that portion of the net earnings obtained by subtracting from total net earnings such apportioned net earnings restricted as to payment as such interest and dividends may be paid or declared without restriction as such interest or dividends.

4. In the event that in any 1 or more prior dividend years the total amount paid or declared as interest on the corporation's income debentures or as dividends on its stock shall have been less than the amounts allowable pursuant to paragraphs 2 and 3 of this section 13, then cumulative interest and dividends equal to the difference may be paid out of any net income applicable thereto in any subsequent dividend year despite the limitation imposed by paragraph 2 of this section 13.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.913

125.914 Proceedings against redevelopment corporations; parties.
Sec. 14. Enforcement proceedings against redevelopment corporations. Whenever a redevelopment corporation shall not have obtained the certificates of approval of its development plan required by section 4 of this act within 12 months of the date upon which it became a redevelopment corporation, or shall not have substantially complied with its development plan within the time limits for the completion of each stage thereof as therein stated, reasonable delays caused by unforeseen difficulties excepted, or shall do, permit to be done or fail or omit to do anything contrary to or required of it, as the case may be, by this act, or shall be about so to do, permit to be done or fail or omit to have done, as the case may be, then any such fact may be certified by the planning commission or the supervising agency, whichever shall have supervision thereof, to the chief legal officer of the city, who may thereupon commence a proceeding in the circuit court of the county in which such city is located in its name for the purpose of having such action, failure or omission, or threatened action, failure or omission, established by order of the court for the purpose stated in paragraph 3 of section 6 of this act, or stopped, prevented or otherwise rectified by mandamus, injunction or otherwise. Such proceedings shall be commenced by a petition to the circuit court alleging the violation complained of and praying for appropriate relief. It shall thereupon be the duty of the court to specify the time, not exceeding 20 days after service of a copy of the petition, within which the redevelopment corporation complained of must answer the

petition. The court shall, immediately after a default in answering or after answer, as the case may be, inquire into the facts and circumstances in such manner as the court shall direct without other or formal proceedings, and without respect to any technical requirements. Such other persons or corporations as it shall seem to the court necessary or proper to join as parties in order to make its orders or judgment effective may be joined as parties. The final judgment or order in any such action or proceeding shall dismiss the action or proceeding or establish the failure complained of or direct that a mandamus order, or an injunction, or both, issue, or grant such other relief as the court may deem appropriate.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.914

125.915 Real estate; transfer to redevelopment corporations.

Sec. 15. Transfer of real property to redevelopment corporation. Notwithstanding any requirement of law to the contrary or the absence of direct provision therefor in the instrument under which a fiduciary is acting, every executor, administrator, trustee, guardian or any other person, holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids, the state, its subdivisions, cities, all other public bodies, all public officers, corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations, trust companies, private bankers and private banking corporations), the commissioner of the banking department as conservator, liquidator or rehabilitator of any such person, partnership or corporation, persons, partnerships and corporations organized under or subject to the provisions of the insurance law, the commissioner of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation, any of which owns or holds any real property within a development area, may grant, sell, lease or otherwise transfer any such real property to a redevelopment corporation, and receive and hold any cash, stocks, income debentures, mortgages, or other securities or obligations, secured or unsecured, exchanged therefor by such redevelopment corporation, and may execute such instruments and do such acts as may be deemed necessary or desirable by them or it and by the redevelopment corporation in connection with the development and the development plan.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.915

125.916 Acquisition of real estate; methods; condemnation.
Sec. 16. 1. A redevelopment corporation may, whether before or after the certificates of approval of its development plan required by section 4 have been issued, acquire real property or secure options in its own name or in the name of nominees to acquire real property, by gift, grant, lease, purchase or otherwise.

2. A city may, upon request by a redevelopment corporation, and after a certificate of approval of condemnation with respect to the real property in question has been issued pursuant to sections 17 and 17a, acquire, or obligate itself to acquire, for such redevelopment corporation any real property included in such certificate of approval of condemnation, by condemnation. Real property acquired by a city for a redevelopment corporation shall be conveyed by such city to the redevelopment corporation upon payment to the city of all sums expended or required to be expended by the city in the acquisition of such real property, together with all costs which may have been incurred by the city.

3. The provisions of this act with respect to the condemnation of real property by a city for a redevelopment corporation shall prevail over the provisions of any other general, special or local law.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.916 ;-- Am. 1968, Act 325, Imd. Eff. July 3, 1968

125.917 Condemnation; proceedings; damages; compensation.
Sec. 17. 1. When it is desired that any real property in a development area be acquired by condemnation, there shall be presented to the supervising agency by the redevelopment corporation a verified petition requesting the issuance of a certificate of approval of condemnation of such real property which shall contain, among other things:

(a) A metes and bounds description or other legal description of the real property involved and a statement of the estate, interest, privileges, franchise or right therein or appurtenant thereto to be condemned;

(b) Proof that such real property is within the development area;

(c) Proof that certificates of approval of the development plan required by section 4 have been issued.

The supervising agency shall determine within a reasonable time thereafter the truth or sufficiency of the statements and proof contained in such petition, and, if such determination shall be in the affirmative, the supervising agency shall issue to the petitioner a certificate of approval of condemnation. Such certificate shall contain a description of the real property proposed to be condemned, the facts so determined with respect thereto, and a statement that the real property proposed to be condemned is required for a public use and that its acquisition for such use is necessary. No condemnation proceeding to acquire real property in a development area, by a city for a redevelopment corporation, shall be commenced until such a certificate of approval of condemnation shall have been issued.

2. Condemnation proceedings for a redevelopment corporation shall be initiated by a petition to the city to institute proceedings to acquire for the redevelopment corporation any real property in the development area. Such petition shall be granted or rejected by the local legislative body, and the resolution or resolutions granting such petition shall contain a requirement that the redevelopment corporation shall pay to the city all sums expended or required to be expended by the city in the acquisition of such real property, together with all costs incurred by the city, and the time of payment and manner of securing payment thereof, and may require that the city shall receive, before proceeding with the acquisition of such real property, such assurances as to payment or reimbursement by the redevelopment corporation, or otherwise, as the city may deem advisable. Upon the passage of a resolution or resolutions by the local legislative body, granting the petition, the redevelopment corporation shall cause to be made 3 copies of surveys or maps of the real property described in the petition, 1 of which shall be filed in the office of the redevelopment corporation, 1 in the office of the corporation counsel or chief law officer of the city, and 1 in the office in which instruments affecting real property in the county are recorded. The filing of such copies of surveys or maps shall constitute the acceptance by the redevelopment corporation of the terms and conditions contained in such ordinance or ordinances. The city shall proceed under any provision of any general, special or local law applicable to the condemnation of real property for public improvements. When title to the real property shall have vested in the city, it shall convey the same to the redevelopment corporation upon payment by the redevelopment corporation of the sums and the giving of the security required by the resolution granting the petition. As soon as title shall have vested in the city, the redevelopment corporation may, upon the authorization of the local legislative body enter upon the real property taken, take over and dispose of existing improvements, and carry out the terms of the development plan with respect thereto.

3. The following provisions shall apply to any proceedings for the assessment of compensation and damages for real property in a development area taken or to be taken by condemnation for a redevelopment corporation:

(a) Evidence of the price and other terms upon any sale, offer to sell, or the rent received or reserved, whichever is less, and other terms upon any sales option, lease or tenancy relating to any of the real property taken or to be taken or to any comparable real property in the vicinity when the option, sale, offer or lease was given, occurred or the tenancy existed, within a reasonable time of the trial, shall be admissible on direct examination;

(b) Any time during the pendency of such action or proceeding, the redevelopment corporation, the city or any owner may apply to the court for an order directing any owner, the redevelopment corporation, or the city, as the case may be, to show cause why further proceedings should not be expedited, and the court may upon such application make an order requiring that the hearings proceed and that any other steps be taken with all possible expedition;

(c) For the purposes of this act, the award of compensation shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance or reconstruction, or proposed assembly, clearance or reconstruction for the purposes of this act of the real property in the development area. No allowance shall be made for the improvements begun on real property after notice to the owner of such property of the institution of the proceedings to condemn such property;

(d) Evidence shall be admissible bearing upon the insanitary, unsafe or substandard condition of the premises, or the illegal use thereof, or the enhancement of rentals from such illegal use, and such evidence may be considered in fixing the compensation to be paid, notwithstanding that no steps to remedy or abate such conditions have been taken by the department or officers having jurisdiction. If a violation order is on file against the premises in any such department, it shall constitute prima facie evidence of the existence of the condition specified in such order;

(e) If any of the real property in the development area which is to be acquired by condemnation has, prior to such acquisition, been devoted to another public use, it may nevertheless be acquired provided that no real property belonging to the city or to any other governmental body, or agency or instrumentality thereof, corporate or otherwise, may be acquired without its consent;

(f) Upon the trial, evidence of the price and other terms upon a sale or assignment or of a contract for the sale or assignment of a mortgage, award, proposed award, transfer of a tax lien or lien of a judgment relating to property taken, shall be relevant, material and competent, upon the issue of value or damage and shall be admissible on direct examination;

(g) Upon the trial a statement, affidavit, deposition, report, transcript of testimony in an action or proceeding, or appraisal made or given by any owner or prior owner of the premises taken, or by any person on his behalf, to any court, governmental bureau, department or agency respecting the value of the real property for tax purposes, shall be relevant, material and competent upon the issue of value of damage and shall be admissible on direct examination;

(h) The term "owner," as used in this section, shall include a person having an estate, interest or easement in the real property to be acquired or a lien, charge or encumbrance thereon.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.917 ;-- Am. 1968, Act 325, Imd. Eff. July 3, 1968

125.917a Condemnation, law applicable.
Sec. 17a. Notwithstanding the provisions of section 17, condemnation proceedings under this act shall be pursuant to Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948.

History: Add. 1968, Act 325, Imd. Eff. July 3, 1968

125.918 Leasing of property of corporation; termination of tenancy.
Sec. 18. Temporary use or occupation of real property taken by condemnation. When title to real property has vested in a redevelopment corporation or city by gift, grant, devise, purchase or in condemnation proceedings or otherwise, the redevelopment corporation or city, as the case may be, may agree with the previous owners of such property, or any tenants continuing to occupy or use it, or any other persons who may occupy or use or seek to occupy or use such property, that such former owner, tenant or other persons may occupy or use such property upon the payment of a fixed sum of money for a definite term or upon the payment periodically of an agreed sum of money. Such occupation or use shall not be construed as a tenancy from month to month, nor require the giving of notice by the redevelopment corporation or the city, as the case may be, for the termination of such occupation or use or the right to such occupation

or use, but immediately upon the expiration of the term for which payment has been made the redevelopment corporation or city, as the case may be, shall be entitled to possession of the real property and may maintain summary proceedings, obtain a writ of assistance, and shall be entitled to such other remedy as may be provided by law for obtaining immediate possession thereof. A former owner, tenant or other person occupying or using such property shall not be required to give notice to the redevelopment corporation or city, as the case may be, at the expiration of the term for which he has made payment for such occupation or use, as a condition to his cessation of occupation or use and termination of liability therefor.

In the event that a city has acquired real property for a redevelopment corporation, the city shall, in transferring title to the redevelopment corporation, deduct from the consideration or other moneys which the redevelopment corporation has become obligated to pay to the city for such purpose, and credit the redevelopment corporation with the amounts received by the city as payment for temporary occupation and use of the real property by a former owner, tenant, or other person, as in this section 18 provided, less the cost and expense incurred by the city for the maintenance and operation of such real property.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.918

125.919 Mortgages of corporation; provisions governing.
Sec. 19. Mortgages.

1. Any redevelopment corporation may borrow funds and secure the repayment thereof by mortgage. Every such mortgage shall contain reasonable amortization provisions and shall be a lien upon no other real property except that forming the whole or a part of a single development area.

2. Certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are secured by a first mortgage on the real property in a development area, or any part thereof, shall be securities in which all the following persons, partnerships or corporations and public bodies or public officers may legally invest the funds within their control: Provided, That the principal amount secured by such mortgage shall not exceed the limits, if any, imposed by law for such investments by the person, partnership, corporation, public body or public officer making the same:

Every executor, administrator, trustee, guardian, committee or other person or corporation holding trust funds or acting in a fiduciary capacity; the state, its subdivisions, cities, all other public bodies, all public officers; persons, partnerships and corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations, trust companies, private bankers and private banking corporations); the commissioner of the banking department as conservator, liquidator or rehabilitator of any such person, partnership or corporation; persons, partnerships or corporations organized under or subject to the provisions of the insurance law; fraternal benefit societies; and the commissioner of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation.

3. Any mortgage on the real property in a development area, or any part thereof, may create a first lien, or a second or other junior lien, upon such real property.

4. The limits as to principal amount secured by mortgage referred to in paragraph 2 of this section 19 shall not apply to certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are secured by first mortgage on real property in a development area, or any part thereof, which the federal housing administrator has insured or has made a commitment to insure under the national housing act. Any such person, partnership, corporation, public body or public officer may receive and hold any debentures, certificates or other instruments issued or delivered by the federal housing administrator, pursuant to the national housing act, in compliance with the contract of insurance of a mortgage on real property in the development area, or any part thereof.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.919

125.920 Sale or lease of real estate by a city to corporation.
Sec. 20. Sale or lease of real property by a city to a redevelopment corporation.

1. The local legislative body may by resolution determine that real property, title to which is held by the city, specified and described in such resolution, is not required for use by the city and may authorize the city to convey, sell, or lease such real property to a redevelopment corporation: Provided, however, That the title of the city to such real property be not declared inalienable by charter of the city, or other similar law or instrument.

2. Notwithstanding the provisions of any general, special or local law or ordinance, such sale or lease may be made without appraisal, public notice or public bidding for such price or rental and upon such terms (and, in case of a lease, for such term not exceeding 50 years with a right to 1 renewal term of 30 years) as may be agreed upon between the city and the redevelopment corporation.

3. Before any sale or lease to a redevelopment corporation shall be authorized, a public hearing shall be held by the local legislative body to consider the proposed sale or lease.

4. Notice of such hearing shall be published at least 10 days before the date set for the hearing in such publication and in such manner as may be designated by the local legislative body.

5. The deed or lease of such real property shall be executed in the same manner as a deed or lease by the city of other real property owned by it and may contain appropriate conditions and provisions to enable the city to reenter the real property in the event of a violation by the redevelopment corporation of any of the provisions of this act relating to such redevelopment corporation or of the conditions or provisions of such deed or lease.

6. A redevelopment corporation purchasing or leasing real property from a city shall not, without the written approval of the city, use such real property for any purpose except in connection with its development. The deed shall contain a condition that the redevelopment corporation will devote the real property granted only for the purposes of its development subject to the restrictions of this act, for each of which the city shall have the right to reenter and repossess itself of the real property.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.920

125.921 Provisions of lease.
Sec. 21. Provisions of lease.

If real property of a city be leased to a redevelopment corporation:

(1) The lease may provide that all improvements shall be the property of the lessor;

(2) The lessor may grant to the redevelopment corporation the right to mortgage the fee of such property and thus enable the redevelopment corporation to give as security for its notes or bonds a first lien upon the land and improvements;

(3) The execution of a lease shall not impose upon the lessor any liability or obligation in connection with or arising out of the financing, construction, management or operation of a development involving the land so leased. The lessor shall not, by executing such lease, incur any obligation or liability with respect to such leased premises other than may devolve upon the lessor with respect to premises not owned by it. The lessor, by consenting to the execution by a redevelopment corporation of a mortgage upon the leased land, shall not thereby assume, and such consent shall not be construed as imposing upon the lessor, any liability upon the note or bond secured by the mortgage;

(4) The lease may reserve such easements or other rights in connection with the real property as may be deemed necessary or desirable for the future planning and development of the city and the extension of public facilities therein (including the construction of subways and conduits, the widening and change of grades of streets); and it may contain such other provisions for the protection of the parties as are not inconsistent with the provisions of this act.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.921

125.922 Construction of act.
Sec. 22. Construction. This act shall be construed liberally to effectuate the purposes hereof, and the enumeration of specific powers in this act shall not operate to restrict the meaning of any general grant of power contained in this act or to exclude other powers comprehended in such general grant.

History: 1941, Act 250, Imd. Eff. June 16, 1941 ;-- CL 1948, 125.922

NEIGHBORHOOD AREA IMPROVEMENTS
Act 208 of 1949

AN ACT to authorize cities, villages and townships of this state to designate neighborhood areas for the purpose of planning and carrying out local public improvements for the prevention of blight within such areas; to authorize assistance in carrying out plans for local improvements by the acquisition and disposal of real property in such areas; to provide for the combining of neighborhood improvements that benefit the entire neighborhood into 1

improvement project; to provide for the establishment of local assessment districts coterminous with the neighborhood boundaries; to prescribe the methods of financing the exercise of these powers, and to declare the effect of this act.

History: 1949, Act 208, Eff. Sept. 23, 1949 ;-- Am. 1957, Act 298, Eff. Sept. 27, 1957

The People of the State of Michigan enact:

125.941 Neighborhood areas in municipalities; improvement, declared to be public use and public purpose.

Sec. 1. It is hereby found and declared that many residential neighborhood areas in the municipalities of this state are in danger of becoming blighted, with the consequent impairment of taxable values upon which in large part, municipal revenues depend; that such areas can prove detrimental or inimical to the health, safety, morals and general welfare of the citizens and to the economic welfare of the municipality; that in order to improve and maintain the general character of the municipality, it may be necessary to improve, or better, such areas; that the conditions found in such areas cannot be efficiently and economically remedied, with due regard to the general welfare of the public, without public participation in the planning, property acquisition and disposal, and the financing thereof; that the purposes of this act are to improve such areas by acquiring and developing properties within such areas for the protection of the health, safety, morals and general welfare of the municipality, to preserve existing values of other properties within or adjacent to such areas, and to preserve the taxable value of the property within such areas; and the necessity in the public interest for provisions herein enacted is hereby declared as a matter of legislative determination to be a public use and a public purpose.

History: 1949, Act 208, Eff. Sept. 23, 1949

125.942 Definitions.

Sec. 2. As used in this act:

(a) "Neighborhood area" means a portion of a municipality that has been delimited as a neighborhood unit in a plan of neighborhoods adopted by the legislative body, which plan has the function of designating the service area of elementary schools, playgrounds, or other local improvements.

(b) "Real property" includes land, building improvements, land under water, waterfront property, and any and all easements, franchises, and hereditaments, corporeal or incorporeal, and every estate, interest, privilege, easement, franchise, and right to that property, or appurtenant to that property, legal or equitable, including rights-of-way, terms for years, and liens, charges, or incumbrances by mortgage, judgment, or otherwise.

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

(d) "Legislative body" means the city council, city commission, township board, or other legislative body of a city, village, or township.

(e) "Public use", when used with reference to land reserved for that purpose, means and relates to uses for the general benefit of the public, such as schools, libraries, public institutions, administration buildings, parks, boulevards, playgrounds, streets, alleys, easements or sewers, public lighting, water, gas, or other similar utilities, or improvements.

(f) "Privately owned lands" means all land not held by the municipal body, county, state, or federal government for public purposes.

(g) "Owner" means any person or persons, natural or corporate, owning a legal or equitable title to the land.

(h) "Project" means all of the undertakings authorized in this act for the improvement of a neighborhood area.

(i) "Blighted property" means property that meets any of the following criteria:

(i) The property has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.

(ii) The property is an attractive nuisance because of physical condition or use.

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

(iv) The property has had the utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for a period of 1 year or more so that the property is unfit for its intended use.

(v) The property is tax reverted property owned by a municipality, by a county, or by this state. The sale, lease, or transfer of tax reverted property by a municipality, a county, or this state shall not result in the loss to the property of eligibility for any project authorized for the improvement of a neighborhood area under this act, tax or special assessment authorized under this act, or tax relief or assistance, including financial assistance, authorized under this act or any other act.

(vi) The property is owned or is under the control of a land bank fast track authority under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774. The sale, lease, or transfer of the property by a land bank fast track authority shall not result in the loss to the property of the eligibility for any project authorized for the improvement of a neighborhood area under this act, tax or special assessment authorized under this act, or tax relief or assistance, including financial assistance, authorized under this act or any other act.

(vii) The property is improved real property that has remained vacant for 5 consecutive years and that is not maintained in accordance with applicable local housing or property maintenance codes or ordinances.

(viii) The property has code violations posing a severe and immediate health or safety threat and has not been substantially rehabilitated within 1 year after the receipt of notice to rehabilitate from the appropriate code enforcement agency or final determination of any appeal, whichever is later.

History: 1949, Act 208, Eff. Sept. 23, 1949 ;-- Am. 1957, Act 298, Eff. Sept. 27, 1957 ;-- Am. 2006, Act 676, Imd. Eff. Jan. 10, 2007

125.943 Neighborhood betterment plan; plans; statements; actions.
Sec. 3. The following plans, statements and actions are hereby made requisite for, and a condition of, the exercise of the powers herein granted for the acquisition, disposal, or lease of real property for the carrying out of a neighborhood betterment plan in a neighborhood area;

(a) A master plan of the municipality approved by the planning commission and adopted by the legislative body, or a master plan sufficiently advanced to permit the designation of neighborhood areas and so approved and adopted;

(b) A plan of neighborhoods that sets forth precisely, the location of neighborhood areas within the municipality, approved by the planning commission, and which has been adopted by the legislative body. Such a plan must conform with the master plan of the municipality;

(c) A neighborhood betterment plan approved by the planning commission and adopted by the legislative body after public hearing thereon as hereinafter provided of the neighborhood area in which is located the land proposed to be acquired for improvement purposes.

Such plan shall designate the location, extent, character and estimated cost of the improvements contemplated for the area; and may include any or all of the following improvements:

Partial or total vacation of plats, or replatting; opening, widening, straightening, extending, vacating or closing streets, alleys or walkways; locating or relocating water mains, sewers, or other public utilities; paving of streets, alleys or sidewalks in special situations; acquiring parks, playgrounds, or other recreational areas or facilities; elimination of nonconforming uses; rehabilitation of blighted areas; street tree planting; green belts, or buffer strips and other appropriate public improvements.

The plan shall also include a feasible method for the relocation of families who will be displaced from the area in decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such families.

The local legislative body, prior to adopting a neighborhood betterment plan, shall hold a public hearing thereon. Notice of time and place of such hearing shall be given by publication in a newspaper of general circulation not less than 30 days prior to the date set for such hearing. Notice of such hearing shall be mailed at least 15 days before such hearing to the last known owner of each parcel of land in such area at the last known address of such owner as shown by the records of the assessor. Such notice shall contain a description of the neighborhood area. For purposes of this notice it shall be sufficient to describe the neighborhood area by its location in relation to highways, streets, streams or

otherwise. Such notice shall further contain a statement that maps, plats and a particular description of the betterment plan are available for public inspection at a suitable place to be designated in such notice. At the time set for hearing, the local legislative body shall provide an opportunity for all persons interested to be heard and shall receive and consider communications in writing with reference thereto.

History: 1949, Act 208, Eff. Sept. 23, 1949 ;-- Am. 1957, Act 298, Eff. Sept. 27, 1957

125.944 Acquisition of property; condemnation; proceedings under eminent domain.

Sec. 4. (1) For the accomplishment of the purposes of this act, the municipality may acquire fee simple title in real property by purchase, gift, or exchange and may acquire under this act title to blighted property by condemnation. The municipality shall then apply that blighted property acquired by condemnation under this act and other real property acquired by other means to the expressed purposes of this act.

(2) By authority of this act for blighted property, or by authority of other state law authorizing the condemnation of property for other public uses, the local legislative body may institute and prosecute proceedings under the power of eminent domain in accordance with the state constitution of 1963 and the laws of the state or provisions of any local charter relative to condemnation.

History: 1949, Act 208, Eff. Sept. 23, 1949 ;-- Am. 2006, Act 676, Imd. Eff. Jan. 10, 2007

125.945 Neighborhood areas in municipalities; transfers to public agencies; excess land sold or exchanged; special assessment district.

