

2016-2017 LEGISLATIVE UPDATES

Summary of Amendments

2016 Public Act (PA) 471 and 2017 PA 046 Amendments to the Brownfield Redevelopment Financing Act, 1996 PA 381 (Act 381), ([Michigan Compiled Law \[MCL\] 125.2663 through 125.2672](#))

Amendments to Act 381 in 2016 and 2017 resulted in changes to both the program and the statute's organization and clarity. Legislative references were made consistent with Part 201 and added for Parts 211 and 213 of 1994 PA 451, as amended, the Natural Resources Environmental Protection Act (NREPA). Sections and subsections were reorganized to clarify and simplify the statute. Other changes were more substantial. This Update is a guide to the location and content of changes.

New Location	Old Location	Change	Why
125.2652 Definitions			
(b)	(c)	Modified "Baseline environmental assessment" (BEA)	
N/A	(a)	Deleted "Additional response activities"	The term is no longer in use. The concept was kept and included in the definition of "Response activity"
N/A	(d)	Deleted "Baseline environmental assessment activities"	The term was deleted from the statute and does not need to be defined
(c)	(e)	"Blighted" was modified. (vi) "is property owned" was changed to "is property owned by" (vii) "has substantial subsurface demolition debris buried on site" was changed to "has substantial buried subsurface demolition debris present"	For clarity
(e)	(g)	Modified "Brownfield plan" to include a reference to Section 13b of Act 381	Section 13b was added to the statute and content associated with brownfield plans now resides in both Section 13 and 13b

New Location	Old Location	Change	Why
(i)	Not previously included	Added definition of “construction period tax capture revenues”	To add reference to a definition of tax revenues that can be captured with the adoption of a transformational brownfield plan
(j)	Not previously included	Added “Corrective action”	To include the Resource Conservation and Recovery Act and underground storage tank activities under Part 111 (MCL 324.11101 through 324.11153) and Part 213 (MCL 324.21301 through 324.21334) of NREPA
(l)	Not previously included	<p>Added “Department-specific activities” including BEAs, due care activities, response activities, and other environmental actions, including, but not limited to:</p> <ul style="list-style-type: none"> (i) response activities that are more protective of the public health, safety, and welfare and the environment (ii) removal and closure of regulated and unregulated underground storage tanks (USTs) (iii) disposal of solid waste, as defined in Part 115 of NREPA (Part 115) (iv) dust control related to construction activities (v) dredging of contaminated lake or river sediments, or sediments related to an economic development project where the upland property is a facility or would become one with the deposition of dredged spoils (vi) industrial cleaning (vii) sheeting and shoring for the removal of contaminated materials (viii) lead, mold, or asbestos abatement when they pose an imminent and significant threat to human health 	To clearly define and add reference to specific Department of Environmental Quality (DEQ)-eligible activities

New Location	Old Location	Change	Why
(m)	(l)	Modified “Due care activities” to include a reference to Part 213	To add due care for leaking underground storage tank (LUST) sites
(n)(ii)	(m)(ii)	In “Economic Opportunity Zone,” replaced “facility” with “operation”	To not confuse with a “facility” that is an eligible property
(o)	(n)	Reorganized “Eligible activities” into three categories including: (i) Activities for ALL eligible properties (ii) Additional activities for Qualified Local Units of Government (QLUGs) or former mills; and (iii) Additional activities for properties owned by land banks or QLUGs	Reorganized for clarity. The previous version of the legislation organized the activities in (i)-(iii) in a confusing manner. Reorganizing clarifies which activities are eligible for what situation. Eligible activities remain the same unless specifically identified below.
(o)(i)(A)	Not previously included	Added “Department-specific activities” such as BEAs, due care activities, and additional response activities to the definition of “department-specific activities”	Added for clarity
(o)(i)(D)	(n)(vii)	Added “for the eligible property including legal and consulting fees not related to the ordinary costs of acquiring and developing real estate”	Makes attorney and consultant fees on particularly complicated projects an eligible activity
(o)(i)(E)	Not previously included	Added “Reasonable costs of brownfield plan and work plan implementation including, but not limited to, tracking and reporting of data and plan compliance and the reasonable costs incurred to estimate and determine actual costs incurred, whether those costs are incurred by a municipality, [brownfield redevelopment] authority or a private developer”	Makes data tracking and reporting eligible if related to eligible activities and plan compliance. Limits are provided in 125.2663b(7)(b)(ii)
(o)(i)(G)	(n)(vi)(C)	Added mold abatement	New activity
(o)(i)(H)	Not previously included	Added “The repayment of principal of and interest on any obligation issued by an [brownfield redevelopment] authority to pay the costs of eligible activities attributable to an eligible property”	To specify that tax increment financing (TIF) can be used to repay bonds and loans for eligible activities

