

Survey of Economic
Development Programs in
Michigan
Brownfield Authorities

Brownfield Authorities

Enabling Act, *Major Amendments*; Statutory Citation 1996 PA 381, 2000 PA 145; M.C.L. 125.2651; M.S.A. 3.540 (2651)

Summary Program Description

Brownfields, as defined by the United States Environmental Protection Agency, are “abandoned, idled, or under-used industrial or commercial facilities where expansion or re-development is complicated by real or perceived environmental contamination.”

This program allows local units of government to establish brownfields authorities and use tax increment financing (described on page 35) for environmental remediation of brownfield sites. Approved brownfield projects in approved brownfield authorities are eligible for Single Business Tax credits, described on page 11.

Benefits and Eligibility Criteria

Local units of government in Michigan are eligible to establish brownfield authorities. Brownfield authorities may be city-wide, but only allow tax capture from MDEQ approved brownfield plan sites.

In addition to tax increment financing now available to approved brownfield authorities, nearly one-half of a \$675 million bond issue approved by Michigan voters in 1998 is dedicated to brownfield remediation.

Terms and Performance Guarantees

Brownfields established under this act do not expire until the local authority board disbands the authority.

Definition of Blight and Functional Obsolescence

As defined in amendments to the Brownfield Redevelopment Act, “blighted” and “functionally obsolete” properties are defined as follows:

Blighted means property that meets any of the following criteria:

1. Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.
2. Is an attractive nuisance to children because of physical condition, use, or occupancy.
3. Is a fire hazard or is otherwise dangerous to the safety of persons or property.

4. 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.

5. 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.

Functional Obsolescence is defined as a property that 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.

Changes Since Program Inception

Michigan’s Brownfields legislation has undergone several major amendments, which effectively expanded the program, since the original legislation of 1996.

Public Act 145 of 2000 allowed for non-site-specific brownfield authorities, meaning that an approved brownfield development project could be located anywhere within the local unit.

PA 145 of 2000 also greatly expanded the definition of eligible properties for brownfield authorities, specifically by allowing the inclusion of blighted or functionally obsolete properties in the authority.

Data and Source

According to Richard C. Hula of the Department of Political Science and Urban Affairs at Michigan State University, as of June 1999 there were 121 brownfield authorities operating in the state.

Discussion

Brownfield redevelopment is a relatively recent economic development program. Historically, brownfields seek to rectify environmental cleanup lessons learned from the federal Superfund experience, where statutory intent to identify polluter liability had the unintended effect of scaring away potential lenders for site development or rehabilitation.

*Finance
Programs
and
Tax
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Brownfield Authorities, continued

The state of Michigan was relatively late in passing state tax-based brownfield incentive programs, yet Michigan's brownfield program is rated as one of the most successful by the Consumers Renaissance Development Corporation in *National Comparative Analysis of Brownfield Redevelopment Programs*, which ranked states' programs on liability protection, cleanup standards, financial incentives, and government support from both state and local levels.

For a thorough description of how to set up a Brownfield Authority, see *How to Set Up a Brownfield Redevelopment Authority and Adopt a Brownfield Plan*, by the Consumers Renaissance Development Corporation.

Municipal League Economic Development Tools

For a description of Brownfield Redevelopment Authorities, Downtown Development Authorities, Tax Increment Finance Authorities, Local Redevelopment Finance Authorities, Economic Development Corporations, Principal Shopping Districts, and Business Improvement Districts through June 2000, see the Michigan Municipal League website at www.mml.org/pdf/opp_economic.pdf.

CRC Report

Brownfield Tax Credits, continued

Through April 2000, the Environmental Response Division of the MDEQ reports grant and loan totals for the following program types:

Waterfront Grants	35 projects,	\$47,071,033
Site Reclamation Grants	56 projects,	\$32,413,282
Site Assessment Grants	99 projects,	\$ 7,889,951
Revitalization Loans	14 projects	\$ 4,679,987

Discussion

Among the most discussed topics in economic development in the 1990s, brownfield tax credits are private sector incentives for cleanup and reuse of contaminated industrial property.