Sec. 5. After the acquisition of the real property such property as will be used by public agencies shall be transferred to or placed under the jurisdiction of the appropriate public agencies for public use as defined in this act. The remainder of the land which, in accordance with the betterment plan, is to be devoted to private uses shall be sold or exchanged to individuals, companies, or corporations, whose use of such property shall be in accordance with the limitations and conditions provided in the development plan. If the cost and expense of acquiring and altering, removing or demolishing real property is assessed against a special district, the proceeds from the sale of any remainder shall be credited to the special assessment roll.

Any such sale or exchange may be made without public bidding but only after public hearing by the legislative body upon the proposed sale or exchange and the provisions thereof. The sale or exchange shall be under terms fixed by the legislative body and shall contain provisions that the betterment plan for the property be carried out.

History: 1949, Act 208, Eff. Sept. 23, 1949

125.946 Repealed. 1957, Act 298, Eff. Sept. 27, 1957.

Compiler's Notes: The repealed section pertained to neighborhood area improvements, financing, special assessment districts.

125.946a Issuance of bonds or notes; purpose; securing payment by pledge of loan, grant, or contribution; bonds or notes not indebtedness within meaning of debt limitation or restriction; inapplicability of charter provisions; tax exemption.

Sec. 6a. A municipality may issue bonds or notes from time to time in its discretion to finance the undertaking of any project authorized by this act including, but not limited to, the payment of principal and interest on any advances or loans made for surveys and plans for any project authorized by this act. The bonds or notes shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues and funds of the municipality derived from or held in connection with its undertaking and carrying out of any projects under this act. Payment of the bonds or notes, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution due or to become due from the federal government or other source, in aid of any projects of the municipality under this act. Bonds or notes issued under this section shall not constitute an indebtedness within the meaning of any constitutional, statutory, or charter debt limitation or restriction, and shall not be subject to the provisions of any charter relating to the authorization, issuance, or sale of bonds or notes and may be issued without vote of the electors of the municipality. Bonds or notes issued under the provisions of this section are declared to be issued for an essential public and governmental purpose, and, together with interest on the bonds and notes and income on the bonds and notes, shall be exempted from all taxes. Bonds or notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: Add. 1957, Act 298, Eff. Sept. 27, 1957 ;-- Am. 1983, Act 38, Imd. Eff. May 10, 1983 ;-- Am. 2002, Act 285, Imd. Eff. May 9, 2002

125.946b Issuance of general obligation bonds; maximum amount; designation; legislative determination; sale; applicability of other law or charter provisions; estimate of period of usefulness; definitions.
Sec. 6b. (1) For the purpose of providing funds to pay all or part of the cost of any project undertaken under this act or the net project cost of any project undertaken under this act with federal financial assistance, municipalities may provide by resolution duly adopted by its legislative body and without vote of the electors of the municipality for borrowing money and issuing general obligation bonds of the municipality, which bonds shall pledge the full faith and credit of the municipality.

(2) The bonds may be issued and sold from time to time during the progress of any project undertaken under this act, in which event the maximum amount of bonds issued shall not exceed the estimated cost of any project undertaken under this act or the estimated net cost of any project undertaken under this act with federal assistance. The legislative body in the resolution authorizing issuance of the bonds shall set forth the estimate or the bonds may be issued when any project has been completed. Bonds issued under this section shall be designated “neighborhood improvement bonds”. All bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. It being the determination of the legislature that urban blight constitutes a serious menace to public health, welfare, and safety of municipalities and their inhabitants and that the financing of projects designed to prevent urban blight is necessary for the public health, welfare, and safety. The bonds authorized to be issued under this section are declared to be issued for an essential public and governmental purpose. The maximum principal amount of bonds that may be authorized under this section in any year shall not exceed an amount equal to the limitation on the maximum rate of taxation for the year for the municipality authorized by law less the taxes actually levied for the year exclusive of debt service tax levies and less budget bonds for the year issued or authorized to be issued, and less any bonds authorized in the year to be issued under sections 7a and 7b of 1945 PA 344, MCL 125.77a and 125.77b. Any bonds authorized to be issued pursuant to this section shall be sold not later than 3 full fiscal years from the end of the fiscal year in which the bonds are authorized to be issued. The maximum amount of bonds issued pursuant to this section that may be outstanding at any one time shall not, together with other outstanding indebtedness of the municipality, exceed the maximum limitations on bonded indebtedness of the municipality imposed by law.

(3) As used in this section:

(a) “Cost of any project” means the cost of land acquisition, demolition of buildings, land and site improvements, plans, surveys, appraisals, and all other costs relating to the acquisition, improvement, financing, and disposal of any project or any part of a project.

(b) “Net project cost” means that term as defined in former section 110(f) of title 1 of the housing act of 1949.

History: Add. 1957, Act 298, Eff. Sept. 27, 1957 ;-- Am. 1958, Act 61, Imd. Eff. Apr. 8, 1958 ;-- Am. 1983, Act 38, Imd. Eff. May 10, 1983 ;-- Am. 2002, Act 285, Imd. Eff. May 9, 2002

125.946c Tax levy; special assessment.

Sec. 6c. As an additional and alternative method of financing part or all of the costs of any project undertaken under this act, any municipality may use general tax revenues levied for the purpose or not otherwise earmarked, or the legislative body in its discretion may provide that the cost and expense or any portion thereof shall be assessed to a special district. The special assessment district shall be coterminous with the neighborhood area, and the special assessment district together with the tentative plan of assessment shall be set up as part of the neighborhood betterment plan before acquisition of the property involved in such plan. The written consent of a majority of the owners of property in the special district to the betterment plan shall be submitted to the legislative body. The rate of assessment shall be spread equally, on a front foot or land area basis, throughout the special district.

History: Add. 1957, Act 298, Eff. Sept. 27, 1957

125.947 Gifts, loans, grants from private or public sources; contracts for assistance.

Sec. 7. Municipalities are authorized and permitted to accept gifts or loans and grants from other governmental agencies to finance the purposes of this act, to borrow money and may issue bonds or notes therefor, to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal government, the state, county, municipality or other public body or from any sources, public or private, for the purposes of this act, to give such security as may be required and to enter into and carry out contracts in connection therewith. A municipality notwithstanding the provisions of any other law, may include in any contract for financial assistance with the federal government for a project as defined in this act such conditions imposed pursuant to federal law, to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed

pursuant to federal law, in the undertaking or carrying out of a project as defined in this act as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this act, and to include in any contract let in connection with a project provisions to fulfill such of the conditions as it may deem reasonable and appropriate, including the payment of prevailing salaries and wages and compliance with federal labor standards.

History: 1949, Act 208, Eff. Sept. 23, 1949 ;-- Am. 1957, Act 298, Eff. Sept. 27, 1957

125.948 Neighborhood areas in municipalities; modification of plan, hearing.

Sec. 8. If previous to the sale or exchange of any real property in the neighborhood area the legislative body desires to modify the betterment plan, it shall hold a public hearing thereon, notice of such hearing to be given as provided in section 3 of this act. If modification be approved by the local legislative body it shall become a part of the approved betterment plan.

History: 1949, Act 208, Eff. Sept. 23, 1949

125.949 Neighborhood areas in municipalities; permits, withholding.

Sec. 9. Upon advice of the planning commission that plans for the betterment of a neighborhood are in preparation, the legislative body may establish a date, and for a period of time not to exceed 6 months thereafter, temporarily withhold permits for building construction, sidewalks, drainage systems or other major improvements within the neighborhood.

History: 1949, Act 208, Eff. Sept. 23, 1949

125.950 Neighborhood areas in municipalities; plans to be officially adopted; board of appeals; hearing, notice, publication.

Sec. 10. On and after the date when a plan has been approved for the betterment of a neighborhood area by the legislative body, no permit shall be issued for building construction, sidewalks, drainage systems or other major improvements done on properties indicated for public improvements which are not in accordance with the plans officially adopted and made effective by the legislative body: Provided, however, That the legislative body shall provide by ordinance that the zoning board of appeals, if the municipality has such a board, or if not, then a board of appeals created for such purpose, shall have the power on appeal filed with it by the owner of real property in the area to approve a minor deviation from the plan for the area in any case in which such board finds upon the evidence presented to it that the application of the plan results in

unnecessary hardship or practical difficulties and a minor deviation from the betterment plan is required by consideration of justice and equity. Before taking any such action, the board shall hold a public hearing thereon, at least 10 days' notice of time and place of which shall be given by public notice in a newspaper published or circulated generally in the municipality and by notice to all property owners within the neighborhood area, such notice to be by mail addressed to the respective owners at the address given in the last assessment roll.

History: 1949, Act 208, Eff. Sept. 23, 1949

125.951 Neighborhood areas in municipalities; actions to be by ordinance or resolution, procedure.

Sec. 11. All actions of legislative bodies under the provisions of this act shall be by ordinance or resolution and such ordinance or resolution shall be subject to the same provisions regarding procedure and executive veto as are applicable to other ordinances or resolutions of the legislative body.

History: 1949, Act 208, Eff. Sept. 23, 1949

125.951a Neighborhood areas in municipalities; designation of administrative agency.

Sec. 11a. The local legislative body may designate an administrative agency to be responsible for the administration of this act and shall establish regulations for the guidance of the agency in the effectuation of the purposes of this act.

History: Add. 1961, Act 136, Imd. Eff. May 31, 1961

125.952 Powers granted.

Sec. 12.The powers granted in this act shall be in addition to the powers granted to municipalities, the legislative bodies thereof and other officials and bodies thereof under the statutes and local charters. Nothing herein contained shall be construed to amend or repeal any of the provisions of Act No. 18 of the Public Acts of the Extra Session of 1933.

History: 1949, Act 208, Eff. Sept. 23, 1949

PRINCIPAL SHOPPING DISTRICTS AND BUSINESS IMPROVEMENT DISTRICTS
Act 120 of 1961

AN ACT to authorize the development or redevelopment of principal shopping districts and business improvement districts; to permit the creation of certain boards; to provide for the operation of principal shopping districts and business improvement districts; to provide for the creation, operation, and dissolution of business improvement zones; and to authorize the collection of revenue and the bonding of certain local governmental units for the development or redevelopment projects.

History: 1961, Act 120, Imd. Eff. May 26, 1961 ;-- Am. 1984, Act 260, Imd. Eff. Dec. 13, 1984 ;-- Am. 1992, Act 146, Imd. Eff. July 15, 1992 ;-- Am. 1999, Act 49, Imd. Eff. June 15, 1999 ;-- Am. 2001, Act 260, Eff. Mar. 1, 2002 ;-- Am. 2003, Act 209, Imd. Eff. Nov. 26, 2003
Popular Name: Shopping Areas Redevelopment Act

The People of the State of Michigan enact:

Chapter 1
PRINCIPAL SHOPPING DISTRICT

125.981 Definitions; principal shopping district; business district; creation, appointment, and composition of board.

Sec. 1. (1) As used in this chapter:

(a) "Assessable property" means real property in a district area other than all of the following:

(i) Property classified as residential real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(ii) Property owned by the federal, a state, or a local unit of government where property is exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(iii) One or more classes of property owners whose property meets all of the following conditions:

(A) Is exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, other than property identified in subparagraph (ii).

(B) As a class has been determined by the legislative body of the local governmental unit not to be benefited by a project for which special assessments are to be levied.

(b) "Business improvement district" means 1 or more portions of a local governmental unit or combination of contiguous portions of 2 or more local governmental units that are predominantly commercial or industrial in use.

(c) "District" means a business improvement district or a principal shopping district.

(d) "Highways" means public streets, highways, and alleys.

(e) "Local governmental unit" means a city, village, or urban township.

(f) "Principal shopping district" means a portion of a local governmental unit designated by the governing body of the local governmental unit that is predominantly commercial and that contains at least 10 retail businesses.

(g) "Urban township" means a township that is an urban township as defined in section 2 of the local development financing act, 1986 PA 281, MCL 125.2152, and is a township located in a county with a population of more than 750,000.

(2) A local governmental unit with a master plan for the physical development of the local governmental unit that includes an urban design plan designating a principal shopping district or includes the development or redevelopment of a principal shopping district, or 1 or more local governmental units that establish a business improvement district by resolution, may do 1 or more of the following:

(a) Subject, where necessary, to approval of the governmental entity that has jurisdiction over the highway, open, widen, extend, realign, pave, maintain, or otherwise improve highways and construct, reconstruct, maintain, or relocate pedestrian walkways.

(b) Subject, where necessary, to approval of the governmental entity that has jurisdiction over the highway, prohibit or regulate vehicular traffic where necessary to carry out the purposes of the development or redevelopment project.

(c) Subject, where necessary, to approval of the governmental entity that has jurisdiction over the highway, regulate or prohibit vehicular parking on highways.

(d) Acquire, own, maintain, demolish, develop, improve, or operate properties, off-street parking lots, or structures.

(e) Contract for the operation or maintenance by others of off-street parking lots or structures owned by the local governmental unit, or appoint agents for the operation or maintenance.

(f) Construct, maintain, and operate malls with bus stops, information centers, and other buildings that will serve the public interest.

(g) Acquire by purchase, gift, or condemnation and own, maintain, or operate real or personal property necessary to implement this section.

(h) Promote economic activity in the district by undertakings including, but not limited to, conducting market research and public relations campaigns, developing, coordinating, and conducting retail and institutional promotions, and sponsoring special events and related activities. A business may prohibit the use of its name or logo in a public relations campaign, promotion, or special event or related activity for the district.

(i) Provide for or contract with other public or private entities for the administration, maintenance, security, operation, and provision of services that the board determines are a benefit to a district within the local governmental unit.

(3) A local governmental unit that provides for ongoing activities under subsection (2)(h) or (i) shall also provide for the creation of a board for the management of those activities.

(4) One member of the board of the principal shopping district shall be from the adjacent residential area, 1 member shall be a representative of the local

governmental unit, and a majority of the members shall be nominees of individual businesses located within the principal shopping district. The board shall be appointed by the chief executive officer of the local governmental unit with the concurrence of the legislative body of the local governmental unit. However, if all of the following requirements are met, a business may appoint a member of the board of a principal shopping district, which member shall be counted toward the majority of members required to be nominees of businesses located within the principal shopping district:

(a) The business is located within the principal shopping district.

(b) The principal shopping district was designated by the governing body of a local governmental unit after July 14, 1992.

(c) The business is located within a special assessment district established under section 5.

(d) The special assessment district is divided into special assessment rate zones reflecting varying levels of special benefits.

(e) The business is located in the special assessment rate zone with the highest special assessment rates.

(f) The square footage of the business is greater than 5.0% of the total square footage of all businesses in that special assessment rate zone.

(5) If the boundaries of the principal shopping district are the same as those of a downtown district designated under 1975 PA 197, MCL 125.1651 to 125.1681, the governing body may provide that the members of the board of the downtown development authority, which manages the downtown district, shall compose the board of the principal shopping district, in which case subsection (4) does not apply.

(6) The members of the board of a business improvement district shall be determined by the local governmental unit as provided in this subsection. The board of a business improvement district shall consist of all of the following:

(a) One representative of the local governmental unit appointed by the chief executive officer of the local governmental unit with the concurrence of the legislative body of the local governmental unit in which the business

improvement district is located. If the business improvement district is located in more than 1 local governmental unit, then 1 representative from each local governmental unit in which the business improvement district is located shall serve on the board as provided in this subdivision.

(b) Other members of the board shall be nominees of the businesses and property owners located within the business improvement district. If a class of business or property owners, as identified in the resolution described in subsection (8), is projected to pay more than 50% of the special assessment levied that benefits property in a business improvement district for the benefit of the business improvement district, the majority of the members of the board of the business improvement district shall be nominees of the business or property owners in that class.

(7) A local governmental unit may create 1 or more business improvement districts.

(8) If 1 or more local governmental units establish a business improvement district by resolution under subsection (2), the resolution shall identify all of the following:

(a) The geographic boundaries of the business improvement district.

(b) The number of board members in that business improvement district.

(c) The different classes of property owners in the business improvement district.

(d) The class of business or property owners, if any, who are projected to pay more than 50% of the special assessment levied that benefits property in that business improvement district.

History: 1961, Act 120, Imd. Eff. May 26, 1961 ;-- Am. 1980, Act 287, Imd. Eff. Oct. 14, 1980 ;-- Am. 1984, Act 260, Imd. Eff. Dec. 13, 1984 ;-- Am. 1992, Act 146, Imd. Eff. July 15, 1992 ;-- Am. 1999, Act 49, Imd. Eff. June 15, 1999 ;-- Am. 2001, Act 261, Imd. Eff. Jan. 9, 2002 ;-- Am. 2003, Act 209, Imd. Eff. Nov. 26, 2003
Popular Name: Shopping Areas Redevelopment Act

125.982 Principal shopping district project or business improvement project; methods or criteria for financing costs.

Sec. 2. (1) The cost of the whole or any part of a principal shopping district project or business improvement district project as authorized in this chapter may be financed by 1 or more of the following methods:

(a) Grants and gifts to the local governmental unit or district.

(b) Local governmental unit funds.

(c) The issuance of general obligation bonds of the local governmental unit subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(d) The issuance of revenue bonds by the local governmental unit under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, or under any other applicable revenue bond act. The issuance of the bonds shall be limited to the part or parts of the district project that are public improvements.

(e) The levying of special assessments against land or interests in land, or both.

(f) Any other source.

(2) Beginning January 1, 2000, the proceeds of a bond, note, or other obligation issued to finance a project authorized under this chapter shall be used for capital expenditures, costs of a reserve fund securing the bonds, notes, or other obligations, and costs of issuing the bonds, notes, or other obligations. The proceeds of the bonds, notes, or other obligations shall not be used for operational expenses of a district.

History: 1961, Act 120, Imd. Eff. May 26, 1961 ;-- Am. 1980, Act 287, Imd. Eff. Oct. 14, 1980 ;-- Am. 1984, Act 260, Imd. Eff. Dec. 13, 1984 ;-- Am. 1992, Act 146, Imd. Eff. July 15, 1992 ;-- Am. 1999, Act 49, Imd. Eff. June 15, 1999 ;-- Am. 2001, Act 261, Imd. Eff. Jan. 9, 2002 ;-- Am. 2003, Act 209, Imd. Eff. Nov. 26, 2003
Popular Name: Shopping Areas Redevelopment Act

125.983 District project as public improvement.
Sec. 3. A district project as authorized under this chapter is a public improvement. The use in this chapter of the term “public improvement” does not prevent the levying of a special assessment for the cost of a part of a district project that represents special benefits.

History: 1961, Act 120, Imd. Eff. May 26, 1961 ;-- Am. 1992, Act 146, Imd. Eff. July 15, 1992 ;-- Am. 1999, Act 49, Imd. Eff. June 15, 1999 ;-- Am. 2001, Act 261, Imd. Eff. Jan. 9, 2002
Popular Name: Shopping Areas Redevelopment Act

125.984 Development or redevelopment of district; single improvement.
Sec. 4. The development or redevelopment of a district, including the various phases of the development or redevelopment, is 1 project and, in the discretion of the governing body of the local governmental unit, may be financed as a single improvement.

History: 1961, Act 120, Imd. Eff. May 26, 1961 ;-- Am. 1992, Act 146, Imd. Eff. July 15, 1992 ;-- Am. 1999, Act 49, Imd. Eff. June 15, 1999 ;-- Am. 2003, Act 209, Imd. Eff. Nov. 26, 2003
Popular Name: Shopping Areas Redevelopment Act

125.985 Special assessments; levy; installment payments; maximum annual amounts; adjustment; special assessment bonds; full faith and credit; maturity; statutory or charter provisions; review; marketing and development plan.
Sec. 5. (1) If a local governmental unit elects to levy special assessments to defray all or part of the cost of the district project, then the special assessments shall be levied pursuant to applicable statutory or charter provisions or, if there are no applicable statutory or charter provisions, pursuant to statutory or charter provisions applicable to local governmental unit street improvements. If a local governmental unit charter does not authorize special assessments for the purposes set forth in this chapter, the charter provisions authorizing special assessments for street improvements are made applicable to the purposes set forth in this chapter, without amendment to the charter. The total amount assessed for district purposes may be made payable in not more than 20 annual installments as determined by the governing body of the local governmental unit, the first installment to be payable in not more than 18 months after the date of the confirmation of the special assessment roll.

(2) A special assessment shall be levied against assessable property on the basis of the special benefits to that parcel from the total project. There is a rebuttable presumption that a district project specially benefits all assessable property located within the district.

(3) This subsection applies to a principal shopping district only if the principal shopping district is designated by the governing body of a local governmental unit after July 14, 1992. The special assessments annually levied on a parcel under this chapter shall not exceed the product of $10,000.00 and the number of

businesses on that parcel. A business located on a single parcel shall not be responsible for a special assessment in excess of $10,000.00 annually. When the special assessment district is created, a lessor of a parcel subject to a special assessment may unilaterally revise an existing lease to a business located on that parcel to recover from that business all or part of the special assessment, as is proportionate considering the portion of the parcel occupied by the business.

(4) The $10,000.00 maximum amounts in subsection (3) shall be adjusted each January 1, beginning January 1, 1994, pursuant to the annual average percentage increase or decrease in the Detroit consumer price index for all items as reported by the United States department of labor. The adjustment for each year shall be made by comparing the Detroit consumer price index for the 12-month period ending the preceding October 31 with the corresponding Detroit consumer price index of 1 year earlier. The percentage increase or decrease shall then be multiplied by the current amounts under subsection (3) authorized by this section. The product shall be rounded up to the nearest multiple of 50 cents and shall be the new amount.

(5) The local governmental unit may issue special assessment bonds in anticipation of the collection of the special assessments for a district project and, by action of its governing body, may pledge its full faith and credit for the prompt payment of the bonds. Special assessment bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The last maturity on the bonds shall be not later than 2 years after the due date of the last installment on the special assessments. Special assessment bonds may be issued pursuant to statutory or charter provisions applicable to the issuance by the local governmental unit of special assessment bonds for the improvement or, if there are no applicable statutory or charter provisions, pursuant to statutory or charter provisions applicable to the issuance by the local governmental unit of special assessment bonds for street improvements.

(6) If a district project in a district designated by the governing body of a local governmental unit after July 14, 1992 is financed by special assessments, the governing body of the local governmental unit shall review the special assessments every 5 years, unless special assessment bonds are outstanding.

(7) Before a local governmental unit levies a special assessment under this chapter that benefits property within a business improvement district, the

business improvement district board shall develop a marketing and development plan that details all of the following:

(a) The scope, nature, and duration of the business improvement district project or projects.

(b) The different classes of property owners who are going to be assessed and the projected amount of the special assessment on the different classes.

(8) A local governmental unit that levies a special assessment under this chapter that benefits property within a business improvement district is considered to have approved the marketing and development plan described in subsection (7).

History: 1961, Act 120, Imd. Eff. May 26, 1961 ;-- Am. 1980, Act 287, Imd. Eff. Oct. 14, 1980 ;-- Am. 1984, Act 260, Imd. Eff. Dec. 13, 1984 ;-- Am. 1992, Act 146, Imd. Eff. July 15, 1992 ;-- Am. 1999, Act 49, Imd. Eff. June 15, 1999 ;-- Am. 2001, Act 261, Imd. Eff. Jan. 9, 2002 ;-- Am. 2003, Act 209, Imd. Eff. Nov. 26, 2003
Popular Name: Shopping Areas Redevelopment Act

125.986 Special assessments; off-street parking lots or structures.
Sec. 6. If off-street parking lots or structures are essential to the principal shopping district project, if 1 or more off-street parking lots or structures are already owned by the local governmental unit and were acquired through the issuance of revenue bonds, and if the remaining parking lots or structures are to be financed in whole or in part by special assessments and special assessment bonds, then the local governmental unit, to place all parking lots or structures on the same basis, may include as a part of the cost of parking lots or structures for the project the amount necessary to retire all or any part of the outstanding revenue bonds, inclusive of any premium not exceeding 5% necessary to be paid upon the redemption or purchase of those outstanding bonds. From the proceeds of the special assessments or from the sale of bonds issued in anticipation of the payment of the special assessments, the local governmental unit shall retire by redemption or purchase the outstanding revenue bonds. This section does not authorize the refunding of noncallable bonds without the consent of the holders of the bonds.