New Location	Old Location	Change	Why
(p)	(o)	Modified “Eligible property” i. Modified to include Part 213 sites ii. Modified to include historic resource, functionally obsolete, blighted, or Part 213 sites iv. Replaced “transit oriented facility” with “transit-oriented property” and combined with transit-oriented development v. Added text indicating qualified agricultural land is not eligible property	i. To include LUST sites ii. To clarify properties not in a QLUG can qualify based on more than a facility designation iv. To simplify and avoid confusion with the use of the term “facility” v. To clarify that qualified agricultural land exempt from property tax is not eligible property
N/A	(o)(iv)	Deleted eligible property reference to “qualified facility”	The term qualified facility is no longer in use
(p)(ii)	(o)(v)	Moved non-QLUG concept	Moved for reorganization
(t)	(o)(vi)	Moved reference to former mill	Incorporated into the eligible activity section o(ii) and defined in section (t)
N/A	(o)(vii)	Deleted reference to property located above the 45 th parallel	No longer relevant as all properties are eligible for demolition and abatement
(r)	(q)	“Facility” modified	To simplify Part 201 citation
(t)	(o)(vi)	Added to definition of “Former Mill” that the site could be located within 15 miles of a river that is a superfund site. The previous definition required site to be located “on” the river	Moved from eligible property to simplify, modified for clarity
(x)	Not previously included	Added definition of “income tax”	To add reference to a tax that can be captured with the adoption of a transformational brownfield plan
(y)	Not previously included	Added definition of “income tax capture revenues”	To add reference to tax revenues that can be captured with the adoption of a transformational brownfield plan
(z)	Not previously included	Added definition of “Industrial cleaning”	Industrial cleaning is a new department-specific activity under 125.2652(l)

New Location	Old Location	Change	Why
(aa)	(v)	Replaced “transit-oriented facility” with “transit-oriented property”	“Transit-oriented facility” term is no longer in use
(bb)	Not previously included	Added definition of “Initial income tax value”	For adoption of a transformational brownfield plan
(cc)	(w)	Modified “Initial taxable value” to allow initial assessed value to be lowered once during the term of the brownfield plan after 3 consecutive years of decreasing property values	Allows a one-time adjustment of initial assessed value when a plan fails to generate capturable taxes
N/A	(cc)	Deleted “Qualified facility”	The term is no longer in use
(dd)	Not previously included	Added definition of “initial withholding tax value”	For adoption of a transformational brownfield plan
(hh)	Not previously included	Added definition of “mixed-use”	To define the term as it pertains to brownfield redevelopment
(jj)	(bb)	Added QLUG to definition of “Owned by or under the control of”	Definition applies to both land banks and QLUGs, so QLUG was added to clarify
(kk)	Not previously included	Added “Part 111,” “Part 201,” “Part 211,” and “Part 213”	To simplify citations to Part 201 and Part 213. The references are now defined on their own
(nn)	125.2663(7)	Modified definition of “Release.” Content associated with eligible costs was deleted	Modified to extend benefits of Act 381 to LUST sites Deleted wording specifying that offsite migration from an eligible property can be an eligible activity
(oo)	(ff)	Modified “Response activity” to simplify Part 201 and Part 213 citations	Citations are now defined individually
(rr)	(o)(x)	Moved “Targeted Redevelopment Area”	Moved from within the definition of eligible property to a stand-alone location
(ss)(ii)	(ii)	Added corridor improvement authority (CIA) to the list of exclusions in the definition of tax increment revenues (TIR). Added legislative citations for all exclusions listed in this section	To reference other corresponding finance acts and assure that CIA districts were also included in the exemption

