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OF MICHIGAN



SURVEY OF ECONOMIC  
DEVELOPMENT PROGRAMS  
IN MICHIGAN

THIRD EDITION

FEBRUARY 2016

REPORT 392

CELEBRATING 100 YEARS OF INDEPENDENT, NONPARTISAN  
PUBLIC POLICY RESEARCH IN MICHIGAN

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# SURVEY OF ECONOMIC DEVELOPMENT PROGRAMS IN MICHIGAN

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Current Through 98<sup>th</sup> Michigan Legislature (2015 Regular Session)

**This report was prepared with assistance from the law firm  
Miller, Canfield, Paddock and Stone PLC**

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# SURVEY OF ECONOMIC DEVELOPMENT PROGRAMS IN MICHIGAN

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**OTHER LOCAL GOVERNMENT ECONOMIC  
DEVELOPMENT OPTIONS**

*Certification of Abandoned Property for Accelerated Foreclosure*

*Certified Business Parks*

*Conditional Land Transfers*

*Economic Development Corporations*

*Waiver of Personal Property Tax*



## CERTIFICATION OF ABANDONED PROPERTY FOR ACCELERATED FORECLOSURE

### ENABLING LEGISLATION;

**STATUTORY CITATION:** 1999 PA 132; M.C.L. 211.961 et seq.

### SUMMARY PROGRAM

#### DESCRIPTION:

Local units of government may subject abandoned, tax-delinquent real property to a faster foreclosure schedule than the law otherwise allows. Problems associated with tax-delinquent property have hindered redevelopment in Michigan, as discussed in Citizens Research Council of Michigan Report No. 325, *Delinquent Property Taxes as an Impediment to Development in Michigan* (April 1999).

### ELIGIBILITY AND

#### BENEFITS:

Any local unit of government with abandoned, tax-delinquent property is eligible to use this enabling legislation.

Local units of government seeking to return tax-delinquent, abandoned property to the tax rolls may subject such property to an accelerated tax foreclosure schedule. Stricter standards imposed against delinquent property tax owners may compel more rapid payment of property taxes, under threat of an accelerated loss of the property.

### TERMS AND PERFORMANCE

#### GUARANTEES:

Local units of government, in order to effect this act, must determine the quantity of tax-delinquent, abandoned property in its jurisdiction. Abandoned property is defined as that which is vacant or dilapidated, and open to entrance or trespass.

The local unit must make a declaration, by formal resolution, of accelerated forfeiture of tax-delinquent property before October 1 of any tax year. The resolution should state substantively that the local unit of government has determined that parcels of abandoned tax delinquent property exist; that abandoned tax delinquent property contributes to crime, blight, and decay within the local unit of government; that certification of tax delinquent abandoned property will result in the accelerated forfeiture and foreclosure under the general property tax act, and return abandoned property to productive use more rapidly, thereby reducing crime, blight, and decay within the local unit of government. Further, the resolution should state that the local unit of government thereby notifies residents and owners of property within the local unit that abandoned tax delinquent property will be identified and inspected and may be certified as abandoned property under the Certified Abandoned Property for Accelerated Foreclosure Act, and subject to accelerated forfeiture and foreclosure under the General Property Tax Act.

By February 1 succeeding the October 1 declaration, the local unit must inspect all such property to officially determine that it is abandoned. At the time of the inspection, the local unit must post notice on the property that if the taxes levied on the property are returned as delinquent to the county treasurer, that the property will be subject to accelerated forfeiture and foreclosure, and subject to fees as set forth in the General Property Tax Act ([M.C.L. 211.59](#)). The local unit must then send a copy of the posted notice to the taxpayer of record by first-class mail.

Owners of property (or those with a legal interest) whose properties are identified as abandoned by the local unit in this manner, may avert the certification by responding by affidavit to the local unit that the property is not abandoned. This must be done before the taxes are returned as delinquent to the local unit.