History: 1961, Act 120, Eff. May 26, 1961 ;-- Am. 1992, Act 146, Imd. Eff. July 15, 1992 ;-- Am. 2003, Act 209, Imd. Eff. Nov. 26, 2003
Popular Name: Shopping Areas Redevelopment Act

125.987 Additional powers.
Sec. 7. The powers granted by this chapter are in addition to and not in derogation of any other powers granted by law or charter.

History: Add. 1992, Act 146, Imd. Eff. July 15, 1992 ;-- Am. 2001, Act 261, Imd. Eff. Jan. 9, 2002
Popular Name: Shopping Areas Redevelopment Act

Chapter 2
BUSINESS IMPROVEMENT ZONE

125.990 Definitions.
Sec. 10. As used in this chapter:

(a) "Assessable property" means real property in a zone area other than property classified as residential real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, or real property exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(b) "Assessment" means an assessment imposed under this chapter against assessable property for the benefit of the property owners.

(c) "Assessment revenues" means the money collected by a business improvement zone from any assessments, including any interest on the assessments.

(d) "Board" means the board of directors of a business improvement zone.

(e) "Business improvement zone" means a business improvement zone created under this chapter.

(f) "Nonprofit corporation" means a nonprofit corporation organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, and which complies with all of the following:

(i) The articles of incorporation of the nonprofit corporation provide that the nonprofit corporation may promote a business improvement zone and may also provide management services related to the implementation of a zone plan.

(ii) The nonprofit corporation is exempt from federal income tax under section 501(c)(4) or 501(c)(6) of the internal revenue code of 1986.

(g) "Person" means an individual, partnership, corporation, limited liability company, association, or other legal entity.

(h) "Project" means any activity for the benefit of property owners authorized by section 10a to enhance the business environment within a zone area.

(i) "Property owner" means a person who owns, or an agent authorized in writing by a person who owns, assessable property according to the records of the treasurer of the city or village in which the business improvement zone is located.

(j) "7-year period" means the period in which a business improvement zone is authorized to operate, beginning on the date that the business improvement zone is created or renewed and ending 7 calendar years after that date.

(k) "Zone area" means the area designated in the zone plan as the area to be served by the business improvement zone.

(l) "Zone plan" means a set of goals, strategies, objectives, and guidelines for the operation of a business improvement zone, as approved at a meeting of property owners conducted under section 10d.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002
Popular Name: Shopping Areas Redevelopment Act

125.990a Business improvement zone as public body corporate; powers; authority.
Sec. 10a. (1) A business improvement zone is a public body corporate and may do 1 or more of the following for the benefit of property owners located in the business improvement zone:

(a) Acquire, through purchase, lease, or gift, construct, develop, improve, maintain, operate, or reconstruct park areas, planting areas, and related facilities within the zone area.

(b) Acquire, construct, clean, improve, maintain, reconstruct, or relocate sidewalks, street curbing, street medians, fountains, and lighting within the zone area.

(c) Develop and propose lighting standards within the zone area.

(d) Acquire, plant, and maintain trees, shrubs, flowers, or other vegetation within the zone area.

(e) Provide or contract for security services with other public or private entities and purchase equipment or technology related to security services within the zone area.

(f) Promote and sponsor cultural or recreational activities.

(g) Engage in economic development activities, including, but not limited to, promotion of business, retail, or industrial development, developer recruitment, business recruitment, business marketing, business retention, public relations efforts, and market research.

(h) Engage in other activity with the purpose to enhance the economic prosperity, enjoyment, appearance, image, and safety of the zone area.

(i) Acquire by purchase or gift, maintain, or operate real or personal property necessary to implement this chapter.

(j) Solicit and accept gifts or grants to further the zone plan.

(k) Sue or be sued.

(2) A business improvement zone may contract with a nonprofit corporation or any other public or private entity and may pay a reasonable fee to the nonprofit corporation or other public or private entity for services provided.

(3) A business improvement zone has the authority to borrow money in anticipation of the receipt of assessments if all of the following conditions are satisfied:

(a) The loan will not be requested or authorized, or will not mature, within 90 days before the expiration of the 7-year period.

(b) The amount of the loan does not exceed 50% of the annual average assessment revenue of the business improvement zone during the previous year or, in the case of a business improvement zone that has been in existence for less than 1 year, the loan does not exceed 25% of the projected annual assessment revenue.

(c) The loan repayment period does not extend beyond the 7-year period.

(d) The loan is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The services provided by and projects of a business improvement zone are services and projects of the business improvement zone and are not services, functions, or projects of the municipality in which the business improvement zone is located. The services provided by and projects of a business improvement zone are supplemental to the services, projects, and functions of the city or village in which the business improvement zone is located.

(5) The business improvement zone has no other authority than the authority described in this act.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002
Popular Name: Shopping Areas Redevelopment Act

125.990b Business improvement zone; establishment within city or village; assessable property; establishment of business improvement zone in city or village with business improvement zone located before effective date of act. Sec. 10b. (1) Except as provided in subsection (4), 1 or more business improvement zones may be established within a city or village.

(2) The majority of all parcels included in a zone area, both by area and by taxable value, shall be assessable property. A zone area shall be contiguous, with the exception of public streets, alleys, parks, and other public rights-of-way.

(3) Except as provided in subsection (4), a business improvement zone may be established in a city or village even if the city or village has established a

principal shopping district or business improvement district under chapter 1. Assessable property shall not be included in any of the following:

(a) More than 1 business improvement zone established under this chapter.

(b) Both a principal shopping district and a business improvement district established under chapter 1.

(4) If at the time of the effective date of the amendatory act that added this subsection a business improvement district established under chapter 1 is located in a city or village, a business improvement zone may not be established under this chapter within that city or village unless within 180 days of the effective date of the amendatory act that added this subsection or during July 2005 or during July every third year after 2005 the governing body of the city or village adopts a resolution authorizing the governing body to consider, as provided in section 10e, the establishment of a business improvement zone under this chapter.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002
Popular Name: Shopping Areas Redevelopment Act

125.990c Initiation by delivery of petition; contents; filing; notice. \
Sec. 10c. (1) A person may initiate the establishment of a business improvement zone by the delivery of a petition to the clerk of the city or village in which a proposed zone area is located. The petition shall include all of the following:

(a) The boundaries of the zone area.

(b) The signatures of property owners of parcels representing not less than 30% of the property owners within the zone area, weighted as provided in section 10f(2).

(c) A listing, by tax parcel identification number, of all parcels within the zone area, separately identifying assessable property.

(2) After a petition is filed pursuant to subsection (1), the clerk shall notify all property owners within the zone area of a public meeting of the property owners regarding the establishment of the business improvement zone to be held not less than 45 days or more than 60 days after the filing of the petition.

The notice shall be sent by first-class mail to the property owners not less than 14 days prior to the scheduled date of the meeting. The notice shall include the specific location and the scheduled date and time of the meeting.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002
Popular Name: Shopping Areas Redevelopment Act

125.990d Public meeting of property owners; adoption of zone plan; contents; adoption by majority vote; presentment to city or village clerk.
Sec. 10d. (1) At the meeting required by section 10c, the property owners may adopt a zone plan for submission to and approval by the governing body of the city or village in which the business improvement zone is located.

(2) A zone plan shall include all of the following:

(a) A description of the boundaries of the zone area sufficient to identify each assessable property included.

(b) The proposed initial board of directors, except for a director of the board who may be appointed by the city or village under section 10g(2).

(c) The method for removal, appointment, and replacement of the board.

(d) A description of projects planned during the 7-year period, including the scope, nature, and duration of the projects.

(e) An estimate of the total amount of expenditures for projects planned during the 7-year period.

(f) The proposed source or sources of financing for the projects.

(g) If the proposed financing includes assessments, the projected amount or rate of the assessments for each year and the basis upon which the assessments are to be imposed on assessable property.

(h) A listing, by tax parcel identification number, of all parcels within the zone area, separately identifying assessable property.

(i) A plan of dissolution for the business improvement zone.

(3) A zone plan shall be considered adopted by the property owners if a majority of the property owners voting at the meeting approve the zone plan. The votes of the property owners at the meeting shall be weighted in the manner indicated in section 10f(2).

(4) Any zone plan adopted under this section shall be presented to the clerk of the city or village in which the zone area is located.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002
Popular Name: Shopping Areas Redevelopment Act

125.990e Public hearing of governing body; notice; approval or rejection; amendment; resubmission; assessment; election; publication of notice; assisting in conduct of election.
Sec. 10e. (1) If a zone plan is adopted and presented to the clerk of the city or village in accordance with section 10d, the governing body of the city or village shall within 45 days schedule a public hearing of the governing body to review the zone plan and any proposed assessment and to receive public comment. The clerk shall notify all owners of parcels within the zone area of the public hearing by first-class mail.

(2) At the public hearing, or at the next regularly scheduled meeting of the governing body of the city or village, the governing body shall approve or reject the establishment of the business improvement zone and the zone plan as adopted by the property owners under section 10d(3). If the governing body rejects the establishment of the business improvement zone and the zone plan, the clerk shall notify all property owners within the zone of a reconvened meeting of the property owners which shall be held not sooner than 10 days or later than 21 days after the date of the rejection by the governing body. The notice shall be sent by first-class mail to the property owners not less than 7 days prior to the scheduled date of the meeting and shall include the specific location and the scheduled date and time of the meeting, as determined by the person initiating the establishment of the business improvement zone under section 10c(1). At the reconvened meeting, the property owners may amend the zone plan if approved by a majority of the property owners as provided in section 10d(3). The amended zone plan may be resubmitted to the clerk of the city or village without the requirement of a new petition under section 10c for approval or rejection at a meeting of the governing body of the city or village not later than 60 days after the amended zone plan is resubmitted to the clerk. If a zone plan is not rejected within 60 days of the date the amended zone plan is resubmitted to the clerk, the amended zone plan is considered approved by the

governing body of the city or village. If the amended zone plan is rejected by the governing body, then the amended zone plan may not be resubmitted without the delivery of a new petition under section 10c.

(3) Approval of the business improvement zone and zone plan shall serve as a determination by the city or village that any assessment set forth in the zone plan, including the basis for allocating the assessment, is appropriate, subject only to the approval of the business improvement zone and the zone plan by the property owners in accordance with section 10f.

(4) If the governing body of the city or village approves the business improvement zone and zone plan or if the amended zone plan is considered approved under subsection (2), the clerk of the city or village shall set an election pursuant to section 10f not more than 60 days following the approval.

(5) The clerk of the city or village shall send to the property owners notice by first-class mail of the election not less than 30 days before the election and publish the notice at least twice in a newspaper of general circulation in the city or village in which the zone area is located. The first publication shall not be less than 10 days or more than 30 days prior to the date scheduled for the election. The second publication shall not be published less than 1 week after the first publication.

(6) The election described in this section and section 10f is not an election subject to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(7) The person who filed the petition under section 10c, the proposed board members, and the property owners may, at the option and under the direction of the clerk, assist the clerk of the city or village in conducting the election to keep the expenses of the election at a minimum.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002
Popular Name: Shopping Areas Redevelopment Act

125.990f Voting; eligibility; conduct; question; weight; adoption of business improvement zone and zone plan; expenses; duration; compliance with state and federal laws; immunity of city or village.
Sec. 10f. (1) All property owners as of the date of the delivery of the petition as provided in section 10c are eligible to participate in the election. The election shall be conducted by mail. The question to be voted on by the property owners

is the adoption of the zone plan and the establishment of the business improvement zone, including the identity of the initial board.

(2) Votes of property owners shall be weighted in proportion to the amount that the taxable value of their respective real property for the preceding calendar year bears to the taxable value of all assessable property in the zone area, but in no case shall the total number of votes assigned to any 1 property owner be equal to more than 25% of the total number of votes eligible to be cast in the election.

(3) A zone plan and the proposal for the establishment of a business improvement zone, including the identity of the initial board, shall be considered adopted upon the approval of more than 60% of the property owners voting in the election, with votes weighted as provided in subsection (2).

(4) Upon acceptance or rejection of a business improvement zone and zone plan by the property owners, the resulting business improvement zone or the person filing the petition under section 10c shall, at the request of the city or village, reimburse the city or village for all or a portion of the reasonable expenses incurred to comply with this chapter. The governing body of the city or village may forgive and choose not to collect all or a portion of the reasonable expenses incurred to comply with this chapter.

(5) Adoption of a business improvement zone and zone plan under this section authorizes the creation of the business improvement zone and the implementation of the zone plan for the 7-year period.

(6) Adoption of a business improvement zone and zone plan under this section and the creation of the business improvement zone does not relieve the business improvement zone from following, or does not waive any rights of the city or village to enforce, any applicable laws, statutes, or ordinances. A business improvement zone created under this chapter shall comply with all applicable state and federal laws.

(7) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, a city or village that approves a business improvement zone within its boundaries is immune from civil or administrative liability arising from any actions of that business improvement zone.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002
Popular Name: Shopping Areas Redevelopment Act

125.990g Board of directors; management of day-to-day activities; members; duties and responsibilities; reimbursement.
Sec. 10g. (1) The day-to-day activities of the business improvement zone and implementation of the zone plan shall be managed by a board of directors.

(2) The board shall consist of an odd number of directors and shall not be smaller than 5 and not larger than 15 in number. The board may include 1 director nominated by the chief executive of the city or village and approved by the governing body of the city or village.

(3) The duties and responsibilities of the board shall be prescribed in the zone plan and to the extent applicable shall include all of the following duties and responsibilities:

(a) Developing administrative procedures relating to the implementation of the zone plan.

(b) Recommending amendments to the zone plan.

(c) Scheduling and conducting an annual meeting of the property owners.

(d) Developing a zone plan for the next 7-year period.

(4) Members of the board shall serve without compensation. However, members of the board may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the board.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002
Popular Name: Shopping Areas Redevelopment Act

125.990h Assessments.
Sec. 10h. (1) A business improvement zone may be funded in whole or in part by 1 or more assessments on assessable property, as provided in the zone plan. An assessment under this chapter shall be in addition to any taxes or special assessments otherwise imposed on assessable property.

(2) An assessment shall be imposed against assessable property only on the basis of the benefits to assessable property afforded by the zone plan. There is a rebuttable presumption that a zone plan and any project specially benefits all assessable property in a zone area.

(3) If a zone plan provides for an assessment, the treasurer of the city or village in which the zone area is located as an agent of the business improvement zone shall collect the assessment imposed by the board under the zone plan on all assessable property within the zone area in the amount authorized by the zone plan.

(4) Except as provided in subsection (7), assessments shall be collected by the treasurer of the city or village as an agent of the business improvement zone from each property owner and remitted promptly to the business improvement zone. Assessment revenue is the property of the business improvement zone and not the city or village in which the business improvement zone is located. The business improvement zone may, at the option and under the direction of the treasurer, assist the treasurer of the city or village in collecting the assessment to keep the expenses of collecting the assessment at a minimum.

(5) The business improvement zone may institute a civil action to collect any delinquent assessment and interest.

(6) An assessment imposed under this act is not a special assessment collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(7) An assessment is delinquent if it has not been paid within 90 days after it was due as provided under the zone plan imposed under this chapter. Delinquent assessments shall be collected by the business improvement zone. Delinquent assessments shall accrue interest at a rate of 1.5% per month until paid.

(8) If any portion of the assessment has not been paid within 90 days after it was due, that portion of the unpaid assessment shall constitute a lien on the property. The lien amount shall be for the unpaid portion of the assessment and shall not include any interest.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002
Popular Name: Shopping Areas Redevelopment Act

125.990i Audit.
Sec. 10i. (1) Expenses incurred in implementing any project or service of a business improvement zone shall be financed in accordance with the zone plan.

(2) Assessment revenues under section 10h are the funds of the business improvement zone and not funds of the state or of the city or village in which the business improvement zone is located. All money collected under section 10h shall be deposited in a financial institution in the name of the business improvement zone. Assessment revenues may be deposited in an interest generating account. The business improvement zone shall use the funds only to implement the zone plan.

(3) All expenditures by a business improvement zone shall be audited annually by a certified public accountant. The audit shall be completed within 9 months of the close of the fiscal year of the business improvement zone. Within 30 days after completion of an audit, the certified public accountant shall transmit a copy of the audit to the board and make copies of the audit available to the property owners and the public.

(4) If an annual audit required by this section contains material exceptions and the material exceptions are not substantially corrected within 90 days of the delivery of the audit, the business improvement zone shall be dissolved in accordance with the zone plan upon approval of the dissolution by the governing body of the city or village in which the business improvement zone is located.

(5) The board shall publish an annual activity and financial report. The report shall be available to the public. Each year, every property owner shall be notified of the availability of the annual activity and financial report.

(6) As used in this section, “financial institution” means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or of the United States.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002
Popular Name: Shopping Areas Redevelopment Act

125.990j Zone plan amendment.
Sec. 10j. A zone plan may be amended. Amendments shall be effective if approved by a majority of the property owners voting on the amendment at the annual meeting of property owners or a special meeting called for that purpose, with the votes of the property owners weighted in accordance with section 10f(2). A zone plan amendment changing any assessment is effective only if also approved by the governing body of the city or village in which the business improvement zone is located.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002
Popular Name: Shopping Areas Redevelopment Act

125.990k Expiration of 7-year period; special meeting to approve new zone plan; notice.
Sec. 10k. (1) Prior to the expiration of any 7-year period, the board shall notify the property owners of a special meeting by first-class mail at least 14 days prior to the scheduled date of the meeting to approve a new zone plan for the next 7-year period. Notice under this section shall include the specific location, scheduled date, and time of the meeting.

(2) Approval of the new zone plan at the special meeting by 60% of the property owners of assessable property voting at that meeting, with the vote of the property owners being weighted in accordance with section 10f(2), constitutes reauthorization of the business improvement zone for an additional 7-year period, commencing as of the expiration of the 7-year period then in effect. If the new zone plan reflects any new assessment, or reflects an extension of any assessment beyond the period previously approved by the city or village in which the business improvement zone is located, the new or extended assessment shall be effective only with the approval of the governing body of the city or village.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002
Popular Name: Shopping Areas Redevelopment Act

125.990l Dissolution.
Sec. 10l.(1) Upon written petition duly signed by 20% of the property owners of assessable property within a zone area, the board shall place on the agenda of the next annual meeting, if the next annual meeting is to be held not later than 60 days after receipt of the written petition or a special meeting not to be held later than 60 days after receipt of the written petition, the issue of dissolution of the business improvement zone. Notice of the next annual meeting or special

meeting described in this subsection shall be made to all property owners by first-class mail not less than 14 days prior to the date of the annual or special meeting. The notice shall include the specific location and the scheduled date and time of the meeting.

(2) The business improvement zone shall be dissolved upon a vote of more than 50% of the property owners of assessable property voting at the meeting. A dissolution shall not take effect until all contractual liabilities of the business improvement zone have been paid and discharged.

(3) Upon dissolution of a business improvement zone, the board shall dispose of the remaining physical assets of the business improvement zone. The proceeds of any physical assets disposed of by the business improvement zone and all money collected through assessments that is not required to defray the expenses of the business improvement zone shall be refunded on a pro rata basis to persons from whom assessments were collected. If the board finds that the refundable amount is so small as to make impracticable the computation and refunding of the money, it may be transferred to the treasurer of the city or village in which the business improvement zone is located for deposit in the treasury of the city or village to the credit of the general fund.

(4) Upon dissolution of a business improvement zone, any remaining assets of the business improvement zone shall be transferred to the treasurer of the city or village in which the business improvement zone is located for deposit in the treasury of the city or village to the credit of the general fund.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002
Popular Name: Shopping Areas Redevelopment Act

125.990m Public meeting; compliance with open meetings act; public records; meeting location.
Sec. 10m. (1) The board shall conduct business at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) A meeting of property owners under section 10c shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting

shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) A writing prepared, owned, used, in the possession of, or retained by the business improvement zone in the performance of its duties under this chapter is a public record under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) All meetings of the board or property owners described in this act shall be conducted within the city or village in which the business improvement zone is or is to be located.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002
Popular Name: Shopping Areas Redevelopment Act

RESORT DISTRICT REHABILITATION ACT
Act 59 of 1986

AN ACT to authorize the establishment of a resort district authority; to prescribe its powers and duties; to correct and prevent deterioration in resort 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 rehabilitation plans in the districts; to create a board and to prescribe its powers and duties; to authorize the levy and collection of taxes; and to authorize the issuance of bonds and other evidences of indebtedness.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

The People of the State of Michigan enact:

125.2201 Short title.
Sec. 1. This act shall be known and may be cited as the “resort district rehabilitation act”.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2202 Definitions.
Sec. 2. As used in this act:

(a) “Authority” means a resort district authority created pursuant to this act.

(b) “Board” means the governing body of an authority.

(c) “Operation” means office maintenance, including salaries and expenses of employees, office supplies, consultation fees, design costs, and other expenses incurred in the daily management of the authority and planning of its activities.

(d) “Rehabilitation” means construction, reconstruction, repair, or maintenance of a road, street lighting, a sanitary sewer, a storm sewer, storm water drainage, or a flood control project within a resort district, or establishment and operation of a system of garbage collection within the resort district.

(e) “Rehabilitation plan” means the information and requirements set forth in section 15.

(f) “Resort district” means an area which encompasses a natural geographic feature used for recreation, such as an inland lake or the Great Lakes shoreline, which is specifically designated by resolution and approved as provided in this act, and a portion of which area is land that is or was a part of a resort association incorporated under 1 of the following:

(i) Act No. 230 of the Public Acts of 1897, being sections 455.1 to 455.24 of the Michigan Compiled Laws.

(ii) Act No. 39 of the Public Acts of 1889, being sections 455.51 to 455.72 of the Michigan Compiled Laws.

(iii) Act No. 69 of the Public Acts of 1887, being sections 455.101 to 455.113 of the Michigan Compiled Laws.

(iv) Act No. 137 of the Public Acts of 1929, being sections 455.201 to 455.220 of the Michigan Compiled Laws.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2203 Resort district authority; establishment; inclusion of parcel of property; approval by resolution; nature and powers of authority; tax limitations.

Sec. 3. (1) A township may establish a resort district authority. A parcel of property shall not be included in more than 1 authority created under this act. A parcel of property that is in a village shall not be included in a resort district

established by a township except upon approval by resolution of the governing body of the village and subject to such conditions as may be set forth in the resolution.

(2) The authority shall be a public body corporate which may sue and be sued in any court of this state. The authority possesses all the powers necessary to carry out the purposes of its incorporation. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of the authority.

(3) An authority is intended and shall be considered to be an authority the tax limitations of which are provided by charter or general law within the meaning of section 6 of article IX of the state constitution of 1963.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2204 Resolution of intent to create and provide for operation of authority; public hearing; notice; right to be heard.

Sec. 4. (1) If a township board determines that it is in the best interests of the public to halt or prevent property deterioration or increase property valuation where possible in a resort district, or to eliminate the causes of that deterioration, the township board may declare by resolution the intention to create and provide for the operation of an authority. In the resolution of intent, the township board shall set a date for holding a public hearing on adopting an ordinance or resolution creating the authority and establishing the board.

(2) Notice of the public hearing shall be published twice in a newspaper of general circulation in the township, not less than 20 nor more than 40 days before the date of the hearing.

(3) A resident, taxpayer, or property owner of the township has the right to be heard in regard to the establishment of the authority.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2205 Ordinance or resolution establishing authority; filing; publication.

Sec. 5. After the public hearing, if the township board intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members, an ordinance or resolution establishing the authority. The ordinance

or resolution shall promptly be filed with the secretary of state after its adoption and shall be published at least once in a newspaper of general circulation in the township.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2206 Board; appointment, qualifications, and terms of members; vacancy; compensation; election of chairperson; oath of office.

Sec. 6. (1) The authority shall be under the supervision and control of a board consisting of 2 elected officials of the township, 2 residents of an area that is or was a resort association as described in section 2(f), and 1 individual designated by the industrial or commercial facility located within the township which has the highest state equalized valuation as of December 31 of the year preceding the year of the designation. The board members shall be appointed or designated within 30 days after adoption of the ordinance or resolution under section 5.