New Location	Old Location	Change	Why
(vv)	Not previously included	Added definition of “transformational brownfield plan”	To define transformational brownfield plans
(yy)	Not previously included	Added definition of “withholding tax capture revenues”	For adoption of a transformational brownfield plan
125.2653 Brownfield redevelopment authority; establishment; exercise of powers; alteration or amendment of boundaries; authority as public body corporate; written agreement with county			
(1) and (4)	Unchanged	Modified language associated with the effective date of a previous amendment to include the actual date	For clarity
125.2654 Resolution by governing body; adoption; notice; public hearing; proceedings establishing authority; presumption of validity; exercise of powers as essential governmental function			
N/A	(6)	Deleted “qualified facility”	The term is no longer in use
125.2657 Powers of authority; determining captured taxable value; transfer of municipality funds to authority			
(1)(c)	Unchanged	Replaced: <ul style="list-style-type: none"> • “municipality” with “authority” • “site remediation” with “brownfield” 	<ul style="list-style-type: none"> • To allow brownfield redevelopment authorities to incur costs and expend funds from the Local Brownfield Revolving Fund (LBRF). Note: funds must be expended on eligible property included in an adopted brownfield plan • To change the name of the Local Site Remediation Revolving Fund (LSRRF) to LBRF to be consistent with the term for the state brownfield revolving fund
125.2658 Local brownfield revolving fund (name changed)			
(1)	Unchanged	Replaced “site remediation” with “brownfield”	To change the name of the LSRRF to LBRF
(1)(b)	(2)	Deleted reference to section 13(5) and moved that content to this section	Reorganized for clarity

New Location	Old Location	Change	Why
(1)(b)(i)-(iv)	125.2663(5)	Modified capture of excess TIR including the authorization to capture taxes for the LBRF when all of the following conditions are met: <ul style="list-style-type: none"> i. The excess capture into the LBRF occurs during the time of capture for eligible activities, or not more than 5 years after, or both ii. Excess local capture cannot exceed the total cost of eligible activities approved in the brownfield plan iii. Excess state capture cannot exceed the total cost of department specific activities if approved by the DEQ iv. Excess school TIR for Michigan Strategic Fund (MSF)-eligible activities cannot be captured and deposited into the LBRF 	Modified conditions to allow brownfield redevelopment authorities (BRAs, also referred to in this document and the statute as “authority”) more flexibility to capture TIR for its LBRF, and to make specific limits on local and state capture to an LBRF. The revisions clarify that BRAs cannot capture more than the total amount approved in a brownfield plan.
(2)	Unchanged	Modified language so that State Education Tax (SET) captured for an LBRF is subject to the state Brownfield Redevelopment Fund (BRF) SET capture limit of 50%	For clarity
(3)	125.2663(5)	Modified language so that SET capture for an LBRF cannot exceed SET capture from eligible activities at the eligible property	For clarity
(4)	(2)	Replaced “site remediation” with “brownfield”	For the name change from LSRRF to LBRF
(5)	(3)	Replaced “site remediation” with “brownfield”	For the name change from LSRRF to LBRF
125.2658a State brownfield redevelopment fund (name changed)			
(2)(a)	Unchanged	Modified reference for section 13(21) to section 13b(14) and added reference to subsection (4)	Sections changed during reorganization and subsection (4) was added for transformational brownfield plans
(3)(a)	(4)	Modified 15% administrative costs for state	For clarity
(3)(a)(iv)	Not previously included	Added “The department of treasury to implement this act”	New transformational brownfield plan legislation
(3)(b)	(3)(c)	Modified use of the state BRF to fund a DEQ grant and loan program	For clarity

New Location	Old Location	Change	Why
(3)(c)	(3)(b)	Modified use of the state BRF to fund a Michigan Economic Development Corporation (MEDC) grant and loan program	For clarity
(3)(c)(i)	Unchanged	Deleted first sentence	Was redundant with section (3)(c)
(3)(c)(iii)	Unchanged	Modified MSF grant and loan application approval timeframe from 90 days to within 60 days	To reduce the approval time for projects and provide a consistent review timeframe
(3)(c)(vi)	Unchanged	Added “or to the fund from which the loan was generated, as defined in subsection (3)(b) and (c)”	To address logistical issues associated with setting up loan accounts with funds from the state BRF
(3)(d)	Not previously included	Added language for SBRF distribution of construction period tax revenues, withholding tax revenues, and income tax revenues captured by a transformational brownfield project	New transformational brownfield plan legislation
(4)	Not previously included	Added language to direct the state treasurer to deposit construction period tax capture revenues, withholding tax capture revenues, and income tax revenues into the SBRF and to distribute revenues due to the authority, owner, or developer	New transformational brownfield plan legislation
125.2661 Financing sources of authority activities			
(c)	Unchanged	Modified to add reference to section 13b	Result of reorganization
(e)	Unchanged	Replaced “site remediation” with “brownfield”	For the name change from LSRRF to LBRF
(f)	Not previously included	Added language to indicate that construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues can finance authority activities	New transformational brownfield plan legislation