Federal Brownfield Incentives

The federal Taxpayer Relief Act of 1997 provides for federal tax credits for approved remediation costs associated with brownfield properties in targeted areas, namely:

properties within a 1990 census tract with a poverty rate of 20 percent or more, or properties within a 1990 census tract with a population of less than 2,000 if

- (a) more than 75 percent of the tract is zoned for a commercial or industrial use, and
- (b) the tract is next to another census tract(s) with a poverty rate of 20 percent or more, or
- (c) properties within any federally-designated Empowerment Zone or Enterprise Community, or properties within a US Environmental Protection Agency (EPA) Brownfields Pilot project area announced before February 1, 1997.

Sites on the Superfund National Priority List are not eligible for the Brownfields Tax Incentive. Visit the EPA Superfund website at <http://www.epa.gov:80/superfund/oerr/impm/products/npl/npl.htm> for a complete listing of Superfund sites in Michigan.

Other federal EPA brownfield resources include the Revolving Loan Fund Pilot program and the Targeted Brownfields Assessments program.

Revolving Loan Fund Pilot Programs

As of January 2001, Michigan is host to five EPA Revolving Loan Fund Pilot programs, each designed to leverage federal funds with state and local funds for brownfield remediation, and, as pilot projects, to obviate problems and to seek suitable methods for state and local finance of brownfield remediation statewide. These are:

City of Battle Creek City of Dearborn City of Detroit City of Trenton Wayne County

For information on these pilot programs in Michigan visit the EPA website at www.epa.gov/brownfields.

Targeted Brownfields Assessments

The Environmental Protection Agency's Economic Redevelopment Initiative offers funding and technical assistance for certain costs associated with assessment for remediation of certain contaminated sites.

A Targeted Brownfields Assessment may encompass one or more of the following activities (courtesy of the EPA):

1. A screening (phase I) assessment, including a background and historical investigation and a preliminary site inspection;
2. A full (phase II) site assessment, including sampling activities to identify the types and concentrations of contaminants and the areas of contamination to be cleaned;
3. Establishment of cleanup options and cost estimates based on future uses and redevelopment plans.

Brownfield Tax Credits, continued

Federal Brownfield Incentives, continued

Targeted Brownfields Assessment funding may only be used at sites as authorized by the Comprehensive Environmental Response, Compensation and Liability Act (Superfund) of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986. Sites contaminated only with petroleum products are not eligible.

* > Project selection criteria include (but not limited to):

1. Site control and ownership transfer is not an impediment—preference will be given to sites that are publicly owned, either by a municipality or quasi-public entity such as a community development corporation.
2. There is a strong municipal commitment of resources to other components of the project.
3. There is a clear municipal/community vision and support for property revitalization.
4. There are adequate leveraged funds available for cleanup and redevelopment, and/or the site has strong developmental potential (perhaps demonstrated by past or present developer interest).
5. EPA assessment assistance is crucial to the site's redevelopment; lack of an assessment has proven to be an obstacle at the site.
6. Existing information supports redevelopment; the site will likely have low to moderate contamination levels, and redevelopment will provide tangible benefits to the community.
7. The project area has a clear need for revitalization evidenced by significant deterioration and/or significant environmental justice issues.
8. There is clear coordination between the EPA Region and the State or Tribe.
9. The Targeted Brownfields Assessment is consistent with other EPA and federal agency initiatives; the site has an important link to other EPA/State or EPA/Tribal initiatives; a direct health or environmental threat will be mitigated or site revitalization will serve to spur further beneficial activity in the surrounding area.

Fiscal Year 2001 funding for the Brownfields Cleanup Revolving Loan Fund (BCRLF) program and the Targeted Brownfields Assessment program includes up to \$1 million BCRLF loans and grants (per project); \$200,000 site assessment grants; \$150,000 supplemental site assessment grants; and \$200,000 job training grants for training in assessment and remediation. The number of awards is made on a year to year basis with national competition for each grant. Contact the Michigan Department of Environmental Quality for state information on EPA programs.

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