(2) A member shall be appointed by the township supervisor subject to approval by the township board. Of the 2 resident members first appointed, 1 shall be appointed for a term expiring December 31 of the year after the year of appointment and 1 for a term expiring December 31 of the third year after the year of appointment. Thereafter, each resident member shall serve for a term of 4 years. A member shall hold office until the member's successor is appointed. An appointment to fill a vacancy shall be made by the township supervisor for the unexpired term.

(3) If approved by the township board, a board member shall receive compensation limited to a reasonable per diem which shall include actual and necessary expenses.

(4) The chairperson of the board shall be elected by the board from among its members. Before assuming the duties of office, a board member shall qualify by taking and subscribing to the constitutional oath of office provided in section 1 of article XI of the state constitution of 1963.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2207 Determination and submission of proposed boundaries and millage to township board; approval by resolution; election; notice; approval of proposition.

Sec. 7. (1) The board shall determine the boundaries of the proposed resort district. Subject to the limitations of section 8, the board shall determine the millage necessary for rehabilitation of the resort district. The board shall submit the proposed boundaries and millage to the township board. If the township board approves the boundaries and millage by resolution, ordinance, or otherwise, the boundaries and millage shall be submitted to a vote of the electors who reside in the proposed resort district. An election shall not be held under this section after December 31, 1987.

(2) Notice of the election shall be published twice in a newspaper of general circulation in the township, not less than 5 and not more than 10 days before the date of the election. Notice of the election shall be posted in not less than 20 conspicuous and public places in the proposed resort district not less than 20 days before the election. The notice shall state the date of the election and shall describe the boundaries of the proposed resort district.

(3) If a majority of the electors voting on the question approve the proposition, then the resort district is established and the authority is authorized to levy the millage up to the amount and duration specified in the proposition.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2208 Ad valorem tax on property located in resort district; mills; limitation; collection; disposition; borrowing money and issuing notes; extension of tax.

Sec. 8. (1) Subject to the provisions of section 7, an authority may levy an ad valorem tax on the taxable value of the real and tangible personal property located in the resort district and not exempt by law. The tax shall not be more than 3 mills for a period of not more than 5 years. The tax shall be collected by the township creating the authority levying the tax. The township shall collect the tax at the same time and in the same manner as it collects its other ad valorem taxes. The tax shall be paid to the treasurer of the authority and credited to the general fund of the authority for purposes of the authority.

(2) An authority may borrow money and issue its notes for that money pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of the ad valorem tax authorized in this section.

(3) Except as provided in subsection (4), the authority may extend the tax levied under this section for periods of not more than 5 years. An extension of

the tax shall not be more than 3 mills. An extension shall not be levied unless, before September 15 of the year following the year in which a previously approved tax levy expires, the extension is approved by a majority of the electors who reside in the resort district and who vote on the proposition.

(4) If a tax levy has been previously levied and approved by a majority of electors who reside within the resort district on 2 previous occasions, the authority may extend the tax levied under this section for a period of not more than 10 years. An extension of the tax shall not be more than 3 mills. An extension under this subsection shall not be levied unless, before September 15 following the year in which a previously approved tax levy expires, the extension is approved by a majority of the electors who reside in the resort district and who vote on the proposition.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986 ;-- Am. 1996, Act 209, Imd. Eff. May 22, 1996 ;-- Am. 2002, Act 236, Imd. Eff. Apr. 29, 2002

125.2209 Conducting business at public meeting; notice; procedural rules; meetings; removal of member; review; expense items; financial records; writings available to public.

Sec. 9. (1) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. The board shall adopt rules consistent with Act No. 267 of the Public Acts of 1976 governing its procedure and the holding of regular meetings, subject to the approval of the township board. Special board meetings may be held if called in the manner provided in the rules of the board.

(2) Pursuant to notice and after having been given an opportunity to be heard, a board member may be removed for cause by the township board. Removal of a member is subject to review by the circuit court.

(3) All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(4) In addition to the items and records prescribed in subsection (3), a writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in

compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2210 Director.

Sec. 10. (1) Subject to the approval of the township board, the board may employ and fix the compensation of a director or may enter into a contract with an individual, the township, a corporation, or other legal entity to perform the functions of the director. The director shall serve at the pleasure of the board. A board member shall not be eligible to hold the position of director or acting director. Before entering upon the duties of office, the director shall take and subscribe to the constitutional oath of office, and shall furnish bond by posting a bond in the penal sum determined in the ordinance establishing the authority, which bond is payable to the authority for use and benefit of the authority, approved by the board, and filed with the municipal clerk. The premium on the bond shall be considered to be an operating expense of the authority, payable from funds available to the authority for operating expenses.

(2) The director shall be the chief executive officer of the authority. Subject to the board's approval, the director shall supervise, and be responsible for, preparing plans and performing the functions of the authority in the manner authorized by this act. The director shall attend board meetings and shall provide the board and township board with a regular report covering the activities and financial condition of the authority.

(3) If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of office, the acting director shall take and subscribe to the oath of office and furnish bond as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2211 Employment of personnel; contracts.

Sec. 11. The board may employ other personnel considered necessary by the board including, but not limited to, a treasurer and secretary. The board may enter into a contract with an individual, the township, a corporation, or other

legal entity to perform the duties of a treasurer, secretary, or other functions the board considers necessary.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2212 Powers of board.
Sec. 12. The board may do any of the following:

(a) Prepare an analysis of infrastructure changes taking place in the resort district.

(b) Plan and propose rehabilitation within the resort district.

(c) Implement any plan of rehabilitation in the resort district necessary to achieve the purposes of this act, in accordance with the powers of the authority as granted by this act.

(d) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(e) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper, or own, convey, or otherwise dispose of, or lease as lessor or lessee, land or other property, real or personal, or rights or interests in land or other property, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect to the property.

(f) Fix, charge, and collect fees, rents, and charges for the use of a building or property under its control or a part of such a building or property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(g) Lease a building or property under its control, or a part of such a building or property.

(h) Accept grants and donations of property, labor, or other things of value from a public or private source.

(i) Acquire and construct public facilities.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2213 Revenue bonds.
Sec. 13. The authority may borrow money and issue its negotiable revenue bonds for that money pursuant to the revenue bond act of 1933, Act No. 94 of the Public Acts of 1933, being sections 141.101 to 141.139 of the Michigan Compiled Laws. Except as otherwise provided in this act, a revenue bond issued by the authority shall not be considered a debt of the township or the state. By majority vote of the members of the township board, the township may make a limited tax pledge of its full faith and credit to support the authority's revenue bonds.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2214 Bonds to finance rehabilitation plan.
Sec. 14. (1) If authorized in the ordinance or resolution of the township creating the authority, by resolution of its board, and subject to the limitations set forth in this section, the authority may authorize, issue, and sell its bonds to finance a rehabilitation plan. The bonds shall mature not later than the last year for which the authority is entitled to levy an ad valorem tax pursuant to section 8 and shall be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) If electors have approved the millage pursuant to section 7, the township board may, by a majority vote of its members make a limited tax pledge of its full faith and credit for the payment of principal and interest on the authority's bonds issued pursuant to this section.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986 ;-- Am. 2002, Act 236, Imd. Eff. Apr. 29, 2002

125.2215 Rehabilitation plan; preparation; contents.
Sec. 15. (1) If a board decides to finance the rehabilitation of the resort district by the use of revenue bonds as authorized in section 13 or 14, the board shall prepare a rehabilitation plan.

(2) The rehabilitation plan shall contain all of the following:

(a) The designation of boundaries of the resort district in relation to highways, streets, streams, or otherwise.

(b) The location and extent of existing roads, sewers, and drains within the resort district.

(c) A description of existing improvements in the resort district to be demolished, repaired, or altered, a description of any repairs and alterations, and an estimate of the time required for completion.

(d) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the resort district and an estimate of the time required for completion.

(e) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(f) A description of desired changes in streets, street levels, intersections, and utilities.

(g) An estimate of the cost of the rehabilitation with a statement of the proposed method of financing the rehabilitation and the ability of the authority to arrange the financing.

(h) Other material which the authority, local public agency, or township board considers pertinent.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2216 Rehabilitation plan; public hearing; notice; opportunity for interested persons to be heard; receipt and consideration of written communications; opinions; arguments; documentary evidence; record of hearing.

Sec. 16. (1) Before adopting a resolution approving a rehabilitation plan, the township board shall hold a public hearing on the rehabilitation plan. In addition to the notice requirements of the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws, notice of the time and place of the hearing shall be given by publication 3 times in a newspaper of general circulation designated by the township, the first of which shall be not less than 20 days before the date set for the hearing. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the resort district not less than 20 days before the hearing.

(2) Notice of the time and place of hearing on a rehabilitation plan shall contain a description of the resort district in relation to highways, streets, streams, or otherwise; a statement that maps, plats, and a description of the rehabilitation plan are available for public inspection at a place designated in the notice; and a statement that all aspects of the rehabilitation plan are open for discussion at the public hearing. The notice may include other information that the township board considers appropriate.

(3) At the time set for the hearing, the township board shall provide an opportunity for interested persons to be heard and shall receive and consider written communications with reference to the testimony. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the rehabilitation plan. The township board shall make and preserve a record of the public hearing, including all data presented at the hearing.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2217 Rehabilitation plan as constituting public purpose; approval or rejection of plan; consideration; amendments to plan.

Sec. 17. (1) After a public hearing on the rehabilitation plan as provided in section 16, the township board shall determine whether the rehabilitation plan constitutes a public purpose. If it determines that the rehabilitation plan constitutes a public purpose, the township board, by resolution, shall approve or reject the plan, or approve it with modification, based on all of the following considerations:

(a) The plan meets the requirements set forth in section 15.

(b) The proposed method of financing the rehabilitation is feasible and the authority has the ability to arrange the financing.

(c) The rehabilitation is reasonable and necessary to carry out the purposes of this act.

(d) The rehabilitation plan is in reasonable accord with the master plan of the township.

(2) Amendments to an approved rehabilitation plan shall be submitted by the authority to the township board for approval or rejection.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2218 Budget; assessment.

Sec. 18. (1) The director of the authority shall prepare and submit for the approval of the board a budget for the operation of the authority for the ensuing fiscal year. Before the budget may be adopted by the board, the budget shall be approved by the township board. Funds of the township shall not be included in the budget of the authority except those funds authorized in this act or by the township board.

(2) If the township does not impose a property tax administration fee as provided in the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, the township board may assess against the funds of the authority an amount equal to the actual cost of collecting those funds, which amount shall not exceed 1% of the amount collected under the ad valorem tax levied under this act.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

125.2219 Dissolution of authority; resolution; disposition of property and assets.

Sec. 19. An authority which has completed the purposes for which it was organized shall be dissolved by resolution of the township board. The property and assets of the authority remaining after the satisfaction of the obligations of the authority shall belong to the township.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986

OBSOLETE PROPERTY REHABILITATION ACT
Act 146 of 2000

AN ACT to provide for the establishment of obsolete property rehabilitation districts in certain local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of certain local government officials; and to provide penalties.

History: 2000, Act 146, Imd. Eff. June 6, 2000

The People of the State of Michigan enact:

125.2781 Short title.
Sec. 1. This act shall be known and may be cited as the “obsolete property rehabilitation act”.

History: 2000, Act 146, Imd. Eff. June 6, 2000

125.2782 Definitions.
Sec. 2. As used in this act:

(a) "Commercial housing property" means that portion of real property not occupied by an owner of that real property that is classified as residential real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, is a multiple-unit dwelling, or is a dwelling unit in a multiple-purpose structure, used for residential purposes. Commercial housing property also includes a building or group of contiguous buildings previously used for industrial purposes that will be converted to a multiple-unit dwelling or dwelling unit in a multiple-purpose structure, used for residential purposes.

(b) "Commercial property" means land improvements classified by law for general ad valorem tax purposes as real property including buildings and improvements assessable as real property pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, the primary purpose and use of which is the operation of a commercial business enterprise. Commercial property shall also include facilities related to a commercial business enterprise under the same ownership at that location, including, but not limited to, office, engineering, research and development, warehousing, parts distribution, retail sales, and other commercial activities. Commercial property also includes a building or group of contiguous buildings previously used for industrial purposes that will be converted to the operation of a commercial business enterprise or a multiple-unit dwelling or a dwelling unit in a multiple-purpose structure, used for residential purposes. Commercial property does not include any of the following:

(i) Land.

(ii) Property of a public utility.

(c) "Commission" means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.

(d) "Department" means the department of treasury.

(e) "Facility", except as otherwise provided in this act, means a building or group of contiguous buildings.

(f) "Functionally obsolete" means that term as defined in section 2 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2652.

(g) "Obsolete properties tax" means the specific tax levied under this act.

(h) "Obsolete property" means commercial property or commercial housing property, that is 1 or more of the following:

(i) Blighted, as that term is defined in section 2 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2652.

(ii) A facility as that term is defined under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(iii) Functionally obsolete.

(i) "Obsolete property rehabilitation district" means an area of a qualified local governmental unit established as provided in section 3. Only those properties within the district meeting the definition of "obsolete property" are eligible for an exemption certificate issued pursuant to section 6.

(j) "Obsolete property rehabilitation exemption certificate" or "certificate" means the certificate issued pursuant to section 6.

(k) "Qualified local governmental unit" means 1 or more of the following:

(i) A city with a median family income of 150% or less of the statewide median family income as reported in the 1990 federal decennial census that meets 1 or more of the following criteria:

(A) Contains or has within its borders an eligible distressed area as that term is defined in section 11(u)(ii) and (iii) of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.

(B) Is contiguous to a city with a population of 500,000 or more.

(C) Has a population of 10,000 or more that is located outside of an urbanized area as delineated by the United States bureau of the census.

(D) Is the central city of a metropolitan area designated by the United States office of management and budget.

(E) Has a population of 100,000 or more that is located in a county with a population of 2,000,000 or more according to the 1990 federal decennial census.

(ii) A township with a median family income of 150% or less of the statewide median family income as reported in the 1990 federal decennial census that meets 1 or more of the following criteria:

(A) Is contiguous to a city with a population of 500,000 or more.

(B) All of the following:

(I) Contains or has within its borders an eligible distressed area as that term is defined in section 11(u)(ii) of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.

(II) Has a population of 10,000 or more.

(iii) A village with a population of 500 or more as reported in the 1990 federal decennial census located in an area designated as a rural enterprise community before 1998 under title XIII of the omnibus budget reconciliation act of 1993, Public Law 103-66, 107 Stat. 416.

(iv) A city that meets all of the following criteria:

(A) Has a population of more than 20,000 or less than 5,000 and is located in a county with a population of 2,000,000 or more according to the 1990 federal decennial census.

(B) As of January 1, 2000, has an overall increase in the state equalized valuation of real and personal property of less than 65% of the statewide average increase since 1972 as determined for the designation of eligible distressed areas under section 11(u)(ii)(B) of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.

(l) "Rehabilitation" means changes to obsolete property other than replacement that are required to restore or modify the property, together with all appurtenances, to an economically efficient condition. Rehabilitation includes major renovation and modification including, but not necessarily limited to, the improvement of floor loads, correction of deficient or excessive height, new or improved fixed building equipment, including heating, ventilation, and lighting, reducing multistory facilities to 1 or 2 stories, adding additional stories to a facility or adding additional space on the same floor level not to exceed 100% of the existing floor space on that floor level, improved structural support including foundations, improved roof structure and cover, floor replacement, improved wall placement, improved exterior and interior appearance of buildings, and other physical changes required to restore or change the obsolete property to an economically efficient condition. Rehabilitation shall not include improvements aggregating less than 10% of the true cash value of the property at commencement of the rehabilitation of the obsolete property.

(m) "Rehabilitated facility" means a commercial property or commercial housing property that has undergone rehabilitation or is in the process of being rehabilitated, including rehabilitation that changes the intended use of the building. A rehabilitated facility does not include property that is to be used as a professional sports stadium. A rehabilitated facility does not include property that is to be used as a casino. As used in this subdivision, "casino" means a casino or a parking lot, hotel, motel, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

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

History: 2000, Act 146, Imd. Eff. June 6, 2000 ;-- Am. 2006, Act 70, Imd. Eff. Mar. 20, 2006

125.2783 Obsolete property rehabilitation districts; creation; conditions; filing written request; notice and hearing; finding and determination.
Sec. 3. (1) A qualified local governmental unit, by resolution of its legislative body, may establish 1 or more obsolete property rehabilitation districts that may consist of 1 or more parcels or tracts of land or a portion of a parcel or tract of land, if at the time the resolution is adopted, the parcel or tract of land or portion of a parcel or tract of land within the district is either of the following:

(a) Obsolete property in an area characterized by obsolete commercial property or commercial housing property.

(b) Commercial property that is obsolete property that was owned by a qualified local governmental unit on the effective date of this act, and subsequently conveyed to a private owner.

(2) The legislative body of a qualified local governmental unit may establish an obsolete property rehabilitation district on its own initiative or upon a written request filed by the owner or owners of property comprising at least 50% of all taxable value of the property located within a proposed obsolete property rehabilitation district. The written request must be filed with the clerk of the qualified local governmental unit.

(3) Before adopting a resolution establishing an obsolete property rehabilitation district, the legislative body shall give written notice by certified mail to the owners of all real property within the proposed obsolete property rehabilitation district and shall afford an opportunity for a hearing on the establishment of the obsolete property rehabilitation district at which any of those owners and any other resident or taxpayer of the qualified local governmental unit may appear and be heard. The legislative body shall give public notice of the hearing not less than 10 days or more than 30 days before the date of the hearing.

(4) The legislative body of the qualified local governmental unit, in its resolution establishing an obsolete property rehabilitation district, shall set forth a finding and determination that the district meets the requirements set forth in subsection (1).

History: 2000, Act 146, Imd. Eff. June 6, 2000

125.2784 Obsolete property rehabilitation exemption certificate; application; filing; contents; hearing; determination of taxable value.
Sec. 4. (1) If an obsolete property rehabilitation district is established under section 3, the owner of obsolete property may file an application for an obsolete property rehabilitation exemption certificate with the clerk of the qualified local governmental unit that established the obsolete property rehabilitation district. The application shall be filed in the manner and form prescribed by the commission. The application shall contain or be accompanied by a general description of the obsolete facility and a general description of the proposed use of the rehabilitated facility, the general nature and extent of the rehabilitation to be undertaken, a descriptive list of the fixed building equipment that will be a part of the rehabilitated facility, a time schedule for undertaking and completing the rehabilitation of the facility, a statement of the economic advantages expected from the exemption, including the number of jobs to be retained or created as a result of rehabilitating the facility, including expected construction employment, and information relating to the requirements in section 8.

(2) Upon receipt of an application for an obsolete property rehabilitation exemption certificate, the clerk of the qualified local governmental unit shall notify in writing the assessor of the local tax collecting unit in which the obsolete facility is located, and the legislative body of each taxing unit that levies ad valorem property taxes in the qualified local governmental unit in which the obsolete facility is located. Before acting upon the application, the legislative body of the qualified local governmental unit shall hold a public hearing on the application and give public notice to the applicant, the assessor, a representative of the affected taxing units, and the general public. The hearing on each application shall be held separately from the hearing on the establishment of the obsolete property rehabilitation district.

(3) Upon receipt of an application for an obsolete property rehabilitation exemption certificate for a facility located on property that was owned by a qualified local governmental unit on the effective date of this act, and subsequently conveyed to a private owner, the clerk of the qualified local governmental unit, in addition to the other requirements of this section, shall request the assessor of the local tax collecting unit in which the facility is located to determine the taxable value of the property. This determination shall be made prior to the hearing on the application for an obsolete property rehabilitation exemption certificate held pursuant to subsection (2).

History: 2000, Act 146, Imd. Eff. June 6, 2000

125.2785 Approval or disapproval of resolution; forward copies.
Sec. 5. The legislative body of the qualified local governmental unit, not more than 60 days after receipt of the application by the clerk, shall by resolution either approve or disapprove the application for an obsolete property rehabilitation exemption certificate in accordance with section 8 and the other provisions of this act. The clerk shall retain the original of the application and resolution. If approved, the clerk shall forward a copy of the application and resolution to the commission. If disapproved, the reasons shall be set forth in writing in the resolution, and the clerk shall send, by certified mail, a copy of the resolution to the applicant and to the assessor. A resolution is not effective unless approved by the commission as provided in section 6.

History: 2000, Act 146, Imd. Eff. June 6, 2000

125.2786 Certificate; issuance; form; contents; effective date; filing; maintenance of record; copy.
Sec. 6. (1) Not more than 60 days after receipt of a copy of the application and resolution adopted under section 5, the commission shall approve or disapprove the resolution.

(2) Following approval of the application by the legislative body of the qualified local governmental unit and the commission, the commission shall issue to the applicant an obsolete property rehabilitation exemption certificate in the form the commission determines, which shall contain all of the following:

(a) A legal description of the real property on which the obsolete facility is located.

(b) A statement that unless revoked as provided in this act the certificate shall remain in force for the period stated in the certificate.

(c) A statement of the taxable value of the obsolete property, separately stated for real and personal property, for the tax year immediately preceding the effective date of the certificate after deducting the taxable value of the land and personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14.

(d) A statement of the period of time authorized by the legislative body of the qualified local governmental unit within which the rehabilitation shall be completed.

(e) If the period of time authorized by the legislative body of the qualified local governmental unit pursuant to subdivision (d) is less than 12 years, the exemption certificate shall contain the factors, criteria, and objectives, as determined by the resolution of the qualified local governmental unit, necessary for extending the period of time, if any.

(3) The effective date of the certificate is the December 31 immediately following the date of issuance of the certificate.

(4) The commission shall file with the clerk of the qualified local governmental unit a copy of the obsolete property rehabilitation exemption certificate, and the commission shall maintain a record of all certificates filed. The commission shall also send, by certified mail, a copy of the obsolete property rehabilitation exemption certificate to the applicant and the assessor of the local tax collecting unit in which the obsolete property is located.

History: 2000, Act 146, Imd. Eff. June 6, 2000

125.2787 Issuance of certificate; tax exemption; time period; limitation; commencement; extension; review.

Sec. 7. (1) A rehabilitated facility for which an obsolete property rehabilitation exemption certificate is in effect, but not the land on which the rehabilitated facility is located, or personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, for the period on and after the effective date of the certificate and continuing so long as the obsolete property rehabilitation exemption certificate is in force, is exempt from ad valorem property taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(2) Unless earlier revoked as provided in section 12, an obsolete property rehabilitation exemption certificate shall remain in force and effect for a period to be determined by the legislative body of the qualified local governmental unit. The certificate may be issued for a period of at least 1 year, but not to exceed 12 years. If the number of years determined is less than 12, the certificate may be subject to review by the legislative body of the qualified

local governmental unit and the certificate may be extended. The total amount of time determined for the certificate including any extensions shall not exceed 12 years after the completion of the rehabilitated facility. The certificate shall commence with its effective date and end on the December 31 immediately following the last day of the number of years determined. The date of issuance of a certificate of occupancy, if required by appropriate authority, shall be the date of completion of the rehabilitated facility.

(3) If the number of years determined by the legislative body of the qualified local governmental unit for the period a certificate remains in force is less than 12 years, the review of the certificate for the purpose of determining an extension shall be based upon factors, criteria, and objectives that shall be placed in writing, determined and approved at the time the certificate is approved by resolution of the legislative body of the qualified local governmental unit and sent, by certified mail, to the applicant, the assessor of the local tax collecting unit in which the obsolete property is located, and the commission.

History: 2000, Act 146, Imd. Eff. June 6, 2000

125.2788 Taxable value of property proposed to be exempt; application; limitation; separate finding by legislative body of qualified local governmental unit; statement; requirements for approval of application; effective date of certificate.

Sec. 8. (1) If the taxable value of the property proposed to be exempt pursuant to an application under consideration, considered together with the aggregate taxable value of property exempt under certificates previously granted and currently in force under this act or under 1974 PA 198, MCL 207.551 to 207.572, exceeds 5% of the taxable value of the qualified local governmental unit, the legislative body of the qualified local governmental unit shall make a separate finding and shall include a statement in its resolution approving the application that exceeding that amount shall not have the effect of substantially impeding the operation of the qualified local governmental unit or impairing the financial soundness of an affected taxing unit.