New Location	Old Location	Change	Why
125.2663 Brownfield plan; provisions (reorganized into 3 sections; 13, 13a, and 13b)			
		Reorganized former Section 13 (125.2663) into three smaller sections: Section 13: Focuses on brownfield plans, contents, and provisions Section 13a: Focuses on recovery of funds Section 13b: Focuses on use of funds	
(1)	125.2664(9)	Moved reference to brownfield plan notice and approval provisions	Moved for consistency
N/A	(1)(m)	Deleted the requirement to include a description of the proposed use of the LSRRF (now LBRF) in a brownfield plan	Deleted to allow BRAs to use LBRF prior to having a brownfield plan
(2)(c)	Unchanged	Replaced “site remediation” with “brownfield” and changed reference for section 2(mm) to 2(ss)	For the name change from LSRRF to LBRF and to accommodate changes from transformational brownfield plan legislation
(2)(f)	(1)(f)	Added “proposed” in reference to the beginning date and duration of capture of TIR	“Proposed” was added since the actual date may change and is dependent on the timing of the development
(2)(g)	(1)(g)	Replaced “impact of tax increment financing on the” with “future tax” and added “to be generated during the term of the plan” at the end of the statement	Modified for clarity
(2)(m)	(1)(n)	Added “to the brownfield plan”	To clarify that the information included should be pertinent to the brownfield plan
(3)	(2)	Modified to specify that the percentage of SET captured at an eligible property under a brownfield plan cannot exceed the percentage of local TIR captured for that eligible property under the brownfield plan	Modified for clarity

New Location	Old Location	Change	Why
(4)	(3)	Added reference to section 13c(12) and replaced “costs” with “1 or more of the following.” (4)(a) addresses eligible activities on eligible properties and (4)(b) addresses properties owned by a land bank or QLUG	Reference added to accommodate the transformational brownfield plan legislation. The section was broken into two subsections to clarify where TIR can be used under a brownfield plan
(5)	(4)	Merged contents of former (4) and (5). Created subsections (5)(a) and (5)(b). Moved content describing exceptions to TIR capture from (5) to subsections (5)(a) and (5)(b)	Exceptions were restructured into subsections for clarity
(5)	(22)	Clarified that capture can occur until activity costs are reimbursed OR for a maximum of 30 years	For clarity
(5)(a)	(5)	Modified to clarify that TIR captured for an LBRF can occur simultaneously with TIR captured to pay for eligible expenses. Added reference to non-environmental eligible activities permitted by section 13b(4)	For clarity
(5)(b)	(5)	Moved and modified the section specific to an LBRF	Modified for clarity
N/A	(9)	Deleted notice requirements for approval of a brownfield plan	All approval, notice and public hearing information has been moved to section 125.2664 so this is no longer necessary
125.2663a Cost recovery action			
125.2663a	125.2663(8)	Section 13a was created to segregate cost recovery	For clarity
125.2663a	Not previously included	Added “party that is responsible for an activity causing a release.” Modified cost recovery notice time to liable party from 120 days to 60 days	Clarifies that costs can be recovered only from a causationally liable party
125.2663b Use of taxes captured from eligible property			
125.2663b		Section 13b was created to focus on the use of captured taxes	

New Location	Old Location	Change	Why
(1)	125.2663(6)	Moved use of TIR for property acquisition or site preparation at an eligible property, if acquisition or preparation are eligible activities	To improve organization
N/A	1(m)	Removed the requirement to include a description of the proposed use of the LSRRF (now LBRF) in a brownfield plan	To allow BRAs to use LBRF prior to having a brownfield plan
(2)	125.2663(14)	Moved forbidden agreements with taxing jurisdictions for sharing portions of captured taxes. Modified “capture of taxable value” to “taxes captured”	To improve organization
(3)	Not previously included	Added language to prohibit capture of SET and local TIR to reimburse a land bank to clear or quiet a title, or acquire, sell, or convey property unless otherwise permitted	Added for clarification
(3)(d), (3)(e), (4), (4)(c)	125.2663(18)	Moved submittal of the combined brownfield plan or work plan to the Michigan Strategic Fund	To improve organization
(4), (4)(a), (b), (c), (d), (e)	125.2663(15)	Moved and modified requirements for SET capture for non-environmental eligible activities on eligible property	To improve organization
(4)(c)	125.2663(18)	Moved and modified form for plan submittal to Michigan Strategic Fund	To improve organization
(5)	125.2665(1)(a)	Moved and modified department-specific activities must be in an approved work plan to use SET for environmental eligible activities	To improve organization
(6)(a) and (b)	125.2665(1)(b) and (d)	Modified actions the BRA shall not do, including using TIR from eligible property to pay for eligible activities conducted prior to inclusion in a brownfield plan and to pay for unauthorized administrative costs	To improve organization

