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JANUARY 5, 2017 | ARTHUR SIEGAL

Brownfield Funding Legislation Enacted



The bills passed. At last. As you may recall from two years ago, I served on an MDEQ-led task force to review and improve the “patchwork quilt” of statutes and rules regarding brownfield redevelopment incentives, grants, and loans. A CSI II group (of which, in full disclosure, I chaired the Legislative Committee) met regularly in 2014. The changes certainly would’ve been introduced earlier but the Flint Water Crisis happened and everyone’s attention was diverted. Earlier this year, a [package of six bills](#) was introduced in the Legislature; on the 15th they were passed and on January 5, 2017, the Governor signed them. They take effect in 90 days and are now 2016 Public Acts 471—476.



These changes streamline, simplify and speed up the process for loan, grant and TIF approvals to enable projects to get started faster than ever before while supporting a greater range of eligible activities than previously available.

The most significant changes include:

- demolition, lead abatement, asbestos abatement dredging and excavation of uncontaminated but unusable soils may be eligible for grant and loan funding, subject to certain criteria and prerequisites (such as a threshold that at least 51% of the eligible activities are part 201 type expenses);
- one can be technically liable under Part 201, TSCA or RCRA and still be eligible for grant, loan or TIF funding – previously, even someone who submitted a technically deficient BEA was barred from eligibility – with a renewed emphasis on remediation and redevelopment, only those who actually caused contamination are barred from eligibility, again, subject to certain criteria and prerequisites;
- while the definition of “eligible property” was changed very little, activities eligible for funding through TIF are broadened to include such things as due care expenses, UST removals, solid waste disposal, sediment removal and disposal (where either the sediments or the upland are contaminated), plan preparation and implementation costs (subject to certain conditions and caps), including the costs to track plan compliance and a clearer set of sheeting and shoring costs;
- overall streamlining of the application and review processes in an effort to speed up the TIF process including giving greater authority to the Michigan Strategic Fund to approve plans of up to \$1 Million without waiting for a Fund Board meeting.

There was some tension between those championing redevelopment and those focusing on environmental remediation but, ultimately, the set of changes to the rules and statutes clarifying the process for obtaining loans, grants and tax increment financing for brownfield redevelopment. Not every issue was agreed upon and there was a list of so-called “parking lot issues” (either because they were discussed at length in the parking lot after the meetings or because we “parked them” there as we couldn’t reach consensus). Hopefully, some of these will

be addressed in the near future but these changes should streamline, simplify and speed up the process for loan, grant and TIF approvals to enable projects to get started faster than ever while supporting a greater range of eligible activities than previously available. Given the Legislature's unwillingness to approve other similar bills, this was a real accomplishment for brownfield redevelopment in the State of Michigan.

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