(2) The legislative body of the qualified local governmental unit shall not approve an application for an obsolete property exemption certificate unless the applicant complies with all of the following requirements:

(a) Except as otherwise provided in subsection (3), the commencement of the rehabilitation of the facility does not occur before the establishment of the obsolete property rehabilitation district.

(b) The application relates to a rehabilitation program that when completed constitutes a rehabilitated facility within the meaning of this act and that shall be situated within an obsolete property rehabilitation district established in a qualified local governmental unit eligible under this act to establish such a district.

(c) Completion of the rehabilitated facility is calculated to, and will at the time of issuance of the certificate have the reasonable likelihood to, increase commercial activity, create employment, retain employment, prevent a loss of employment, revitalize urban areas, or increase the number of residents in the community in which the facility is situated.

(d) The applicant states, in writing, that the rehabilitation of the facility would not be undertaken without the applicant's receipt of the exemption certificate.

(e) The applicant is not delinquent in the payment of any taxes related to the facility.

(3) The legislative body of a qualified local governmental unit may approve an application for an obsolete property exemption certificate if the commencement of the rehabilitation of the facility occurs before the establishment of the obsolete property rehabilitation district and if 1 or more of the following are met:

(a) All of the following are met:

(i) The building permit for the rehabilitation of the facility was obtained in October 2002.

(ii) The obsolete property rehabilitation district was created in April 2002.

(iii) The rehabilitation of the facility included adding additional stories to the facility.

(b) All of the following are met:

(i) Emergency or temporary repairs or improvements were made before the establishment of the obsolete property rehabilitation district.

(ii) The obsolete property rehabilitation district was created in January 2006.

(iii) The facility is located in a city with a population of more than 20,500 and less than 27,000 and is located in a county with a population of more than 95,000 and less than 105,000.

(c) All of the following are met:

(i) Roof repairs or improvements were completed in March 2006 before the establishment of the obsolete property rehabilitation district.

(ii) The obsolete property rehabilitation district was created in April 2006.

(iii) The application was submitted to the qualified local governmental unit in April 2006.

(iv) The facility is located in a city with a population of more than 10,800 and less than 11,100 and is located in a county with a population of more than 39,000 and less than 42,000.

(4) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (3)(a) and (b), the effective date of the certificate shall be December 31, 2006.

(5) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (3)(c), the effective date of the certificate shall be December 31, 2006.

History: 2000, Act 146, Imd. Eff. June 6, 2000 ;-- Am. 2006, Act 667, Imd. Eff. Jan. 10, 2007 ;-- Am. 2008, Act 504, Imd. Eff. Jan. 13, 2009

125.2789 Value and taxable value of property; annual determination.
Sec. 9. The assessor of each qualified local governmental unit in which there is a rehabilitated facility with respect to which 1 or more obsolete property rehabilitation exemption certificates have been issued and are in force shall determine annually as of December 31 the value and taxable value, both for real and personal property, of each rehabilitated facility separately, having the

benefit of a certificate and upon receipt of notice of the filing of an application for the issuance of a certificate, shall determine and furnish to the local legislative body the value and the taxable value of the property to which the application pertains and other information as may be necessary to permit the local legislative body to make the determinations required by section 8(2).

History: 2000, Act 146, Imd. Eff. June 6, 2000

125.2790 Obsolete properties tax; amount; collection, disbursement, and assessment; payment; copy of disbursement amount; form; property located in renaissance zone; exemption of rehabilitated facility of qualified start-up business from tax collection; resolution; "qualified start-up business" defined.

Sec. 10. (1) There is levied upon every owner of a rehabilitated facility to which an obsolete property rehabilitation exemption certificate is issued a specific tax to be known as the obsolete properties tax.

(2) The amount of the obsolete properties tax, in each year, shall be determined by adding the results of both of the following calculations:

(a) Multiplying the total mills levied as ad valorem taxes for that year by all taxing units within which the rehabilitated facility is located by the taxable value of the real and personal property of the obsolete property on the December 31 immediately preceding the effective date of the obsolete property rehabilitation exemption certificate after deducting the taxable valuation of the land and of personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, for the tax year immediately preceding the effective date of the obsolete property rehabilitation exemption certificate.

(b) Multiplying the mills levied for school operating purposes for that year under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, by the taxable value of the real and personal property of the rehabilitated facility, after deducting all of the following:

(i) The taxable value of the land and of the personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14.

(ii) The taxable value used to calculate the tax under subdivision (a).

(3) The obsolete properties tax shall be collected, disbursed, and assessed in accordance with this act.

(4) The obsolete properties tax is an annual tax, payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, are payable. Except as otherwise provided in this section, the officer or officers shall disburse the obsolete properties tax payments received by the officer or officers each year to and among this state, cities, school districts, counties, and authorities, at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(5) For intermediate school districts receiving state aid under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, of the amount of obsolete property tax that would otherwise be disbursed to an intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of state aid, shall be paid to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(6) The amount of obsolete property tax described in subsection (2)(a) that would otherwise be disbursed to a local school district for school operating purposes, and all of the amount described in subsection (2)(b), shall be paid instead to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(7) The officer or officers shall send a copy of the amount of disbursement made to each unit under this section to the commission on a form provided by the commission.

(8) A rehabilitated facility located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the obsolete properties tax levied under this act to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except for that portion of the obsolete properties tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. The obsolete properties

tax calculated under this subsection shall be disbursed proportionately to the taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff.

(9) Upon application for an exemption under this subsection by a qualified start-up business, the governing body of a local tax collecting unit may adopt a resolution to exempt a rehabilitated facility of a qualified start-up business from the collection of the obsolete properties tax levied under this act in the same manner and under the same terms and conditions as provided for the exemption in section 7hh of the general property tax act, 1893 PA 206, MCL 211.7hh. The clerk of the local tax collecting unit shall notify in writing the assessor of the local tax collecting unit and the legislative body of each taxing unit that levies ad valorem property taxes in the local tax collecting unit. Before acting on the resolution, the governing body of the local tax collecting unit shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing. If a resolution authorizing the exemption is adopted in the same manner as provided in section 7hh of the general property tax act, 1893 PA 206, MCL 211.7hh, the rehabilitated facility owned or operated by a qualified start-up business is exempt from the obsolete properties tax levied under this act, except for that portion of the obsolete properties tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff, for the year in which the resolution is adopted. A qualified start-up business is not eligible for an exemption under this subsection for more than 5 years. A qualified start-up business may receive the exemption under this subsection in nonconsecutive years. The obsolete properties tax calculated under this subsection shall be disbursed proportionately to the taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. As used in this subsection, "qualified start-up business" means that term as defined in section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or in section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

History: 2000, Act 146, Imd. Eff. June 6, 2000 ;-- Am. 2004, Act 251, Imd. Eff. July 23, 2004 ;-- Am. 2007, Act 193, Imd. Eff. Dec. 21, 2007

125.2791 Lien; proceedings.

Sec. 11. The amount of the tax applicable to real property, until paid, is a lien upon the real property to which the certificate is applicable. Proceedings upon the lien as provided by law for the foreclosure in the circuit court of mortgage liens upon real property may commence only upon the filing by the appropriate collecting officer of a certificate of nonpayment of the obsolete properties tax

applicable to real property, together with an affidavit of proof of service of the certificate of nonpayment upon the owner of the facility by certified mail, with the register of deeds of the county in which the property is situated.

History: 2000, Act 146, Imd. Eff. June 6, 2000

125.2792 Revocation of certificate; findings.
Sec. 12. The legislative body of the qualified local governmental unit may, by resolution, revoke the obsolete property rehabilitation exemption certificate of a facility if it finds that the completion of rehabilitation of the facility has not occurred within the time authorized by the legislative body in the exemption certificate or a duly authorized extension of that time, or that the holder of the obsolete property exemption certificate has not proceeded in good faith with the operation of the rehabilitated facility in a manner consistent with the purposes of this act and in the absence of circumstances that are beyond the control of the holder of the exemption certificate.

History: 2000, Act 146, Imd. Eff. June 6, 2000

125.2793 Transfer and assignment of certificate.
Sec. 13. An obsolete property rehabilitation exemption certificate may be transferred and assigned by the holder of the certificate to a new owner of the rehabilitated facility if the qualified local governmental unit approves the transfer after application by the new owner.

History: 2000, Act 146, Imd. Eff. June 6, 2000

125.2794 Report to commission.
Sec. 14. Not later than October 15 each year, each qualified local governmental unit granting an obsolete property rehabilitation exemption shall report to the commission on the status of each exemption. The report must include the current value of the property to which the exemption pertains, the value on which the obsolete property rehabilitation tax is based, a current estimate of the number of jobs retained or created by the exemption, and a current estimate of the number of new residents occupying commercial housing property units covered by the exemption.

History: 2000, Act 146, Imd. Eff. June 6, 2000

125.2795 Report to legislative committees.
Sec. 15. (1) The department annually shall prepare and submit to the committees of the house of representatives and senate responsible for tax policy and economic development issues a report on the utilization of obsolete property rehabilitation districts, based on the information filed with the commission.

(2) After this act has been in effect for 3 years, the department shall prepare and submit to the committees of the house of representatives and senate responsible for tax policy and economic development issues an economic analysis of the costs and benefits of this act in the 3 qualified local governmental units in which it has been most heavily utilized.

History: 2000, Act 146, Imd. Eff. June 6, 2000

125.2796 Exemption after December 31, 2010.
Sec. 16. A new exemption shall not be granted under this act after December 31, 2010, but an exemption then in effect shall continue until the expiration of the exemption certificate.

History: 2000, Act 146, Imd. Eff. June 6, 2000

125.2797 Exclusions; limitation.
Sec. 17. (1) Within 60 days after the granting of an obsolete property rehabilitation exemption certificate under section 6 for a rehabilitated facility, the state treasurer may, for a period not to exceed 6 years, exclude up to 1/2 of the number of mills levied for school operating purposes under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, from the specific tax calculation on the facility under section 10(2)(b) if the state treasurer determines that reducing the number of mills used to calculate the specific tax under section 10(2)(b) is necessary to reduce unemployment, promote economic growth, and increase capital investment in qualified local governmental units.

(2) The state treasurer shall not grant more than 25 exclusions under this section each year.

History: 2000, Act 146, Imd. Eff. June 6, 2000

PLANT REHABILITATION AND INDUSTRIAL DEVELOPMENT DISTRICTS
Act 198 of 1974

AN ACT to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to impose and provide for the disposition of an administrative fee; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide penalties.

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 2001, Act 157, Imd. Eff. Nov. 6, 2001
Popular Name: Act 198

The People of the State of Michigan enact:

207.551 Meanings of certain words and phrases.

Sec. 1. The words and phrases defined in sections 2 and 3 have the meanings respectively ascribed to them for the purposes of this act.

History: 1974, Act 198, Imd. Eff. July 9, 1974
Compiler's Notes: For transfer of powers and duties of department of commerce under Act 198 of 1974 to the chief executive officer of the Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.
Popular Name: Act 198

207.552 Definitions.

Sec. 2. (1) "Commission" means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.

(2) "Facility" means either a replacement facility, a new facility, or, if applicable by its usage, a speculative building.

(3) "Replacement facility" means 1 of the following:

(a) In the case of a replacement or restoration that occurs on the same or contiguous land as that which is replaced or restored, industrial property that is or is to be acquired, constructed, altered, or installed for the purpose of replacement or restoration of obsolete industrial property together with any part

of the old altered property that remains for use as industrial property after the replacement, restoration, or alteration.

(b) In the case of construction on vacant noncontiguous land, property that is or will be used as industrial property that is or is to be acquired, constructed, transferred, or installed for the purpose of being substituted for obsolete industrial property if the obsolete industrial property is situated in a plant rehabilitation district in the same city, village, or township as the land on which the facility is or is to be constructed and includes the obsolete industrial property itself until the time as the substituted facility is completed.

(4) "New facility" means new industrial property other than a replacement facility to be built in a plant rehabilitation district or industrial development district.

(5) "Local governmental unit" means a city, village, or township located in this state.

(6) "Industrial property" means land improvements, buildings, structures, and other real property, and machinery, equipment, furniture, and fixtures or any part or accessory whether completed or in the process of construction comprising an integrated whole, the primary purpose and use of which is the engaging in a high-technology activity, operation of a strategic response center, operation of a motorsports entertainment complex, operation of a logistical optimization center, operation of qualified commercial activity, operation of a major distribution and logistics facility, the manufacture of goods or materials, creation or synthesis of biodiesel fuel, or the processing of goods and materials by physical or chemical change; property acquired, constructed, altered, or installed due to the passage of proposal A in 1976; the operation of a hydro-electric dam by a private company other than a public utility; or agricultural processing facilities. Industrial property includes facilities related to a manufacturing operation under the same ownership, including, but not limited to, office, engineering, research and development, warehousing, or parts distribution facilities. Industrial property also includes research and development laboratories of companies other than those companies that manufacture the products developed from their research activities and research development laboratories of a manufacturing company that are unrelated to the products of the company. For applications approved by the legislative body of a local governmental unit between June 30, 1999 and December 31, 2007, industrial property also includes an electric generating plant that is not owned

by a local unit of government, including, but not limited to, an electric generating plant fueled by biomass. Industrial property also includes convention and trade centers in which construction begins not later than December 31, 2010 and is over 250,000 square feet in size or, if located in a county with a population of more than 750,000 and less than 1,100,000, is over 100,000 square feet in size or, if located in a county with a population of more than 26,000 and less than 28,000, is over 30,000 square feet in size. Industrial property also includes a federal reserve bank operating under 12 USC 341, located in a city with a population of 750,000 or more. Industrial property may be owned or leased. However, in the case of leased property, the lessee is liable for payment of ad valorem property taxes and shall furnish proof of that liability. Industrial property does not include any of the following:

(a) Land.

(b) Property of a public utility other than an electric generating plant that is not owned by a local unit of government and for which an application was approved by the legislative body of a local governmental unit between June 30, 1999 and December 31, 2007.

(c) Inventory.

(7) "Obsolete industrial property" means industrial property the condition of which is substantially less than an economically efficient functional condition.

(8) "Economically efficient functional condition" means a state or condition of property the desirability and usefulness of which is not impaired due to changes in design, construction, technology, or improved production processes, or from external influencing factors that make the property less desirable and valuable for continued use.

(9) "Research and development laboratories" means building and structures, including the machinery, equipment, furniture, and fixtures located in the building or structure, used or to be used for research or experimental purposes that would be considered qualified research as that term is used in section 41 of the internal revenue code, 26 USC 41, except that qualified research also includes qualified research funded by grant, contract, or otherwise by another person or governmental entity.

(10) "Manufacture of goods or materials" or "processing of goods or materials" means any type of operation that would be conducted by an entity included in the classifications provided by sector 31-33 — manufacturing, of the North American industry classification system, United States, 1997, published by the office of management and budget, regardless of whether the entity conducting that operation is included in that manual.

(11) "High-technology activity" means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(12) "Logistical optimization center" means a sorting and distribution center that supports a private passenger motor vehicle assembly center and its manufacturing process for the purpose of optimizing transportation, just-in-time inventory management, and material handling, and to which all of the following apply:

(a) The sorting and distribution center is within 2 miles of a private passenger motor vehicle assembly center that, together with supporting facilities, contains at least 800,000 square feet.

(b) The sorting and distribution center contains at least 950,000 square feet.

(c) The sorting and distribution center has applied for an industrial facilities exemption certificate after June 30, 2005 and before January 1, 2006.

(d) The private passenger motor vehicle assembly center is located on land conditionally transferred by a township with a population of more than 25,000 under 1984 PA 425, MCL 124.21 to 124.30, to a city with a population of more than 100,000 that levies an income tax under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787.

(13) "Commercial property" means that term as defined in section 2 of the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2782.

(14) "Qualified commercial activity" means commercial property that meets all of the following:

(a) At least 90% of the property, excluding the surrounding green space, is used for warehousing, distribution, or logistic purposes and is located in a county that borders another state or Canada or for a communications center.

(b) Occupies a building or structure that is greater than 100,000 square feet in size.

(15) "Motorsports entertainment complex" means a closed-course motorsports facility, and its ancillary grounds and facilities, that satisfies all of the following:

(a) Has at least 70,000 fixed seats for race patrons.

(b) Has at least 6 scheduled days of motorsports events each calendar year, at least 2 of which shall be comparable to nascar nextel cup events held in 2007 or their successor events.

(c) Serves food and beverages at the facility during sanctioned events each calendar year through concession outlets, a majority of which are staffed by individuals who represent or are members of 1 or more nonprofit civic or charitable organizations that directly financially benefit from the concession outlets' sales.

(d) Engages in tourism promotion.

(e) Has permanent exhibitions of motorsports history, events, or vehicles.

(16) "Major distribution and logistics facility" means a proposed distribution center that meets all of the following:

(a) Contains at least 250,000 square feet.

(b) Has or will have an assessed value of $5,000,000.00 or more for the real property.

(c) Is located within 35 miles of the border of this state.

(d) Has as its purpose the distribution of inventory and materials to facilities owned by the taxpayer whose primary business is the retail sale of sporting goods and related inventory.

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 1975, Act 302, Imd. Eff. Dec. 19, 1975 ;-- Am. 1976, Act 224, Imd. Eff. July 30, 1976 ;-- Am. 1978, Act 37, Imd. Eff. Feb. 24, 1978 ;-- Am. 1981, Act 211, Imd. Eff. Dec. 30, 1981 ;-- Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982 ;--

Am. 1986, Act 66, Imd. Eff. Apr. 1, 1986 ;-- Am. 1999, Act 140, Imd. Eff. Oct. 18, 1999 ;-- Am. 2000, Act 247, Imd. Eff. June 29, 2000 ;-- Am. 2002, Act 280, Imd. Eff. May 9, 2002 ;-- Am. 2003, Act 5, Imd. Eff. Apr. 24, 2003 ;-- Am. 2005, Act 118, Imd. Eff. Sept. 22, 2005 ;-- Am. 2005, Act 267, Imd. Eff. Dec. 16, 2005 ;-- Am. 2007, Act 12, Imd. Eff. May 29, 2007 ;-- Am. 2007, Act 146, Imd. Eff. Dec. 10, 2007 ;-- Am. 2008, Act 170, Imd. Eff. July 2, 2008 ;-- Am. 2008, Act 457, Imd. Eff. Jan. 9, 2009 ;-- Am. 2008, Act 581, Imd. Eff. Jan. 16, 2009
Compiler's Notes: For transfer of powers and duties of department of commerce under Act 198 of 1974 to the chief executive officer of the Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.
Popular Name: Act 198

207.553 Additional definitions.

Sec. 3. (1) "Plant rehabilitation district" means an area of a local governmental unit established as provided in section 4.

(2) "Industrial development district" means an area established by a local governmental unit as provided in section 4.

(3) "Industrial facility tax" means the specific tax levied under this act.

(4) "Industrial facilities exemption certificate" means a certificate issued pursuant to sections 5, 6, and 7.

(5) "Replacement" means the complete or partial demolition of obsolete industrial property and the complete or partial reconstruction or installation of new property of similar utility.

(6) "Restoration" means changes to obsolete industrial property other than replacement as may be required to restore the property, together with all appurtenances to the property, to an economically efficient functional condition. Restoration does not include delayed maintenance or the substitution or addition of tangible personal property without major renovation of the industrial property. A program involving expenditures for changes to the industrial property improvements aggregating less than 10% of the true cash value at commencement of the restoration of the industrial property improvements is delayed maintenance. Restoration includes major renovation including but not necessarily limited to the improvement of floor loads, correction of deficient or excessive height, new or improved building equipment, including heating, ventilation, and lighting, reducing multistory facilities to 1 or 2 stories, improved structural support including foundations, improved roof structure and cover, floor replacement, improved wall placement, improved exterior and interior appearance of buildings,

improvements or modifications of machinery and equipment to improve efficiency, decrease operating costs, or to increase productive capacity, and other physical changes as may be required to restore the industrial property to an economically efficient functional condition, and shall include land and building improvements and other tangible personal property incident to the improvements.

(7) "State equalized valuation" means the valuation determined under 1911 PA 44, MCL 209.1 to 209.8.

(8) "Speculative building" means a new building that meets all of the following criteria and the machinery, equipment, furniture, and fixtures located in the new building:

(a) The building is owned by, or approved as a speculative building by resolution of, a local governmental unit in which the building is located or the building is owned by a development organization and located in the district of the development organization.

(b) The building is constructed for the purpose of providing a manufacturing facility before the identification of a specific user of that building.

(c) The building does not qualify as a replacement facility.

(9) "Development organization" means any economic development corporation, downtown development authority, tax increment financing authority, or an organization under the supervision of and created for economic development purposes by a local governmental unit.

(10) "Manufacturing facility" means buildings and structures, including the machinery, equipment, furniture, and fixtures located therein, the primary purpose of which is 1 or more of the following:

(a) The manufacture of goods or materials or the processing of goods and materials by physical or chemical change.

(b) The provision of research and development laboratories of companies whether or not the company manufactures the products developed from their research activities.

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

(12) "Strategic response center" means a facility that provides catastrophe response solutions through the development and staffing of a national response center for which a plant rehabilitation district or an industrial development district was created before December 31, 2007.

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 1975, Act 247, Imd. Eff. Sept. 4, 1975 ;-- Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982 ;-- Am. 1996, Act 1, Imd. Eff. Jan. 30, 1996 ;-- Am. 2007, Act 13, Imd. Eff. May 29, 2007
Compiler's Notes: For transfer of powers and duties of department of commerce under Act 198 of 1974 to the chief executive officer of the Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.
Popular Name: Act 198

207.554 Plant rehabilitation district or industrial development district; establishment; number of parcels; filing; notice; hearing; finding and determination; district established by township; industrial property as part of industrial development district or plant rehabilitation district also part of tax increment district; termination; notice.
Sec. 4. (1) A local governmental unit, by resolution of its legislative body, may establish plant rehabilitation districts and industrial development districts that consist of 1 or more parcels or tracts of land or a portion of a parcel or tract of land.

(2) The legislative body of a local governmental unit may establish a plant rehabilitation district or an industrial development district on its own initiative or upon a written request filed by the owner or owners of 75% of the state equalized value of the industrial property located within a proposed plant rehabilitation district or industrial development district. This request shall be filed with the clerk of the local governmental unit.

(3) Except as provided in section 9(2)(h), after December 31, 1983, a request for the establishment of a proposed plant rehabilitation district or industrial development district shall be filed only in connection with a proposed replacement facility or new facility, the construction, acquisition, alteration, or installation of or for which has not commenced at the time of the filing of the request. The legislative body of a local governmental unit shall not establish a plant rehabilitation district or an industrial development district pursuant to subsection (2) if it finds that the request for the district was filed after the

commencement of construction, alteration, or installation of, or of an acquisition related to, the proposed replacement facility or new facility. This subsection shall not apply to a speculative building.

(4) Before adopting a resolution establishing a plant rehabilitation district or industrial development district, the legislative body shall give written notice by certified mail to the owners of all real property within the proposed plant rehabilitation district or industrial development district and shall hold a public hearing on the establishment of the plant rehabilitation district or industrial development district at which those owners and other residents or taxpayers of the local governmental unit shall have a right to appear and be heard.

(5) The legislative body of the local governmental unit, in its resolution establishing a plant rehabilitation district, shall set forth a finding and determination that property comprising not less than 50% of the state equalized valuation of the industrial property within the district is obsolete.

(6) A plant rehabilitation district or industrial development district established by a township shall be only within the unincorporated territory of the township and shall not be within a village.

(7) Industrial property that is part of an industrial development district or a plant rehabilitation district may also be part of a tax increment district established under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(8) A local governmental unit, by resolution of its legislative body, may terminate a plant rehabilitation district or an industrial development district, if there are no industrial facilities exemption certificates in effect in the plant rehabilitation district or the industrial development district on the date of the resolution to terminate.

(9) Before acting on a proposed resolution terminating a plant rehabilitation district or an industrial development district, the local governmental unit shall give at least 14 days' written notice by certified mail to the owners of all real property within the plant rehabilitation district or industrial development district as determined by the tax records in the office of the assessor or the treasurer of the local tax collecting unit in which the property is located and shall hold a public hearing on the termination of the plant rehabilitation district or industrial development district at which those owners and other residents or

taxpayers of the local governmental unit, or others, shall have a right to appear and be heard.