New Location	Old Location	Change	Why
(6)(d) and (e)	Not previously included	Added language to indicate that construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues can't pay for eligible activities prior to inclusion in a transformational brownfield plan, except <ul style="list-style-type: none"> • Costs in section 13c(10) • Any cost other than provided in section 13c(2) preparing/implementing a transformational brownfield plan, work plan, development or reimbursement agreement • The authority's administrative costs associated with implementing the plan 	To accommodate transformational brownfield plan legislation
(7)	125.2666(a) - (c)	Moved BRA use of TIR for administrative and operating costs	To improve organization
(7)(a)	125.2663(16)(a)	Makes legal and consulting fees associated with preparation of plans beyond typical costs for real estate transactions and implementation of plans eligible under local TIR	To improve organization
(7)(b)	Not previously included	Makes legal and consulting fees associated with preparation of plans beyond typical costs for real estate transactions and implementation of plans eligible under school TIR, and adds a \$30,000 cap each for preparation and implementation of plans	To provide improved guidance
(7)(c)	125.2663(19)	Moved the amount of TIR from local taxes that can be captured by BRAs for administration based on the number of active projects	To improve organization
(7)(d)	Not previously included	Added "Nothing contained in this subsection shall limit the amount of funds that may be granted, loaned, or expended by a local brownfield revolving fund for eligible activities."	Administration limits do not apply to use of an LBRF for eligible activities
(7)(e)	125.2663(20)	Moved the definition of an "active project" and amount of TIR that can be increased for county administration of local BRAs	To improve organization

New Location	Old Location	Change	Why
(8)	125.2663(16)(b)	Added pre-demolition, hazardous materials, asbestos, mold, and lead surveys to pre-approved eligible environmental activities	For clarity
(9)	125.2663(16)(c)(i) through (iii)	Modified to require written consultation before unanticipated response activities, local-only activities, and non-environmental activities are conducted	Written consultation added for clarity
(10)	125.2665(1)(c)	Revised to allow TIF for response activities at property owned by a party who may be statutorily liable but not causationally liable; and to include LUST sites	To expand allowable uses of TIF in some circumstances
(11), (12), (13)	125.2663(17)	Modified BRA ability to make advances for eligible activities, capture TIR for interest on advances, enter a reimbursement agreement	For clarity
(14), (15)	125.2663(21)	Modified payment of TIR into the state BRF from “an amount equal to 3 mills” to “an amount equal to 50%” of the SET. Payment of TIR into the state BRF is required either for 25 years, until eligible expenses are repaid, or until LBRF capture ends, whichever is later	Change from 3 mills to 50% of SET made because 6 mills are not always available for capture
(16)	125.2663(22)	Establishes the proposed beginning date of tax capture and 30-year cap	For clarity
125.2663c Transformational brownfield plan			
125.2663c	Not previously included	Section 13c was created for transformational brownfield plans	New transformational brownfield plan legislation
(1)	Not previously included	Added language for implementation of transformational brownfield plans as approved by the governing body and MSF	New transformational brownfield plan legislation
(2)	Not previously included	Added language to authorize use of construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and tax increment revenues for eligible activities on eligible property under a transformational brownfield plan	New transformational brownfield plan legislation

New Location	Old Location	Change	Why
(3)	Not previously included	Identifies information required for a transformational brownfield plan that is not generally included in a traditional brownfield plan	New transformational brownfield plan legislation
(4)	Not previously included	Added language to require a clear statement of the portion of tax increment and tax capture revenues in the plan	New transformational brownfield plan legislation
(5)	Not previously included	Added language to require the same notice process for transformational brownfield plans and traditional brownfield plans. Notice must be provided to the MSF not less than 30 days prior to the public hearing for the plan	New transformational brownfield plan legislation
(6)	Not previously included	Added language to require an MSF-approved work plan or combined brownfield plan and a written development or reimbursement agreement between the MSF, authority, and developer for use of construction period tax capture revenues, withholding tax capture revenues, or income tax capture revenues. The same combined plan and or work plan shall be used for tax increment revenue capture	New transformational brownfield plan legislation
(7)	Not previously included	Added language to require the state and taxing units to transfer and distribute construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues for purposes of the plan after approval of a transformational brownfield plan; approval of a combined brownfield plan and work plan; and execution of a development or reimbursement agreement	New transformational brownfield plan legislation
(8)	Not previously included	Added language to prohibit tax capture after the year in which the permitted costs are funded under a transformational brownfield plan	New transformational brownfield plan legislation
(9)	Not previously included	Added language to give an authority and/or MSF discretion to approve reimbursement of interest under a transformational brownfield plan	New transformational brownfield plan legislation

New Location	Old Location	Change	Why
(10)	Not previously included	Added language to permit retroactive approval of eligible activities with approval of a transformational brownfield plan if eligible expenses are incurred within 90 days of approval	New transformational brownfield plan legislation
(11)	Not previously included	Added language to limit tax capture to 20 years under a transformational brownfield plan. The beginning date of tax capture cannot be later than 5 years after the approval date	New transformational brownfield plan legislation
(12)	Not previously included	Added language to define related program of investment on non-contiguous parcels: <ul style="list-style-type: none"> • Developments are undertaken concurrently • For developments under affiliated ownership, the developments shall be relatively contiguous • For developments under unrelated ownership, the developments are part of a master plan or similar development plan • Can't be a combination of unrelated or minimally related projects calculated to meet the minimum investment threshold 	New transformational brownfield plan legislation
(13)	Not previously included	Added language to allow exemptions, deductions, or credits for a property included in a transformational brownfield plan to be terminated, as provided under the Michigan Renaissance Zone Act	New transformational brownfield plan legislation
(14)	Not previously included	Added language to give sole responsibility for deciding whether to seek approval of a brownfield plan as a transformational brownfield plan to the authority and governing body	New transformational brownfield plan legislation
(15)	Not previously included	Added language to establish the minimum investment requirement for projects located in more than one municipality and seeking approval from a county brownfield redevelopment authority	New transformational brownfield plan legislation

New Location	Old Location	Change	Why
125.2664 Brownfield plan; approval; public hearing; record; notice; public purpose; determination; amendments to plan; validity of procedure, notice, and findings; presumption; abolishment or termination of plan			
(1)	125.2663(10)	Moved public hearing requirement for approval of a brownfield plan	To improve organization
(2)	125.2663(11)	Moved public hearing notice content requirement for approval of a brownfield plan	To improve organization
(3)	125.2663(12)	Moved public hearing procedure requirement for approval of a brownfield plan	To improve organization
(4)	125.2663(13)	Moved timing for taxing jurisdiction notice for approval of a brownfield plan	To improve organization
(5)(a)	(1)(a)	Added reference to section 13b	For clarity
(8) and (8)(a) through (d)	16(8) and 16(8)(a) through (d)	Modified to allow a plan to be abolished within two years if the project identified in the plan does not occur, provided that governing body gives 30 days' written notice to the developer and allows the developer to be heard at a public meeting	To facilitate redevelopment if the original project stalls
125.2664a Transformational brownfield plan; approval and review by governing body and Michigan Strategic Fund			
125.2664a	Not previously included	Section 14a was created for transformational brownfield plans	New transformational brownfield plan legislation
(1)	Not previously included	Added language to give the governing body and MSF authority to approve transformational brownfield plans	New transformational brownfield plan legislation
(2)	Not previously included	Added language to require the governing body to determine that the transformational brownfield plan constitutes a public purpose	New transformational brownfield plan legislation
(3)	Not previously included	Added language to authorize the governing body to approve or reject a transformational brownfield plan that constitutes a public purpose based on several listed considerations	New transformational brownfield plan legislation