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 1980, Act 449, Imd. Eff. Jan. 15, 1981 ;-- Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982 ;-- Am. 1993, Act 334, Eff. Apr. 1, 1994 ;-- Am. 1994, Act 266, Eff. Imd. July 6, 1994 ;-- Am. 1995, Act 218, Imd. Eff. Dec. 1, 1995 ;-- Am. 1999, Act 140, Imd. Eff. Oct. 18, 1999 ;-- Am. 2004, Act 437, Imd. Eff. Dec. 21, 2004
Compiler's Notes: For transfer of powers and duties of department of commerce under Act 198 of 1974 to the chief executive officer of the Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.
Popular Name: Act 198

207.555 Application for industrial exemption certificate; filing; contents; notice to assessing and taxing units; hearing; application fee.
Sec. 5. (1) After the establishment of a district, the owner or lessee of a facility may file an application for an industrial facilities exemption certificate with the clerk of the local governmental unit that established the plant rehabilitation district or industrial development district. The application shall be filed in the manner and form prescribed by the commission. The application shall contain or be accompanied by a general description of the facility and a general description of the proposed use of the facility, the general nature and extent of the restoration, replacement, or construction to be undertaken, a descriptive list of the equipment that will be a part of the facility, a time schedule for undertaking and completing the restoration, replacement, or construction of the facility, and information relating to the requirements in section 9.

(2) Upon receipt of an application for an industrial facilities exemption certificate, the clerk of the local governmental unit shall notify in writing the assessor of the assessing unit in which the facility is located or to be located, and the legislative body of each taxing unit that levies ad valorem property taxes in the local governmental unit in which the facility is located or to be located. Before acting upon the application, the legislative body of the local governmental unit shall afford the applicant, the assessor, and a representative of the affected taxing units an opportunity for a hearing.

(3) The local governmental unit may charge the applicant an application fee to process an application for an industrial facilities exemption certificate. The application fee shall not exceed the actual cost incurred by the local governmental unit in processing the application or 2% of the total property taxes abated under this act for the term that the industrial facilities exemption certificate is in effect, whichever is less. A local governmental unit shall not charge an applicant any other fee under this act.

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 1976, Act 224, Imd. Eff. July 30, 1976 ;-- Am. 1996, Act 323, Imd. Eff. June 26, 1996
Popular Name: Act 198

207.556 Application for industrial facilities exemption certificate; approval or disapproval; appeal.

Sec. 6. The legislative body of the local governmental unit, not more than 60 days after receipt by its clerk of the application, shall by resolution either approve or disapprove the application for an industrial facilities exemption certificate in accordance with section 9 and the other provisions of this act. If disapproved, the reasons shall be set forth in writing in the resolution. If approved, the clerk shall forward the application to the commission within 60 days of approval or before October 31 of that year, whichever is first, in order to receive the industrial facilities exemption certificate effective for the following year. If disapproved, the clerk shall return the application to the applicant. The applicant may appeal the disapproval to the commission within 10 days after the date of the disapproval.

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 1996, Act 323, Imd. Eff. June 26, 1996
Popular Name: Act 198

207.557 Determination by commission; issuance of industrial facilities exemption certificate; notice of application; concurrence; effective date of certificate; mailing and filing of certificate; notice of refusal to issue certificate; failure of commission to receive application; certificate beginning December 30, 2002 and ending December 30, 2009; retroactive amendment of certificate.

Sec. 7. (1) Within 60 days after receipt of an approved application or an appeal of a disapproved application that was submitted to the commission before October 31 of that year, the commission shall determine whether the facility is a speculative building or designed and acquired primarily for the purpose of restoration or replacement of obsolete industrial property or the construction of new industrial property, and whether the facility otherwise complies with section 9 and with the other provisions of this act. If the commission so finds, it shall issue an industrial facilities exemption certificate. Before issuing a certificate the commission shall notify the state treasurer of the application and shall obtain the written concurrence of the department of energy, labor, and economic growth that the application complies with the requirements in section 9. Except as otherwise provided in section 7a, the effective date of the certificate for a replacement facility or new facility is the immediately succeeding December 31 following the date the certificate is issued. For a

speculative building or a portion of a speculative building, except as otherwise provided in section 7a, the effective date of the certificate is the immediately succeeding December 31 following the date the speculative building, or the portion of a speculative building, is used as a manufacturing facility.

(2) The commission shall send an industrial facilities exemption certificate, when issued, by mail to the applicant, and a certified copy by mail to the assessor of the assessing unit in which the facility is located or to be located, and that copy shall be filed in his or her office. Notice of the commission's refusal to issue a certificate shall be sent by mail to the same persons.

(3) Notwithstanding any other provision of this act, if on December 29, 1986 a local governmental unit passed a resolution approving an exemption certificate for 10 years for real and personal property but the commission did not receive the application until 1992 and the application was not made complete until 1995, then the commission shall issue, for that property, an industrial facilities exemption certificate that begins December 30, 1987 and ends December 30, 1997.

(4) Notwithstanding any other provision of this act, if pursuant to section 16a a local governmental unit passed a resolution approving an industrial facilities exemption certificate for a new facility on October 14, 2003 for a certificate that expired in December 2002, the commission shall issue for that property an industrial facilities exemption certificate that begins on December 30, 2002 and ends December 30, 2009.

(5) Notwithstanding any other provision of this act, if on or before February 10, 2007 a local governmental unit passed a resolution approving an amendment of an industrial facilities exemption certificate for a replacement facility and that certificate was revoked by the commission effective December 30, 2005 with the order of revocation issued by the commission on April 10, 2006, notwithstanding the revocation, the commission shall retroactively amend the certificate and give full effect to the amended certificate, which shall include the additional personal property expenditures described in the resolution amending the certificate, for the period of time beginning when the certificate was originally approved until the certificate was revoked.

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 1975, Act 302, Imd. Eff. Dec. 19, 1975 ;-- Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982 ;-- Am. 1996, Act 323, Imd. Eff. June 26, 1996 ;-- Am. 1996, Act 513, Imd. Eff. Jan. 13, 1997 ;-- Am. 2005, Act 267, Imd. Eff. Dec. 16, 2005 ;--

Am. 2006, Act 483, Imd. Eff. Dec. 28, 2006 ;-- Am. 2008, Act 457, Imd. Eff. Jan. 9, 2009
Popular Name: Act 198

207.557a Cost of facility exceeding certain amount of state equalized value.
Sec. 7a. If, after reviewing the application described in section 7, the commission determines that the cost of the facility exceeds $150,000,000.00 of state equalized value, then all of the following apply:

(a) The replacement, restoration, or construction of the facility shall be completed within 6 years of the effective date of the initial industrial facilities exemption certificate or a greater time as authorized by the commission for good cause.

(b) The commission shall provide not more than 3 separate industrial facilities exemption certificates for the facility. The initial industrial facilities exemption certificate shall be effective for not more than 14 years. The second industrial facilities exemption certificate shall be effective 2 years after the initial industrial facilities exemption certificate becomes effective and shall continue to be effective for not more than 14 years. The third industrial facilities exemption certificate shall be effective 4 years after the initial industrial facilities exemption certificate becomes effective and shall continue to be effective for not more than 14 years. The commission may modify each certificate during the replacement, restoration, or construction of the facility.

(c) For each industrial facilities exemption certificate, the commission shall determine the portion of the facility to be completed. During the first 2 years of the industrial facilities exemption certificate period, the state equalized valuation of that portion of the facility shall be used to calculate the industrial facilities tax as provided in section 14. Upon the expiration of each industrial facilities exemption certificate or its revocation under section 15, that portion of the facility is subject to the general ad valorem property tax.

(d) Notwithstanding subdivision (b), an industrial facilities exemption certificate for a facility described in this section shall expire not more than 12 years from the completion of the facility.

History: Add. 1996, Act 513, Imd. Eff. Jan. 13, 1997
Popular Name: Act 198

207.558 Exemption of facility and certain persons from ad valorem taxes.
Sec. 8. A facility or that portion of a facility described in section 7a, for which an industrial facilities exemption certificate is in effect, but not the land on which the facility is located or to be located or inventory of the facility, for the period on and after the effective date of the certificate and continuing so long as the industrial facilities exemption certificate is in force, is exempt from ad valorem real and personal property taxes and the lessee, occupant, user, or person in possession of that facility for the same period is exempt from ad valorem taxes imposed under Act No. 189 of the Public Acts of 1953, being sections 211.181 and 211.182 of the Michigan Compiled Laws.

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 1993, Act 334, Eff. Apr. 1, 1994 ;-- Am. 1996, Act 513, Imd. Eff. Jan. 13, 1997
Popular Name: Act 198

207.559 Finding and determination in resolution approving application for certificate; valuation requiring separate finding and statement; compliance with certain requirements as condition to approval of application and granting of certificate; demolition, sale, or transfer of obsolete industrial property; certificate applicable to speculative building; procedural information; failure of commission to receive application; replacement facility; property owned or operated by casino; issuance of certificates.
Sec. 9. (1) The legislative body of the local governmental unit, in its resolution approving an application, shall set forth a finding and determination that the granting of the industrial facilities exemption certificate, considered together with the aggregate amount of industrial facilities exemption certificates previously granted and currently in force, shall not have the effect of substantially impeding the operation of the local governmental unit or impairing the financial soundness of a taxing unit that levies an ad valorem property tax in the local governmental unit in which the facility is located or to be located. If the state equalized valuation of property proposed to be exempt pursuant to an application under consideration, considered together with the aggregate state equalized valuation of property exempt under certificates previously granted and currently in force, exceeds 5% of the state equalized valuation of the local governmental unit, the commission, with the approval of the state treasurer, shall make a separate finding and shall include a statement in the order approving the industrial facilities exemption certificate that exceeding that amount shall not have the effect of substantially impeding the operation of the local governmental unit or impairing the financial soundness of an affected taxing unit.

(2) Except for an application for a speculative building, which is governed by subsection (4), the legislative body of the local governmental unit shall not approve an application and the commission shall not grant an industrial facilities exemption certificate unless the applicant complies with all of the following requirements:

(a) The commencement of the restoration, replacement, or construction of the facility occurred not earlier than 12 months before the filing of the application for the industrial facilities exemption certificate. If the application is not filed within the 12-month period, the application may be filed within the succeeding 12-month period and the industrial facilities exemption certificate shall in this case expire 1 year earlier than it would have expired if the application had been timely filed. This subdivision does not apply for applications filed with the local governmental unit after December 31, 1983.

(b) For applications made after December 31, 1983, the proposed facility shall be located within a plant rehabilitation district or industrial development district that was duly established in a local governmental unit eligible under this act to establish a district and that was established upon a request filed or by the local governmental unit's own initiative taken before the commencement of the restoration, replacement, or construction of the facility.

(c) For applications made after December 31, 1983, the commencement of the restoration, replacement, or construction of the facility occurred not earlier than 6 months before the filing of the application for the industrial facilities exemption certificate.

(d) The application relates to a construction, restoration, or replacement program that when completed constitutes a new or replacement facility within the meaning of this act and that shall be situated within a plant rehabilitation district or industrial development district duly established in a local governmental unit eligible under this act to establish the district.

(e) Completion of the facility is calculated to, and will at the time of issuance of the certificate have the reasonable likelihood to create employment, retain employment, prevent a loss of employment, or produce energy in the community in which the facility is situated.

(f) Completion of the facility does not constitute merely the addition of machinery and equipment for the purpose of increasing productive capacity but

rather is primarily for the purpose and will primarily have the effect of restoration, replacement, or updating the technology of obsolete industrial property. An increase in productive capacity, even though significant, is not an impediment to the issuance of an industrial facilities exemption certificate if other criteria in this section and act are met. This subdivision does not apply to a new facility.

(g) The provisions of subdivision (c) do not apply to a new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in April of 1992 if the application was approved by the local governing body and was denied by the state tax commission in April of 1993.

(h) The provisions of subdivisions (b) and (c) and section 4(3) do not apply to 1 or more of the following:

(i) A facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in October 1995 for construction that was commenced in July 1992 in a district that was established by the legislative body of the local governmental unit in July 1994. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16(3).

(ii) A facility located in an industrial development district that was established in January 1994 and was owned by a person who filed an application for an industrial facilities exemption certificate in February 1994 if the personal property and real property portions of the application were approved by the legislative body of the local governmental unit and the personal property portion of the application was approved by the state tax commission in December 1994 and the real property portion of the application was denied by the state tax commission in December 1994. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16(3).

(iii) A facility located in an industrial development district that was established in December 1995 and was owned by a person who filed an application for an industrial facilities exemptions certificate in November or December 1995 for construction that was commenced in September 1995.

(iv) A facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in July 2001 for construction that was commenced in February 2001 in a district that was established by the legislative body of the local governmental unit in September 2001. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16. The facility described in this subparagraph shall be taxed under this act as if it was granted an industrial facilities exemption certificate in October 2001, and a corrected tax bill shall be issued by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. If granting the industrial facilities exemption certificate under this subparagraph results in an overpayment of the tax, a rebate, including any interest and penalties paid, shall be made to the taxpayer by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll within 30 days of the date the exemption is granted. The rebate shall be without interest.

(v) A facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in December 2005 for construction that was commenced in September 2005 in a district that was established by the legislative body of the local governmental unit in December 2005. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16.

(vi) A facility located in an existing industrial development district owned by a person who filed or amended an application for an industrial facilities exemption certificate for real property in July 2006 if the application was approved by the legislative body of the local governmental unit in September 2006 but not submitted to the state tax commission until September 2006.

(vii) A new facility located in an existing industrial development district owned by a person who filed or amended an application for an industrial facilities exemption certificate for personal property in June 2006 if the application was approved by the legislative body of the local governmental unit in August 2006 but not submitted to the state tax commission until 2007. The effective date of the certificate shall be December 31, 2006.

(viii) A new facility located in an industrial development district that was established by the legislative body of the local governmental unit in September of 2007 for construction that was commenced in March 2007 and for which an

application for an industrial facilities exemption certificate was filed in September of 2007.

(ix) A facility located in an industrial development district that was established by the legislative body of the local governmental unit in August 2007 and was owned by a person who filed an application for an industrial facilities exemption certificate in June 2007 for equipment that was purchased in January 2007.

(x) A facility located in an industrial development district that otherwise meets the criteria of this act that has received written approval from the chairperson of the Michigan economic growth authority.

(xi) A new facility located in an industrial development district that was established by the legislative body of the local governmental unit in August of 2008 for construction that was commenced in December 2005 and certificate of occupancy issued in September 2006 for which an application for an industrial facilities exemption certificate was filed in August of 2008.

(xii) A facility located in an industrial development district owned by a person who filed an application for a certificate for real and personal property in April 2005 if the application was approved by the legislative body of the local governmental unit in July 2005 for construction that was commenced in July 2004.

(xiii) A facility located in an industrial development district that was established by the legislative body of the local governmental unit in December 2007 for construction that was commenced in September 2007 and a certificate of occupancy issued in September 2008 for which an application for an industrial facilities exemption certificate was approved in May of 2008.

(i) The provisions of subdivision (c) do not apply to any of the following:

(i) A new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in October 1993 if the application was approved by the legislative body of the local governmental unit and the real property portion of the application was denied by the state tax commission in December 1993.

(ii) A new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in September 1993 if the personal property portion of the application was approved by the legislative body of the local governmental unit and the real property portion of the application was denied by the legislative body of the local governmental unit in October 1993 and subsequently approved by the legislative body of the local governmental unit in September 1994.

(iii) A facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in August 1993 if the application was approved by the local governmental unit in September 1993 and the application was denied by the state tax commission in December 1993.

(iv) A facility located in an existing industrial development district occupied by a person who filed an application for an industrial facilities exemption certificate in June of 1995 if the application was approved by the legislative body of the local governmental unit in October of 1995 for construction that was commenced in November or December of 1994.

(v) A facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in June of 1995 if the application was approved by the legislative body of the local governmental unit in July of 1995 and the personal property portion of the application was approved by the state tax commission in November of 1995.

(j) If the facility is locating in a plant rehabilitation district or an industrial development district from another location in this state, the owner of the facility is not delinquent in any of the taxes described in section 10(1)(a) of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2690, or substantially delinquent in any of the taxes described in and as provided under section 10(1)(b) of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2690.

(3) If the replacement facility when completed will not be located on the same premises or contiguous premises as the obsolete industrial property, then the applicant shall make provision for the obsolete industrial property by demolition, sale, or transfer to another person with the effect that the obsolete industrial property shall within a reasonable time again be subject to assessment and taxation under the general property tax act, 1893 PA 206, MCL 211.1 to

211.157, or be used in a manner consistent with the general purposes of this act, subject to approval of the commission.

(4) The legislative body of the local governmental unit shall not approve an application and the commission shall not grant an industrial facilities exemption certificate that applies to a speculative building unless the speculative building is or is to be located in a plant rehabilitation district or industrial development district duly established by a local governmental unit eligible under this act to establish a district; the speculative building was constructed less than 9 years before the filing of the application for the industrial facilities exemption certificate; the speculative building has not been occupied since completion of construction; and the speculative building otherwise qualifies under subsection (2)(e) for an industrial facilities exemption certificate. An industrial facilities exemption certificate granted under this subsection shall expire as provided in section 16(3).

(5) Not later than September 1, 1989, the commission shall provide to all local assessing units the name, address, and telephone number of the person on the commission staff responsible for providing procedural information concerning this act. After October 1, 1989, a local unit of government shall notify each prospective applicant of this information in writing.

(6) Notwithstanding any other provision of this act, if on December 29, 1986 a local governmental unit passed a resolution approving an exemption certificate for 10 years for real and personal property but the commission did not receive the application until 1992 and the application was not made complete until 1995, then the commission shall issue, for that property, an industrial facilities exemption certificate that begins December 30, 1987 and ends December 30, 1997. The facility described in this subsection shall be taxed under this act as if it was granted an industrial facilities exemption certificate on December 30, 1987.

(7) Notwithstanding any other provision of this act, if a local governmental unit passed a resolution approving an industrial facilities exemption certificate for a new facility on July 8, 1991 but rescinded that resolution and passed a resolution approving an industrial facilities exemption certificate for that same facility as a replacement facility on October 21, 1996, the commission shall issue for that property an industrial facilities exemption certificate that begins December 30, 1991 and ends December 2003. The replacement facility

described in this subsection shall be taxed under this act as if it was granted an industrial facilities exemption certificate on December 30, 1991.

(8) Property owned or operated by a casino is not industrial property or otherwise eligible for an abatement or reduction of ad valorem property taxes under this act. As used in this subsection, "casino" means a casino or a parking lot, hotel, motel, convention and trade center, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(9) Notwithstanding section 16a and any other provision of this act, if a local governmental unit passed a resolution approving an industrial facilities exemption certificate for a new facility on October 28, 1996 for a certificate that expired in December 2003 and the local governmental unit passes a resolution approving the extension of the certificate after December 2003 and before March 1, 2006, the commission shall issue for that property an industrial facilities exemption certificate that begins on December 30, 2005 and ends December 30, 2010 as long as the property continues to qualify under this act.

(10) Notwithstanding any other provision of this act, if the commission issued an industrial facilities exemption certificate for a new facility on December 8, 1998 but revoked that industrial facilities exemption certificate for that same facility effective December 30, 2006 and that new facility is purchased by a buyer on or before November 1, 2007, the commission shall issue for that property an industrial facilities exemption certificate that begins December 31, 1998 and ends December 30, 2010 and shall transfer that industrial facilities exemption certificate to the buyer. The new facility described in this subsection shall be taxed under this act as if it was granted an industrial facilities exemption certificate effective on December 31, 1998.

(11) Notwithstanding any other provision of this act, if the commission issued industrial facilities exemption certificates for new facilities on October 30, 2002, September 9, 2003, and November 30, 2005 but revoked the industrial facilities exemption certificates for the same facilities effective December 30, 2007 and the new facilities continue to qualify under this act, the commission shall issue for the properties industrial facilities exemption certificates which end respectively on December 30, 2008, December 30, 2009, and December 30, 2011.

(12) Notwithstanding any other provision of this act, if in August 2008 a local governmental unit passed a resolution approving an exemption certificate for 12 years for real and personal property but the commission did not receive the application until 2008, then the commission shall issue, for that property, an industrial facilities exemption certificate that begins December 31, 2006 and ends December 30, 2018. The facility described in this subsection shall be taxed under this act as if it had been granted an industrial facilities exemption certificate on December 31, 2006.

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 1975, Act 302, Imd. Eff. Dec. 19, 1975 ;-- Am. 1976, Act 224, Imd. Eff. July 30, 1976 ;-- Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982 ;-- Am. 1985, Act 33, Imd. Eff. June 13, 1985 ;-- Am. 1989, Act 119, Imd. Eff. June 28, 1989 ;-- Am. 1990, Act 338, Imd. Eff. Dec. 21, 1990 ;-- Am. 1991, Act 201, Imd. Eff. Jan. 3, 1992 ;-- Am. 1994, Act 76, Imd. Eff. Apr. 11, 1994 ;-- Am. 1994, Act 266, Imd. Eff. July 6, 1994 ;-- Am. 1994, Act 379, Imd. Eff. Dec. 27, 1994 ;-- Am. 1995, Act 218, Imd. Eff. Dec. 1, 1995 ;-- Am. 1996, Act 1, Imd. Eff. Jan. 30, 1996 ;-- Am. 1996, Act 513, Imd. Eff. Jan. 13, 1997 ;-- Am. 1999, Act 140, Imd. Eff. Oct. 18, 1999 ;-- Am. 2005, Act 251, Imd. Eff. Dec. 1, 2005 ;-- Am. 2006, Act 22, Imd. Eff. Feb. 14, 2006 ;-- Am. 2006, Act 436, Imd. Eff. Oct. 5, 2006 ;-- Am. 2007, Act 146, Imd. Eff. Dec. 10, 2007 ;-- Am. 2008, Act 170, Imd. Eff. July 2, 2008 ;-- Am. 2008, Act 515, Imd. Eff. Jan. 13, 2009 ;-- Am. 2008, Act 516, Imd. Eff. Jan. 13, 2009
Compiler's Notes: Section 2 of Act 119 of 1989 provides:“Section 2. This amendatory act shall take effect beginning with taxes levied under this act in 1989.”
Popular Name: Act 198

207.560 Annual determination of value of facility.

Sec. 10. (1) The assessor of each city or township in which there is a speculative building, new facility, or replacement facility with respect to which 1 or more industrial facilities exemption certificates have been issued and are in force shall determine annually as of December 31 the value and taxable value of each facility separately, both for real and personal property, having the benefit of a certificate.

(2) The assessor, upon receipt of notice of the filing of an application for the issuance of a certificate, shall determine and furnish to the local legislative body and the commission the value of the property to which the application pertains and other information as may be necessary to permit the local legislative body and the commission to make the determinations required by section 9(1).

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 1975, Act 302, Imd. Eff. Dec. 19, 1975 ;-- Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982 ;-- Am. 1996, Act 1, Imd. Eff. Jan. 30, 1996
Popular Name: Act 198

207.561 Industrial facility tax; payment; disbursements; allocation; receipt or retention of tax payment by local or intermediate school district; disposition of amount disbursed to local school district; facility located in renaissance zone; building or facility owned or operated by qualified start-up business; "qualified start-up business" defined.
Sec. 11. (1) Except as provided in subsections (6) and (7), there is levied upon every owner of a speculative building, a new facility, or a replacement facility to which an industrial facilities exemption certificate is issued a specific tax to be known as the industrial facility tax and an administrative fee calculated in the same manner and at the same rate that the local tax collecting unit imposes on ad valorem taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(2) The industrial facility tax and administrative fee are to be paid annually, at the same times, in the same installments, and to the same officer or officers as taxes and administrative fees, if any, imposed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, are payable. Except as otherwise provided in this section, the officer or officers shall disburse the industrial facility tax payments received each year to and among the state, cities, townships, villages, school districts, counties, and authorities, at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155. To determine the proportion for the disbursement of taxes under this subsection and for attribution of taxes under subsection (5) for taxes collected under industrial facilities exemption certificates issued before January 1, 1994, the number of mills levied for local school district operating purposes to be used in the calculation shall equal the number of mills for local school district operating purposes levied in 1993 minus the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, for the year for which the disbursement is calculated.