New Location	Old Location	Change	Why
(4)	Not previously included	Added language to authorize the MSF to approve or reject an administratively-complete transformational brownfield plan within 90 days of application	New transformational brownfield plan legislation
(5)	Not previously included	Added language to require the MSF to analyze the project's financial viability	New transformational brownfield plan legislation
(6)	Not previously included	Added language that prohibits the MSF from approving a transformational brownfield plan unless MSF determines that the project will have a positive fiscal impact	New transformational brownfield plan legislation
(7)	Not previously included	Added language to require a third-party underwriting, fiscal, and economic analysis for any plan proposing to use more than \$1.5M in a year in withholding tax capture revenues and income tax capture revenues	New transformational brownfield plan legislation
(8)	Not previously included	Added language to prohibit MSF approval of a transformational brownfield plan that will use more than 50% of the withholding tax capture revenues or income tax capture revenues, unless the owner or developer elects to terminate exemptions, deductions, or credits provided by the Michigan Renaissance Zone Act	New transformational brownfield plan legislation
(9)	Not previously included	Added language to require owner or developer certification of the actual capital investment following construction and prior to reimbursement. If the actual capital investment is less than estimated in the transformational brownfield plan, the MSF may modify reimbursement as necessary	New transformational brownfield plan legislation
(10)	Not previously included	Added a list of instances where minimum investment may be waived	New transformational brownfield plan legislation
(11)	Not previously included	Added language to require the MSF and governing body to consider the transformational brownfield plan's impact and whether it will be a catalyst for additional revitalization.	New transformational brownfield plan legislation
(12)	Not previously included	Added language to limit MSF approval to no more than five transformational brownfield plans per calendar year	New transformational brownfield plan legislation

New Location	Old Location	Change	Why
(13)	Not previously included	Added submittal and notice requirements for transformational brownfield plan amendments	New transformational brownfield plan legislation
(14)	Not previously included	Added language to indicate an amendment to an existing plan is not a new transformational brownfield plan unless the amendment adds new eligible property, and the MSF determines that approving the addition as an amendment is not consistent with the act	New transformational brownfield plan legislation
(15)	Not previously included	Added policies describing validity of procedure, adequacy of notice, and findings under this section	New transformational brownfield plan legislation
(16)	Not previously included	Added policy for compliance with minimum investment requirement	New transformational brownfield plan legislation
(17)	Not previously included	Added language to include economic obsolescence in determination of functional obsolescence	New transformational brownfield plan legislation
(18)	Not previously included	Added language to require MSF determinations to be supported by documented objective analysis	New transformational brownfield plan legislation
(19)	Not previously included	Added an application fee for MSF review and approval of transformational brownfield plans	New transformational brownfield plan legislation
(20)	Not previously included	Added language to limit annual tax capture committed by MSF or disbursed by treasury for all transformational brownfield plans to \$40M	New transformational brownfield plan legislation
(21)	Not previously included	Added language to limit income tax capture revenues and withholding tax capture revenues committed by MSF or disbursed by treasury to \$800M	New transformational brownfield plan legislation
(22)	Not previously included	Added language to limit construction period tax capture revenues and projected sales and use tax exemptions for transformational brownfield plans to \$200M	New transformational brownfield plan legislation

New Location	Old Location	Change	Why
(23)	Not previously included	Added language to require MSF to: <ul style="list-style-type: none"> • Approve no more than five transformational brownfield plans in one calendar year. If fewer than five are approved, the remaining number can carry forward • Approve no more than five transformational brownfield plans in any individual city township, or village prior to 12/31/2022 • Ensure equitable geographic distribution of approved transformational brownfield plans • Determine appropriate provisions for affordable housing 	New transformational brownfield plan legislation
(24)	Not previously included	Added language to require MSF approval prior to assigning or transferring a development or reimbursement agreement	New transformational brownfield plan legislation
(25)	Not previously included	Added language to prohibit use of MEDC Community Revitalization Program grants for projects in a transformational brownfield plan	New transformational brownfield plan legislation
(26)	Not previously included	Added 12/31/2022 sunset for approval of new transformational brownfield plans	New transformational brownfield plan legislation
125.2665 Work plan; documents to be submitted for approval; conditions for approval; written response; time limitations; department specific activities; review by department; approval or denial of work plan as final decision; appeal; approval by Michigan strategic fund; duties; distribution of remaining funds; extension of review period; approval of combined brownfield plan			
		General section changes: Replaced references to BEA and due care activities with “department-specific” activities throughout Added Part 213 references throughout	BEA and due care activities have now been defined as “department-specific” activities References to 213 will include LUST sites
(2)(b)	(3)(b)	Added “modified” to a conditional approval of individual activities “modified” by the DEQ	DEQ can’t conditionally approve modifications to the local-only portion of a project
(3)(b)(ii)	(4)(b)(iii)	Modified cost to implement activities	For clarity