(3) Except as provided by subsections (4) and (5), for an intermediate school district receiving state aid under section 56, 62, or 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, of the amount that would otherwise be disbursed to or retained by the intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of the state school aid, shall be paid instead to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963. If the sum of any commercial facilities taxes prescribed by the commercial redevelopment act, 1978 PA 255,

MCL 207.651 to 207.668, and the industrial facility taxes paid to the state treasury to the credit of the state school aid fund that would otherwise be disbursed to the local or intermediate school district, under section 12 of the commercial redevelopment act, 1978 PA 255, MCL 207.662, and this section, exceeds the amount received by the local or intermediate school district under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, the department of treasury shall allocate to each eligible local or intermediate school district an amount equal to the difference between the sum of the commercial facilities taxes and the industrial facility taxes paid to the state treasury to the credit of the state school aid fund and the amount the local or intermediate school district received under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681. This subsection does not apply to taxes levied for either of the following:

(a) Mills allocated to an intermediate school district for operating purposes as provided for under the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a.

(b) An intermediate school district that is not receiving state aid under section 56 or 62 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656 and 388.1662.

(4) For industrial facilities taxes levied before 1994, a local or intermediate school district shall receive or retain its industrial facility tax payment that is levied in any year and becomes a lien before December 1 of the year if the district files a statement with the state treasurer not later than June 30 of the year certifying that the district does not expect to receive state school aid payments under section 56, 62, or 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, in the state fiscal year commencing in the year this statement is filed and if the district did not receive state school aid payments under section 56, 62, or 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, for the state fiscal year concluding in the year the statement required by this subsection is filed. However, if a local or intermediate school district receives or retains its summer industrial facility tax payment under this subsection and becomes entitled to receive state school aid payments under section 56, 62, or 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, in the state fiscal year commencing in the year in which it filed the statement required by this subsection, the district immediately shall pay to the

state treasury to the credit of the state school aid fund an amount of the summer industrial facility tax payments that would have been paid to the state treasury to the credit of the state school aid fund under subsection (3) had not this subsection allowed the district to receive or retain the summer industrial facility tax payment.

(5) For industrial facilities taxes levied after 1993, the amount to be disbursed to a local school district, except for that amount of tax attributable to mills levied under section 1211(2) or 1211c of the revised school code, 1976 PA 451, MCL 380.1211 and 380.1211c, and mills that are not included as mills levied for school operating purposes under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, shall be paid to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(6) A speculative building, a new facility, or a replacement facility located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the industrial facility tax levied under this act to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except for that portion of the industrial facility tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. The industrial facility tax calculated under this subsection shall be disbursed proportionately to the local taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff.

(7) Upon application for an exemption under this subsection by a qualified start-up business, the governing body of a local tax collecting unit may adopt a resolution to exempt a speculative building, a new facility, or a replacement facility of a qualified start-up business from the collection of the industrial facility tax levied under this act in the same manner and under the same terms and conditions as provided for the exemption in section 7hh of the general property tax act, 1893 PA 206, MCL 211.7hh. The clerk of the local tax collecting unit shall notify in writing the assessor of the local tax collecting unit and the legislative body of each taxing unit that levies ad valorem property taxes in the local tax collecting unit. Before acting on the resolution, the governing body of the local tax collecting unit shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing. If a resolution authorizing the exemption is adopted in the same manner as provided

in section 7hh of the general property tax act, 1893 PA 206, MCL 211.7hh, a speculative building, a new facility, or a replacement facility owned or operated by a qualified start-up business is exempt from the industrial facility tax levied under this act, except for that portion of the industrial facility tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff, for the year in which the resolution is adopted. A qualified start-up business is not eligible for an exemption under this subsection for more than 5 years. A qualified start-up business may receive the exemption under this subsection in nonconsecutive years. The industrial facility tax calculated under this subsection shall be disbursed proportionately to the taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. As used in this subsection, "qualified start-up business" means that term as defined in section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or in section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 1975, Act 247, Imd. Eff. Sept. 4, 1975 ;-- Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982 ;-- Am. 1983, Act 139, Imd. Eff. July 18, 1983 ;-- Am. 1984, Act 122, Imd. Eff. June 1, 1984 ;-- Am. 1993, Act 334, Eff. Apr. 1, 1994 ;-- Am. 1994, Act 266, Imd. Eff. July 6, 1994 ;-- Am. 1994, Act 379, Imd. Eff. Dec. 27, 1994 ;-- Am. 1995, Act 132, Imd. Eff. July 10, 1995 ;-- Am. 1996, Act 446, Imd. Eff. Dec. 19, 1996 ;-- Am. 2001, Act 157, Imd. Eff. Nov. 6, 2001 ;-- Am. 2004, Act 323, Imd. Eff. Aug. 27, 2004 ;-- Am. 2007, Act 195, Imd. Eff. Dec. 21, 2007

Compiler's Notes: Act 165 of 1989, purporting to amend MCL 207.561 and 207.564, could not take effect “unless amendment 2 of House Joint Resolution I of the 85th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963.” House Joint Resolution I was submitted to, and disapproved by, the people at the special election held on November 7, 1989.

Popular Name: Act 198

207.562 Failure to pay tax applicable to personal property; seizure and sale of personal property; civil action; jeopardy assessment; disbursement.

Sec. 12. (1) If the industrial facility tax applicable to personal property is not paid within the time permitted by law for payment without penalty of taxes imposed under Act No. 206 of the Public Acts of 1893, as amended, the officer to whom the industrial facility tax is first payable may in his own name or in the name of the city, village, township, or county of which he is an officer, seize and sell personal property within this state of the owner who has so neglected or refused to pay the industrial facility tax applicable to personal property, to an amount sufficient to pay the tax, the expenses of sale, and interest on the tax at the rate of 9% per annum from the date the tax was first payable; or the officer may in his own name or in the name of the city, village, township, or county of which he is an officer, institute a civil action against the

owner in the circuit court of the county in which the facility is located or in the circuit court of the county in which the owner resides or has his or its principal place of business, and in that civil action recover the amount of the tax and interest thereon at the rate of 9% per annum from the date the tax was first payable.

(2) The officer may proceed to make a jeopardy assessment, in the manner and under the circumstances provided by Act No. 55 of the Public Acts of 1956, being sections 211.691 to 211.698 of the Michigan Compiled Laws, as an additional means of collecting the amount of the tax under those circumstances.

(3) The officer may pursue 1 or more of the remedies provided in this section until such time as he has received the amount of the tax and interest thereon and costs allowed by this act or by law governing the proceedings of civil actions in the circuit courts. The amount of the tax and interest thereon shall be disbursed by the officer in the same manner as the industrial facility tax is disbursed when first payable.

History: 1974, Act 198, Imd. Eff. July 9, 1974
Popular Name: Act 198

207.563 Tax applicable to real property as lien; automatic termination of exemption certificate; affidavit.
Sec. 13. (1) The amount of the tax applicable to real property, until paid, shall be a lien upon the real property to which the certificate is applicable. Except as provided in subsection (3), the tax shall become a lien on the property on the date the tax is levied. The appropriate parties may, subject to subsection (3), enforce the lien in the same manner as provided by law for the foreclosure in the circuit courts of mortgage liens upon real property.

(2) On or after the December 31 next following the expiration of 60 days after the service upon the owner of a certificate of nonpayment and the filing of the certificate of nonpayment, if payment has not been made within the intervening 60 days, provided for by subsection (1), the industrial facilities exemption certificate shall automatically be terminated.

(3) The treasurer of a county, township, city, or village may designate the tax day provided in section 2 of the general property tax act, 1893 PA 206, MCL 211.2, as the date on which industrial facility taxes become a lien on the real or personal property assessed by filing an affidavit in the office of the register of

deeds for the county in which the real or personal property is located attesting that 1 or more of the following events have occurred:

(a) The owner or person otherwise assessed has filed a bankruptcy petition under the federal bankruptcy code, title 11 of the United States Code, 11 USC 101 to 1330.

(b) A secured lender has brought an action to foreclose on or to enforce an interest secured by the real or personal property assessed.

(c) For personal property only, the owner, the person otherwise assessed, or other person has liquidated or is attempting to liquidate the personal property assessed.

(d) The real or personal property assessed is subject to receivership under state or federal law.

(e) The owner or person otherwise assessed has assigned the real or personal property assessed for the benefit of his or her creditors.

(f) The real or personal property assessed has been seized or purchased by federal, state, or local authorities.

(g) A judicial action has been commenced that may impair the ability of the taxing authority to collect any tax due in the absence of a lien on the real or personal property assessed.

(4) The affidavit provided for in subsection (3) shall include all of the following:

(a) The year for which the industrial facility taxes due were levied.

(b) The date on which the industrial facility taxes due were assessed.

(c) The name of the owner or person otherwise assessed who is identified in the tax roll.

(d) The tax identification number of the real or personal property assessed.

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 2004, Act 442, Imd. Eff. Dec. 21, 2004
Popular Name: Act 198

207.564 Industrial facility tax; amount of tax; determination; reduction.
Sec. 14. (1) The amount of the industrial facility tax, in each year for a replacement facility, shall be determined by multiplying the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is situated by the taxable value of the real and personal property of the obsolete industrial property for the tax year immediately preceding the effective date of the industrial facilities exemption certificate after deducting the taxable value of the land and of the inventory as specified in section 19.

(2) The amount of the industrial facility tax, in each year for a new facility or a speculative building for which an industrial facilities exemption certificate became effective before January 1, 1994, shall be determined by multiplying the taxable value of the facility excluding the land and the inventory personal property by the sum of 1/2 of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located other than mills levied for school operating purposes by a local school district within which the facility is located or mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, plus 1/2 of the number of mills levied for local school district operating purposes in 1993.

(3) Except as provided in subsection (4), the amount of the industrial facility tax in each year for a new facility or a speculative building for which an industrial facilities exemption certificate becomes effective after December 31, 1993, shall be determined by multiplying the taxable value of the facility excluding the land and the inventory personal property by the sum of 1/2 of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located other than mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, plus, subject to section 14a, the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(4) For taxes levied after December 31, 2007, for the personal property tax component of an industrial facilities exemption certificate for a new facility or a speculative building that is sited on real property classified as industrial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, the amount of the industrial facility tax in each year for a new facility or a speculative building shall be determined by multiplying the taxable value of the facility excluding the land and the inventory personal property by the

sum of 1/2 of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located other than mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and the number of mills from which the property is exempt under section 1211(1) of the revised school code, 1976 PA 451, MCL 380.1211. For taxes levied after December 31, 2007, for the personal property tax component of an industrial facilities exemption certificate for a new facility or a speculative building that is sited on real property classified as commercial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, the amount of the industrial facility tax in each year for a new facility or a speculative building shall be determined by multiplying the taxable value of the facility excluding the land and the inventory personal property by the sum of 1/2 of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located other than the number of mills from which the property is exempt under section 1211(1) of the revised school code, 1976 PA 451, MCL 380.1211.

(5) For a termination or revocation of only the real property component, or only the personal property component, of an industrial facilities exemption certificate as provided in this act, the valuation and the tax determined using that valuation shall be reduced proportionately to reflect the exclusion of the component with respect to which the termination or revocation has occurred.

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982 ;-- Am. 1993, Act 334, Eff. Apr. 1, 1994 ;-- Am. 1994, Act 266, Eff. Imd. July 6, 1994 ;-- Am. 1996, Act 1, Imd. Eff. Jan. 30, 1996 ;-- Am. 2007, Act 39, Imd. Eff. July 12, 2007 ;-- Am. 2007, Act 146, Imd. Eff. Dec. 10, 2007 ;-- Am. 2008, Act 457, Imd. Eff. Jan. 9, 2009
Compiler's Notes: Act 165 of 1989, purporting to amend MCL 207.561 and 207.564, could not take effect "unless amendment 2 of House Joint Resolution I of the 85th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution I was submitted to, and disapproved by, the people at the special election held on November 7, 1989.
Popular Name: Act 198

207.564a Reduction of mills used to calculate tax under MCL 207.564(3); exception.

Sec. 14a. Within 60 days after the granting of an industrial facilities exemption certificate under section 7 for a new facility, the state treasurer may exclude 1/2 or all of the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, from the specific tax calculation on the facility under section 14(3) if the state treasurer determines that reducing the number of mills used to calculate the specific tax under section 14(3) is necessary to

reduce unemployment, promote economic growth, and increase capital investment in this state. This section does not apply to the personal property tax component of a certificate described in section 14(4).

History: Add. 1993, Act 334, Eff. Apr. 1, 1994 ;-- Am. 1994, Act 266, Imd. Eff. July 6, 1994 ;-- Am. 2007, Act 39, Imd. Eff. July 12, 2007
Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the state treasurer to grant exclusions from the state education tax to the Michigan jobs commission, see E.R.O. No. 1995-1, compiled at MCL 408.49 of the Michigan Compiled Laws.
Popular Name: Act 198

207.564b Repealed. 1994, Act 266, Imd. Eff. July 6, 1994.

Compiler's Notes: The repealed section pertained to determination of tax for which industrial facility exemption certificate effective.
Popular Name: Act 198

207.565 Revocation of exemption certificate; request; grounds; notice; hearing; order; effective date; revocation of certificate issued for speculative building; reinstatement of certificate.

Sec. 15. (1) Upon receipt of a request by certified mail to the commission by the holder of an industrial facilities exemption certificate requesting revocation of the certificate, the commission shall by order revoke the certificate in whole or revoke the certificate with respect to its real property component, or its personal property component, whichever is requested.

(2) The legislative body of a local governmental unit may by resolution request the commission to revoke the industrial facilities exemption certificate of a facility upon the grounds that, except as provided in section 7a, completion of the replacement facility or new facility has not occurred within 2 years after the effective date of the certificate, unless a greater time has been authorized by the commission for good cause; that the replacement, restoration, or construction of the facility has not occurred within 6 years after the date the initial industrial facilities exemption certificate was issued as provided in section 7a, unless a greater time has been authorized by the commission for good cause; that completion of the speculative building has not occurred within 2 years after the date the certificate was issued except as provided in section 7a, unless a greater time has been authorized by the commission for good cause; that a speculative building for which a certificate has been issued but is not yet effective has been used as other than a manufacturing facility; that the certificate issued for a speculative building has not become effective within 2 years after the December 31 following the date the certificate was issued; or that the purposes

for which the certificate was issued are not being fulfilled as a result of a failure of the holder to proceed in good faith with the replacement, restoration, or construction and operation of the replacement facility or new facility or with the use of the speculative building as a manufacturing facility in a manner consistent with the purposes of this act and in the absence of circumstances that are beyond the control of the holder.

(3) Upon receipt of the resolution, the commission shall give notice in writing by certified mail to the holder of the certificate, to the local legislative body, to the assessor of the assessing unit, and to the legislative body of each local taxing unit which levies taxes upon property in the local governmental unit in which the facility is located. The commission shall afford to the holder of the certificate, the local legislative body, the assessor, and a representative of the legislative body of each taxing unit an opportunity for a hearing. The commission shall by order revoke the certificate if the commission finds that completion except as provided in section 7a of the replacement facility or new facility has not occurred within 2 years after the effective date of the certificate or a greater time as authorized by the commission for good cause; that completion of the speculative building has not occurred within 2 years after the date the certificate was issued except as provided in section 7a, unless a greater time has been authorized by the commission for good cause; that a speculative building for which a certificate has been issued but is not yet effective has been used as other than a manufacturing facility; that the certificate issued for a speculative building has not become effective within 2 years after the December 31 following the date the certificate was issued; or that the holder of the certificate has not proceeded in good faith with the replacement, restoration, or construction and operation of the facility or with the use of the speculative building as a manufacturing facility in good faith in a manner consistent with the purposes of this act and in the absence of circumstances that are beyond the control of the holder.

(4) The order of the commission revoking the certificate shall be effective on the December 31 next following the date of the order and the commission shall send by certified mail copies of its order of revocation to the holder of the certificate, to the local legislative body, to the assessor of the assessing unit in which the facility is located, and to the legislative body of each taxing unit which levies taxes upon property in the local governmental unit in which the facility is located.

(5) A revocation of a certificate issued for a speculative building shall specify and apply only to that portion of the speculative building for which the grounds for revocation relate.

(6) Notwithstanding any other provision of this act, upon the written request of the holder of a revoked industrial facilities exemption certificate to the local unit of government and the commission and the submission to the commission of a resolution of concurrence by the legislative body of the local unit of government in which the facility is located, and if the facility continues to qualify under this act, the commission may reinstate a revoked industrial facilities exemption certificate.

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982 ;-- Am. 1996, Act 513, Imd. Eff. Jan. 13, 1997 ;-- Am. 2008, Act 170, Imd. Eff. July 2, 2008
Popular Name: Act 198

****** 207.566 SUBSECTION (2) MAY NOT APPLY: See (2) of 207.566 ******

207.566 Duration of industrial facilities exemption certificate; date of issuance of certificate of occupancy.
Sec. 16. (1) Unless earlier revoked as provided in section 15, an industrial facilities exemption certificate shall remain in force and effect for a period to be determined by the legislative body of the local governmental unit and commencing with its effective date and ending on the December 31 next following not more than 12 years after the completion of the facility with respect to both the real property component and the personal property component of the facility. The date of issuance of a certificate of occupancy, if one is required, by appropriate municipal authority shall be the date of completion of the facility.

(2) In the case of an application which was not filed within 12 months after the commencement of the restoration, replacement, or construction of the facility but was filed within the succeeding 12-month period as provided in section 9(2)(a), the industrial facilities exemption certificate, unless earlier revoked as provided in section 15, shall remain in force and effect for a period commencing with its effective date and ending on the December 31 next following not more than 11 years after completion of the facility with respect to both the real property component and the personal property component of the facility. The date of issuance of a certificate of occupancy, if one is required, by appropriate municipal authority shall be the date of completion of the facility. This subsection shall not apply for certificates issued after December 31, 1983.

(3) In the case of an application filed pursuant to section 9(4), an industrial facilities exemption certificate, unless earlier revoked as provided in section 15, shall remain in force and effect for a period to be determined by the legislative body of the local governmental unit and commencing on the effective date of the certificate and ending on the December 31 next following not more than 11 years after the effective date of the certificate.

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 1976, Act 224, Imd. Eff. July 30, 1976 ;-- Am. 1978, Act 38, Imd. Eff. Feb. 24 ;-- Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982
Popular Name: Act 198

207.566a Industrial facilities exemption certificate; provisions.

Sec. 16a. If an industrial facilities exemption certificate for a replacement facility, a new facility, or a speculative building becomes effective after December 31, 1995, for a period shorter than the maximum period permitted under section 16, then both of the following apply:

(a) The owner or lessee of the replacement facility, new facility, or speculative building may, within the final year in which the certificate is effective, within 12 months after the certificate expires, or, as permitted by the local governmental unit, at any other time in which the certificate is in effect apply for another certificate under this act. If the legislative body of a local governmental unit disapproves an application submitted under this subdivision, then the applicant has no right of appeal of that decision as described in section 6.

(b) The legislative body of a local governmental unit shall not approve applications for certificates the sum of whose periods exceeds the maximum permitted under section 16 for the user or lessee of a replacement facility, new facility, or speculative building.

History: Add. 1996, Act 94, Imd. Eff. Feb. 28, 1996 ;-- Am. 2008, Act 306, Imd. Eff. Dec. 18, 2008
Popular Name: Act 198

207.567 Assessment of real and personal property comprising facility; notice of determination.

Sec. 17. (1) The assessor of each city or township in which is located a facility with respect to which an industrial facilities exemption certificate is in force shall annually determine, with respect to each such facility, an assessment of the real and personal property comprising the facility having the benefit of an

industrial facilities exemption certificate which would have been made under Act No. 206 of the Public Acts of 1893, as amended, if the certificate had not been in force. A holder of an industrial facilities exemption certificate shall furnish to the assessor such information as may be necessary for the determination.

(2) The assessor, having made the determination, shall annually notify the commission, the legislative body of each unit of local government which levies taxes upon property in the city or township in which the facility is located, and the holder of the industrial facilities exemption certificate of the determination, separately stating the determinations for real property and personal property, by certified mail not later than October 15 based upon valuations as of the preceding December 31.

History: 1974, Act 198, Imd. Eff. July 9, 1974
Popular Name: Act 198

207.568 Rules.

Sec. 18. The commission may promulgate rules as it deems necessary for the administration of this act pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1974, Act 198, Imd. Eff. July 9, 1974
Popular Name: Act 198
Admin Rule: R 209.51 to R 209.57 of the Michigan Administrative Code.

207.569 Form and contents of exemption certificate.

Sec. 19. An industrial facilities exemption certificate shall be in the form the commission determines but shall contain:

(a) A legal description of the real property on which the facility is or is to be located.

(b) A statement that unless revoked as provided in this act the certificate shall remain in force for the period stated in the certificate.

(c) In the case of a replacement facility a statement of the state equalized valuation of the obsolete industrial property, separately stated for real and personal property, for the tax year immediately preceding the effective date of the certificate after deducting the state equalized valuation of the land and inventory.

History: 1974, Act 198, Imd. Eff. July 9, 1974
Popular Name: Act 198

207.570 Appeal.

Sec. 20. A party aggrieved by the issuance or refusal to issue, revocation, transfer, or modification of an industrial facilities exemption certificate may appeal from the finding and order of the commission in the manner and form and within the time provided by Act No. 306 of the Public Acts of 1969, as amended.

History: 1974, Act 198, Imd. Eff. July 9, 1974
Popular Name: Act 198

207.571 Transfer and assignment of industrial facilities exemption certificate.

Sec. 21. (1) An industrial facilities exemption certificate may be transferred and assigned by the holder of the industrial facilities exemption certificate to a new owner or lessee of the facility but only with the approval of the local governmental unit and the commission after application by the new owner or lessee, and notice and hearing in the same manner as provided in section 5 for the application for a certificate.

(2) If the owner or lessee of a facility for which an industrial facilities exemption certificate is in effect relocates that facility outside of the industrial development district or plant rehabilitation district during the period in which the industrial facilities exemption certificate is in effect, the owner or lessee is liable to the local governmental unit from which it is leaving, upon relocating, for an amount equal to the difference between the industrial facilities tax to be paid by the owner or lessee of that facility for that facility for the tax years remaining under the industrial facilities exemption certificate that is in effect and the general ad valorem property tax that the owner or lessee would have paid if the owner or lessee of that facility did not have an industrial facilities exemption certificate in effect for those years. If the local governmental unit determines that it is in its best interest, the local governmental unit may forgive the liability of the owner or lessee under this subsection. The payment provided in this subsection shall be distributed in the same manner as the industrial facilities tax is distributed.

History: 1974, Act 198, Imd. Eff. July 9, 1974 ;-- Am. 1999, Act 140, Imd. Eff. Oct. 18, 1999
Popular Name: Act 198

207.572 Industrial facilities exemption certificate; requirements for approval and issuance.
Sec. 22. A new industrial facilities exemption certificate shall not be approved and issued under this act after April 1, 1994, unless a written agreement is entered into between the local governmental unit and the person to whom the certificate is to be issued, and filed with the department of treasury.

History: Add. 1993, Act 334, Eff. Apr. 1, 1994 ;-- Am. 1994, Act 266, Eff. Imd. July 6, 1994
Popular Name: Act 198

COMMERCIAL REDEVELOPMENT ACT
Act 255 of 1978

AN ACT to provide for the establishment of commercial redevelopment districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide remedies and penalties.

History: 1978, Act 255, Imd. Eff. June 21, 1978
Compiler's Notes: For transfer of powers and duties under the commercial redevelopment act from the department of commerce to the chief executive officer of the Michigan jobs commission, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

207.651 Short title.
Sec. 1. This act shall be known and may be cited as the “commercial redevelopment act”.

History: 1978, Act 255, Imd. Eff. June 21, 1978
Compiler's Notes: For transfer of powers and duties under the commercial redevelopment act from the department of commerce to the chief executive officer of the Michigan jobs commission, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

207.652 Meanings of words and phrases.
Sec. 2. For the purposes of this act, the words and phrases defined in sections 3 and 4 have the meanings ascribed to them in those sections.