New Location	Old Location	Change	Why
(7)	(8)	“Additional response activities” is no longer a recognized term and was replaced with “department specific activities that are more protective of public health, safety, welfare, and the environment.”	For clarity
10(f)	(13)(f)	Added language describing form and content for a transformational brownfield plan	New transformational brownfield plan legislation
(10)(g)	(13)(g)	Added reference to section 13c(6)	New transformational brownfield plan legislation
N/A	(11)	Deleted DEQ work plan review fees	No longer relevant
(11)	(14)	MSF work plan review time was modified from 65 to 60 days	To be consistent with DEQ review time
(12)	(15)	Deleted department report to legislature and added reference to section 13c(6)	The concept is covered in section 16(4). Reference added for new transformational brownfield plan legislation
N/A	(15)(j)	Deleted text regarding cost gap between the brownfield site and a similar greenfield site	No longer required
(13)	(16)	MSF work plan review time was modified from 65 to 60 days, added 90 day approval for transformational brownfield plans, and added reference to section 13c(6)	New transformational brownfield plan legislation
(14)	(17)	Added reference to section 13c(6)	New transformational brownfield plan legislation
N/A	(18)	Deleted MSF work plan review fees	No longer relevant
(16)	(20)	Deleted exception for property in an economic opportunity zone	No longer relevant
N/A	(21)	Deleted use of SET for eligible activities at a qualified facility or property located in an economic opportunity zone	No longer relevant
(18)	(23)	Modified extension of the review time period of the DEQ by mutual agreement. Replaced “applicant” with “party seeing work plan approval”	To avoid confusion with grant/loan applicants

New Location	Old Location	Change	Why
(19)	(24)	Added a statement allowing the chairperson of the MSF to approve a work plan “without a meeting of the fund board” Modified the MSF chairperson’s authority to approve work plans from \$500,000 to \$1 million	To be consistent with MEDC’s Community Revitalization Program approval process and requirements
(20)	(25)	Added reference to section 13c(6)	New transformational brownfield plan legislation
(20)(a)	(25)(a)	Added language requiring consultation with MSF 60 days before public hearing on transformational brownfield plan	New transformational brownfield plan legislation
(20)(a)(ii)	(25)(a)(ii)	Added reference to section 13c(6) and tax capture for transformational brownfield plans	New transformational brownfield plan legislation
(20)(f)	(25)(f)	Added language regarding criteria considered for transformational brownfield plans	New transformational brownfield plan legislation
(20)(h)	(25)(h)	Modified combined brownfield plan review time by MSF from 65 to 60 days or 90 days for a transformational brownfield plan, and added the term “complete” to refer to the receipt of a “complete” combined brownfield plan	To make DEQ and MSF requirements consistent, and new transformational brownfield plan legislation
125.2665a Retention and payment of taxes levied under state education tax act; conditions; use; application for approval by authority; information to be included; approval, modification, or denial of application by department of treasury; appropriation and distribution of amount; aggregate amount; lien; obligations; copy of application; calculations; legislative intent; definitions			
(1)(a) through (c)	Unchanged	Modified repayment or reimbursement of an advance or obligation to the municipality or developer for TIR lost due to personal property exemptions; references to the effective date of the amendatory act has been replaced by “before June 5, 2008”	For clarity
(1)(d)	Unchanged	Modified payment for eligible activities in a brownfield plan for TIR lost due to personal property exemptions; references modified to indicate that the brownfield plan had to be approved before September 3, 2008 and the work plan had to be approved before June 5, 2009	For clarity

New Location	Old Location	Change	Why
(2)	Unchanged	Modified language about application to the Department of Treasury for retainage or payment of SET; reference for the due date for 2013 only has been replaced by “before March 28, 2014”	For clarity
(3)	Unchanged	Modified Department of Treasury approval for SET; “not later than August 15” was changed to “not later than August 15 of each year”	For clarity
125.2666 Tax increment revenues; transmission to authority; expenditure; reversion of surplus funds; financial status report; collection and compilation of financial reports by department and Michigan strategic fund; reporting obligations; performance post-audit report by auditor general; report by owner or developer for active project within brownfield plan			
(2)	Unchanged	Modified to replace “site remediation” with “brownfield”	In reference to name change from LSRRF to LBRF
(8)(a) through (c)	Not previously included	Added requirements for transfer of taxes from state treasurer and state and local reporting, including information needed from owner / developer of a transformational brownfield project ,	New transformational brownfield plan legislation