History: 1978, Act 255, Imd. Eff. June 21, 1978

207.653 Definitions; C to F.
Sec. 3. (1) "Commercial facilities tax" means the specific tax levied under this act.

(2) "Commercial facilities exemption certificate" means a certificate issued pursuant to section 8.

(3) "Commercial property" means land improvements classified by law for general ad valorem tax purposes as real property including real property assessable as personal property pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, whether completed or in the process of construction, the primary purpose and use of which is the operation of a commercial business enterprise and shall include office, engineering, research and development, warehousing parts distribution, retail sales, hotel or motel development, and other commercial facilities but shall not include any of the following:

(a) Land.

(b) Property of a public utility.

(c) Housing, except that portion of a building containing nonhousing commercial activity.

(d) Financial organization. As used in this subdivision, "financial organization" means a bank, industrial bank, trust company, building and loan or savings and loan association, bank holding company as defined in 12 USC 1841, credit union, safety and collateral deposit company, regulated investment company as defined in the internal revenue code, and any other association, joint stock company, or corporation at least 90% of whose assets consist of intangible personal property and at least 90% of whose gross receipts income consists of dividends or interest or other charges resulting from the use of money or credit. The exclusion of financial institutions shall not apply to the otherwise included property of financial institutions which is located in the designated area of a

city that is either the largest city in population within the county, as determined by the latest federal census; or is a city that had more than the median percentage for all cities in this state of its residents below the poverty line as determined by the latest federal census. Each city qualified to not be excluded under this subdivision shall designate only 1 commercial area for purposes of this provision, which area may be conterminous with, or included within, a commercial redevelopment district and in which area a majority of the land must be zoned commercially.

Commercial property may be owned or leased. If, in the case of leased property, the lessee is liable for payment of ad valorem property taxes, and furnishes proof of that liability, the lessee is eligible for the exemption. If the lessor is liable for payment of ad valorem property taxes and furnishes proof of that liability, the lessor is eligible for the exemption.

(4) "Commercial redevelopment district" means an area of a local governmental unit established as provided in section 5.

(5) "Commission" means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.

(6) "Facility" means a restored facility, a replacement facility, or a new facility.

History: 1978, Act 255, Imd. Eff. June 21, 1978 ;-- Am. 1980, Act 407, Imd. Eff. Jan. 8, 1981 ;-- Am. 2008, Act 227, Imd. Eff. July 17, 2008

207.654 Definitions; L to S.

Sec. 4. (1) "Local governmental unit" means, except as otherwise provided in this subsection, a city, village, or township. For local governmental units designating a commercial redevelopment district after June 30, 2008, local governmental unit means a city or village.

(2) "New facility" means 1 of the following:

(a) Through June 30, 2008, new commercial property other than a replacement facility to be built in a redevelopment district.

(b) Beginning July 1, 2008, new commercial property other than a replacement facility to be built in a redevelopment district that meets all of the following:

(i) Is located on property that is zoned to allow for mixed use that includes high-density residential use.

(ii) Is located in a qualified downtown revitalization district as defined in section 2 of the neighborhood enterprise zone act, 1992 PA 147, MCL 207.772.

(iii) The local governmental unit in which the new facility is to be located does all of the following:

(A) Establishes and implements an expedited local permitting and inspection process in the commercial redevelopment district.

(B) By resolution provides for walkable nonmotorized interconnections, including sidewalks and streetscapes throughout the commercial redevelopment district.

(3) "Obsolete commercial property" means commercial property the condition of which is impaired due to changes in design, construction, technology, or improved production processes, or damage due to fire, natural disaster, or general neglect.

(4) "Replacement" means the complete or partial demolition of obsolete commercial property and the complete or partial reconstruction or installation of new property of similar utility.

(5) "Replacement facility" means 1 of the following:

(a) Through June 30, 2008, commercial property on the same or contiguous land within the district which land is or is to be acquired, constructed, altered, or installed for the purpose of being substituted for obsolete commercial property together with any part of the old altered property that remains for use as commercial property after the replacement.

(b) Beginning July 1, 2008, commercial property on the same or contiguous land within the district which land is or is to be acquired, constructed, altered, or installed for the purpose of being substituted for obsolete commercial property and any part of the old altered property that remains for use as commercial property after the replacement, that meets all of the following:

(i) Is located on property that is zoned to allow for mixed use that includes high-density residential use.

(ii) Is located in a qualified downtown revitalization district as defined in section 2 of the neighborhood enterprise zone act, 1992 PA 147, MCL 207.772.

(iii) The local governmental unit in which the replacement facility is to be located does all of the following:

(A) Establishes and implements an expedited local permitting and inspection process in the commercial redevelopment district.

(B) By resolution provides for walkable nonmotorized interconnections, including sidewalks and streetscapes throughout the commercial redevelopment district.

(6) "Restoration" means changes to obsolete commercial property other than replacement as may be required to restore the property, together with all appurtenances thereto, to an economically efficient condition. Restoration includes major renovation including but not limited to the improvement of floor loads, correction of deficient or excessive height, new or improved fixed building equipment, including heating, ventilation, and lighting, reducing multistory facilities to 1 or 2 stories, improved structural support including foundations, improved roof structure and cover, floor replacement, improved wall placement, improved exterior and interior appearance of buildings, and other physical changes required to restore the commercial property to an economically efficient condition. Restoration does not include improvements aggregating less than 10% of the true cash value of the property at commencement of the restoration of the commercial property.

(7) "Restored facility" means a facility that has undergone restoration.

(8) "State equalized valuation" means the valuation determined under 1911 PA 44, MCL 209.1 to 209.8.

History: 1978, Act 255, Imd. Eff. June 21, 1978 ;-- Am. 2008, Act 227, Imd. Eff. July 17, 2008

207.655 Commercial redevelopment district; establishment; resolution; notice; hearing; finding and determination; applicability of district established by township; exemption of restored facility; commercial

property included as part of commercial redevelopment district also part of tax increment district.
Sec. 5. (1) A local governmental unit, by resolution of its legislative body, may establish a commercial redevelopment district, which may consist of 1 or more parcels or tracts of land or a portion thereof, if at the time of adoption of the resolution the property within the district is any of the following:

(a) Obsolete commercial property or cleared or vacant land which is part of an existing, developed commercial or industrial zone which has been zoned commercial or industrial for 3 years before June 21, 1978, and the area is or was characterized by obsolete commercial property and a decline in commercial activity.

(b) Land which has been cleared or is to be cleared as a result of major fire damage, or cleared or to be cleared as a blighted area under Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to 125.84 of the Michigan Compiled Laws.

(c) Cleared or vacant land included within a redevelopment plan adopted by a downtown development authority pursuant to Act No. 197 of the Public Acts of 1975, as amended, being sections 125.1651 to 125.1680 of the Michigan Compiled Laws, or adopted by an urban redevelopment corporation pursuant to Act No. 250 of the Public Acts of 1941, as amended, being sections 125.901 to 125.922 of the Michigan Compiled Laws, or Act No. 120 of the Public Acts of 1961, being sections 125.981 to 125.986 of the Michigan Compiled Laws.

(d) Property which was owned by a local governmental unit on June 21, 1978, and subsequently conveyed to a private owner and zoned commercial.

(2) The legislative body of a local governmental unit may establish a commercial redevelopment district on its own initiative or upon a request filed by the owner or owners of 75% of the state equalized value of the commercial property located within a proposed district.

(3) Before adopting a resolution establishing a commercial redevelopment district, the legislative body shall give written notice by certified mail to the owners of all real property within the proposed commercial redevelopment district and shall afford an opportunity for a hearing on the establishment of the commercial redevelopment district at which any of those owners and any other resident or taxpayer of the local governmental unit may appear and be heard.

The legislative body shall give public notice of the hearing not less than 10 nor more than 30 days before the date of the hearing.

(4) The legislative body of the local governmental unit, in its resolution establishing a commercial redevelopment district, shall set forth a finding and determination that the district meets the requirements set forth in subsection (1).

(5) A commercial redevelopment district established by a township shall be applicable only within the unincorporated territory of the township and shall not be applicable within a village located in that township.

(6) A restored facility included in an area covered by a tax increment financing plan adopted by a downtown development authority created under Act No. 197 of the Public Acts of 1975, as amended, shall be exempt from this act in a city with a population of 1,000,000 or more.

(7) Commercial property included as part of a commercial redevelopment district may also be part of a tax increment district established under the tax increment finance authority act.

History: 1978, Act 255, Imd. Eff. June 21, 1978 ;-- Am. 1979, Act 27, Imd. Eff. June 6, 1979 ;-- Am. 1980, Act 407, Imd. Eff. Jan. 8, 1981 ;-- Am. 1980, Act 448, Imd. Eff. Jan. 15, 1981

207.656 Application for commercial facilities exemption certificate; filing; contents; notice; hearing; determination of state equalized valuation of property owned by local governmental unit on June 21, 1978, and subsequently conveyed to private owner and zoned commercial.

Sec. 6. (1) The owner or lessee of a facility may file an application for a commercial facilities exemption certificate with the clerk of the local governmental unit that established the commercial redevelopment district. The application shall be filed in the manner and form prescribed by the commission. The application shall contain or be accompanied by a general description of the facility and a general description of the proposed use of the facility, the general nature and extent of the restoration, replacement, or construction to be undertaken, a descriptive list of the fixed building equipment which will be a part of the facility, a time schedule for undertaking and completing the restoration, replacement, or construction of the facility, a statement of the economic advantages expected from the exemption, including the number of jobs retained or created because of the exemption, including expected

construction employment, and information relating to the requirements in section 10.

(2) Upon receipt of an application for a commercial facilities exemption certificate, the clerk of the local governmental unit shall notify in writing the assessor of the assessing unit in which the facility is located or to be located, and to the legislative body of each taxing unit which levies ad valorem property taxes in the local governmental unit in which the facility is located or to be located. Before acting upon the application, the legislative body of the local governmental unit shall hold a public hearing on the application and give public notice to the applicant, the assessor, a representative of the affected taxing jurisdictions, and the general public. The hearing on the application shall be held separately from the hearing on the establishment of the commercial redevelopment district.

(3) Upon receipt of an application for a commercial facility exemption certificate for a facility located on property which was owned by a local governmental unit on June 21, 1978, and subsequently conveyed to a private owner and zoned commercial, the clerk of the local governmental unit, in addition to the other requirements of this section, shall request the assessor of the assessing unit in which the facility is located or is to be located to determine the state equalized valuation of the property. This determination shall be made prior to the hearing on the application for a commercial facilities exemption certificate held pursuant to subsection (2).

History: 1978, Act 255, Imd. Eff. June 21, 1978 ;-- Am. 1980, Act 407, Imd. Eff. Jan. 8, 1981

207.657 Application for commercial facilities exemption certificate; approval or disapproval.

Sec. 7.The legislative body of the local governmental unit, not more than 60 days after receipt of the application by the clerk, shall by resolution either approve or disapprove the application for a commercial facilities exemption certificate in accordance with section 10 and the other provisions of this act. The clerk shall retain the original of the application and resolution. If disapproved, the reasons shall be set forth in writing in the resolution, and the clerk shall send a copy of the resolution to the applicant.

History: 1978, Act 255, Imd. Eff. June 21, 1978

207.658 Commercial facilities exemption certificate; issuance; contents; effective date; filing; record.
Sec. 8. (1) Following approval of the application by the legislative body of the local governmental unit, the clerk of the local governmental unit shall issue to the applicant a commercial facilities exemption certificate in the form the commission determines which shall contain:

(a) A legal description of the real property on which the facility is or is to be located.

(b) A statement that unless revoked as provided in this act the certificate shall remain in force for the period stated in the certificate.

(c) In the case of a restored facility a statement of the state equalized valuation of the obsolete commercial property, separately stated for real and personal property, for the tax year immediately preceding the effective date of the certificate after deducting the state equalized valuation of the land and personal property other than personal property assessed pursuant to section 14(6) of Act No. 206 of the Public Acts of 1893, as amended.

(2) The effective date of the certificate shall be the December 31 next following the date of issuance of the certificate.

(3) The clerk of the local governmental unit shall file with the commission a copy of the commercial facilities exemption certificate and the commission shall maintain a record of all certificates filed.

History: 1978, Act 255, Imd. Eff. June 21, 1978

207.659 Exemption from ad valorem property taxes; duration of certificate; review and extension of certificate; limitation; date of issuance of certificate of occupancy; basis of review.
Sec. 9. (1) A facility for which a commercial facilities exemption certificate is in effect, but not the land on which the facility is located or to be located, or personal property other than personal property assessed pursuant to section 14(6) of the general property tax act, Act No. 206 of the Public Acts of 1893, as amended, being section 211.14 of the Michigan Compiled Laws, for the period on and after the effective date of the certificate and continuing so long as the commercial facilities exemption certificate is in force, is exempt from ad valorem property taxes. A lessee, occupant, user, or person in possession of the

facility for the same period is exempt from ad valorem taxes imposed under Act No. 189 of the Public Acts of 1953, as amended, being sections 211.181 to 211.182 of the Michigan Compiled Laws.

(2) Unless earlier revoked as provided in section 15, a commercial facilities exemption certificate shall remain in force and effect for a period to be determined by the legislative body of the local governmental unit. The certificate may be issued for a period of at least 1 year, but not to exceed 12 years. If the number of years determined is less than 12, the certificate may be subject to review by the legislative body of the local governmental unit and the certificate may be extended. The total amount of time determined for the certificate including any extensions shall not exceed 12 years after the completion of the facility. The certificate shall commence with its effective date and end on the December 31 next following the last day of the number of years determined. The date of issuance of a certificate of occupancy, if required by appropriate authority, shall be the date of completion of the facility.

(3) If the number of years determined by the legislative body of the local governmental unit for the period a certificate remains in force is less than 12 years, the review of the certificate for the purpose of determining an extension shall be based upon factors, criteria and objectives that shall be placed in writing, approved at the time the certificate is approved by the legislative body of the local governmental unit and sent to the applicant and commission.

History: 1978, Act 255, Imd. Eff. June 21, 1978 ;-- Am. 1984, Act 342, Imd. Eff. Dec. 27, 1984 ;-- Am. 1993, Act 340, Eff. Mar. 15, 1994

207.660 Finding and statement as to state equalized valuation of property proposed to be exempt; requirements for exemption certificate.
Sec. 10. (1) If the state equalized valuation of property proposed to be exempt pursuant to an application under consideration, considered together with the aggregate state equalized valuation of property exempt under certificates previously granted and currently in force under this act or Act No. 198 of the Public Acts of 1974, as amended, being sections 207.551 to 207.571 of the Michigan Compiled Laws, exceeds 5% of the state equalized valuation of the local governmental unit, the legislative body of the local governmental unit shall make a separate finding and shall include a statement in its resolution approving the application that exceeding that amount shall not have the effect of substantially impeding the operation of the local government unit or impairing the financial soundness of any affected taxing unit.

(2) The legislative body of the local governmental unit shall not approve an application for an exemption certificate unless the applicant complies with all of the following requirements:

(a) The commencement of the restoration, replacement, or construction of the facility does not occur before the establishment of the commercial redevelopment district. An application for an exemption certificate shall be valid if filed within 45 days after commencement of the restoration, replacement, or construction.

(b) The application relates to a construction, restoration, or replacement program which when completed constitutes a new, replacement, or restored facility within the meaning of this act and which shall be situated within a commercial redevelopment district established in a local governmental unit eligible under this act to establish such a district.

(c) Completion of the facility is calculated to, and will at the time of issuance of the certificate have the reasonable likelihood to, increase commercial activity, create employment, retain employment, or prevent a loss of employment in the community in which the facility is situated.

History: 1978, Act 255, Imd. Eff. June 21, 1978

207.661 Valuation of facilities and property by assessor.

Sec. 11. The assessor of each city or township in which there is a restored facility, a new facility or a replacement facility with respect to which 1 or more commercial facilities exemption certificates are issued and in force shall determine annually as of December 31 the value of each facility separately, having the benefit of the certificates and upon receipt of notice of the filing of an application for the issuance of a certificate, shall determine and furnish to the local legislative body the value of the property to which the application pertains and other information as may be necessary to permit the local legislative body to make the determinations required by section 10(1).

History: 1978, Act 255, Imd. Eff. June 21, 1978

207.662 Commercial facilities tax; levy; amount; collection, disbursement, and assessment of tax; allocation; payment to state treasury and credit to state school aid fund; copy of amount of disbursement; facility located in renaissance zone; "casino" defined.

Sec. 12. (1) Except as provided in subsection (9), there is levied upon every owner of a new, replacement, or restored facility to which a commercial facilities exemption certificate is issued a specific tax to be known as the commercial facilities tax.

(2) The amount of the commercial facilities tax, in each year, for a restored facility shall be determined by multiplying the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is situated by the taxable value of the real property of the obsolete commercial property for the tax year immediately preceding the effective date of the commercial facilities exemption certificate after deducting the taxable value of the land and of personal property other than personal property assessed pursuant to section 14(6) of the general property tax act, 1893 PA 206, MCL 211.14.

(3) The amount of the commercial facilities tax, in each year, for a new or replacement facility shall be determined by multiplying the taxable value of the facility excluding the land and personal property other than personal property assessed pursuant to section 14(6) of the general property tax act, 1893 PA 206, MCL 211.14, by the sum of 1/2 of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located other than mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, plus, subject to section 12a, the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(4) The commercial facilities tax shall be collected, disbursed, and assessed in accordance with this act.

(5) The commercial facilities tax is an annual tax, payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, are payable. Except as otherwise provided in this section, the officer or officers shall disburse the commercial facilities tax payments received each year to and among the state, cities, townships, villages, school districts, counties, and authorities, at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(6) Except as provided in subsection (7), for intermediate school districts receiving state aid under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, of the amount that

would otherwise be disbursed to or retained by the intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of state school aid, shall be paid instead to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963. If the sum of any industrial facility taxes prescribed by 1974 PA 198, 207.551 to 207.572, and the commercial facilities taxes paid to the state treasury to the credit of the state school aid fund that would otherwise be disbursed to the local or intermediate school district, under section 11 of 1974 PA 198, MCL 207.561, and this section, exceeds the amount received by the local or intermediate school district under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, the department of treasury shall allocate to each eligible local or intermediate school district an amount equal to the difference between the sum of the industrial facility taxes and the commercial facilities taxes paid to the state treasury to the credit of the state school aid fund and the amount the local or intermediate school district received under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681. This subsection does not apply to taxes levied for either of the following:

(a) Mills allocated to an intermediate school district for operating purposes as provided for under the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a.

(b) An intermediate school district that is not receiving state aid under section 56 or 62 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656 and 388.1662.

(7) For commercial facilities taxes levied after 1993 for school operating purposes, the amount that would otherwise be disbursed to a local school district shall be paid instead to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(8) The officer or officers shall send a copy of the amount of disbursement made to each unit under this section to the commission on a form provided by the commission.

(9) A new, replacement, or restored facility located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the commercial facilities tax levied under this act to the extent

and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except for that portion of the commercial facilities tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. The commercial facilities tax calculated under this subsection shall be disbursed proportionately to the local taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff.

(10) As used in this act, facility does not include a casino. As used in this subsection, "casino" means a casino or a parking lot, hotel, motel, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

History: 1978, Act 255, Imd. Eff. June 21, 1978 ;-- Am. 1984, Act 135, Imd. Eff. June 1, 1984 ;-- Am. 1993, Act 340, Eff. Mar. 15, 1994 ;-- Am. 1994, Act 368, Imd. Eff. Dec. 27, 1994 ;-- Am. 1996, Act 450, Imd. Eff. Dec. 19, 1996 ;-- Am. 1998, Act 243, Imd. Eff. July 3, 1998 ;-- Am. 2008, Act 227, Imd. Eff. July 17, 2008
Compiler's Notes: Act 163 of 1989, purporting to amend MCL 207.622, could not take effect "unless amendment 2 of House Joint Resolution I of the 85th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution I was submitted to, and disapproved by, the people at the special election held on November 7, 1989.

207.662a Reduction in number of mills levied under state education tax act; limitation on number of exclusions.

Sec. 12a. (1) Within 60 days after the granting of a new commercial facilities exemption certificate under section 8 for a new or a replacement facility, the state treasurer may, for a period not to exceed 6 years, exclude up to 1/2 of the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, from the specific tax calculation on the facility under section 12(3) if the state treasurer determines that reducing the number of mills used to calculate the specific tax under section 12(3) is necessary to reduce unemployment, promote economic growth, and increase capital investment in qualified local governmental units.

(2) The state treasurer shall not grant more than 25 exclusions under this section each year.

History: Add. 2008, Act 227, Imd. Eff. July 17, 2008
Compiler's Notes: Former MCL 207.662a, which pertained to commercial redevelopment

district for property classified as commercial property, was repealed by Act 368 of 1994, Imd. Eff. Dec. 27, 1994.

207.663 Tax as lien upon real property; certificate of nonpayment and affidavit required for proceedings upon lien.

Sec. 13. The amount of the tax applicable to real property, until paid, shall be a lien upon the real property to which the certificate is applicable; but only upon the filing by the officer of a certificate of nonpayment of the commercial facilities tax applicable to real property, together with an affidavit of proof of service of the certificate of nonpayment upon the owner of the facility by certified mail with the register of deeds of the county in which the property is situated, may proceedings then be had upon the lien in the same manner as provided by law for the foreclosure in the circuit court of mortgage liens upon real property.

History: 1978, Act 255, Imd. Eff. June 21, 1978

207.664 Grounds for revocation of exemption.

Sec. 14. The legislative body of the local governmental unit may revoke the exemption if it finds that the completion of the facility has not occurred within 2 years after the effective date of the exemption certificate or a greater time as authorized by the legislative body for good cause, or that the holder of the exemption has not proceeded in good faith with the replacement, restoration, or construction and operation of the facility in good faith in a manner consistent with the purposes of this act and in absence of circumstances that are beyond the control of the holder of the exemption certificate.

History: 1978, Act 255, Imd. Eff. June 21, 1978

207.665 Transfer or assignment of certificate; approval; notice and hearing.

Sec. 15. A commercial facilities exemption certificate may be transferred and assigned by the holder of the certificate to a new owner or lessee of the facility but only with the approval of the local governmental unit after application by the new owner or lessee, and notice and hearing in the manner provided in section 6 for the application for a certificate.

History: 1978, Act 255, Imd. Eff. June 21, 1978

207.666 Report on status of exemption.
Sec. 16. Each governmental unit granting a commercial redevelopment exemption not later than October 15 each year shall report to the commission on the status of each exemption, including the current value of the property to which the exemption pertains, the value on which the commercial facilities tax is based, and a current estimate of the number of jobs retained or created by the exemption.

History: 1978, Act 255, Imd. Eff. June 21, 1978

207.667 Report on utilization of commercial redevelopment districts; economic analysis of costs and benefits.
Sec. 17. (1) The department of commerce annually shall prepare and submit to the taxation and economic development and energy committees of the house of representatives and the finance and corporations and economic development committees of the senate a report on the utilization of commercial redevelopment districts, based on the information filed with the commission.

(2) After this act has been in effect for 3 years, the department of commerce shall prepare and submit to the taxation and economic development committees of the house of representatives and the finance and corporations and economic development committees of the senate an indepth economic analysis of the costs and benefits of this act in the 3 communities where it has been most heavily utilized as determined by dollars of state equalized valuation foregone.

History: 1978, Act 255, Imd. Eff. June 21, 1978

207.668 Limitation on new exemptions; continuation of exemption.
Sec. 18. A new exemption shall not be granted under this act after December 31, 2020, but an exemption then in effect shall continue until the expiration of the exemption certificate.

History: 1978, Act 255, Imd. Eff. June 21, 1978 ;-- Am. 1983, Act 252, Imd. Eff. Dec. 29, 1983 ;-- Am. 1984, Act 342, Imd. Eff. Dec. 27, 1984 ;-- Am. 2008, Act 227, Imd. Eff. July 17, 2008

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Note: Shaded items are on CD and also in this book. Non-shaded items are only on the CD

C. Convention, Tourism & Recreation

D. Rehabilitation and Redevelopment