## CERTIFICATION OF ABANDONED PROPERTY FOR ACCELERATED FORECLOSURE (CONTINUED)

**DISCUSSION:**

The Certification of Abandoned Property for Accelerated Foreclosure Act was passed as companion legislation to PA [123](#) and [134](#) of 1999, involving major changes to Michigan's real property tax delinquency and reversion processes. A discussion of changes is found in Citizens Research Council of Michigan Memorandum No. 1052, *[Changes to the Property Tax Delinquency and Reversion Process in Michigan](#)*. 1999 PA 134 was repealed effective 2004 by the Land Bank Fast Track Act. This Act is described on page 118.



## CERTIFIED BUSINESS PARKS

### ENABLING LEGISLATION;

**STATUTORY CITATION:** Authorization for Certified Business Parks is found in the Local Development Financing Act 1986 PA 281, M.C.L. 125.2151 et seq.; as amended by 2000 PA 248.

### PROGRAM

#### DESCRIPTION:

The Certified Business Park Program is administered by the Michigan Economic Developers Association (MEDA) and the Michigan Economic Development Corporation (MEDC) to promote uniformity and a set of minimum standards for industrial parks. Such standards ensure that the parks will suit the needs of businesses considering moving there.

### ELIGIBILITY AND

#### BENEFITS:

For Business Park Certification, the following land requirements must be in place:

- Property must be zoned for business or industrial use only.
- Land must be selectively graded and cleared.
- Developers/Owners must have a site plan or plat approved by the local governing unit.
- The site must have reliable utilities available for immediate tap-in.
- The site must have all weather road access to the park and interior sites.

Business Park Certification serves as a marketing tool. Prospective tenants have confidence that Certified Business Parks meet a minimum set of standards necessary to conduct business. In addition, Certified Business Parks may use tax increment financing (see page 74) to acquire land for the development of eligible property. If property in a Certified Business Park purchased with tax increment revenues is sold, the proceeds of the sale may be retained to further the development plan.

### TERMS AND PERFORMANCE

#### GUARANTEES:

The certification fee is \$275 per year, with a \$150 additional processing fee for new certifications. Certified Business Parks are reviewed every three years to ensure that all requirements are maintained.

Business Park Certification requires maintenance of the following features via protective covenants or zoning ordinance restrictions. A copy of the protective covenants should be attached to each deed and signed by each new owner and the applicant shall certify that each owner from the date of this application forward shall execute a copy of the protective covenants at the time of property purchase.

1. **Compatible Uses** – It is the sole intent of the Certified Business Park program to provide ready-to-use sites for eligible businesses and industry (per the current LDFA act). For this reason, the park's principal use is set aside for industrial business and high-tech purposes. The area of the park must be specified at the time of certification. This covenant allows the developer to exclude certain types of industries from locating in the Certified Business Park.
2. **Types of Building Materials** – All buildings shall be constructed in accordance with all applicable laws, statues, ordinances, codes, rules and regulations of all governmental agencies having jurisdiction thereof and in a manner so as to have the ability to withstand the normal causes of deterioration with normal maintenance procedures. Previously used materials shall not be incorporated within any building without the prior written consent of the developer. No structure, carport, garage, barn or other outbuilding of a temporary nature shall be situated, erected or maintained on the property or any lot. With the intent to have an aesthetically pleasing building, the

## CERTIFIED BUSINESS PARKS (CONTINUED)

buildings will be finished in materials such as decorative, fluted or finished brick, block, wood, vinyl, glass or decorative metal on sides that face an exterior or internal road. In most instances, the developer will retain the right to review all site materials planned to be used to ensure that all other covenants will be adhered to.

3. Park Signage – Parks are required to have adequate signage at the park entrance and interior streets. Signs should be of high quality, compatible with appearance of the park and be of a size that will present a professional image. Signs must be free standing and may not be comprised of neon or flashing lights.
4. Landscaping – There must be a general landscaping and continuous maintenance provision (plan) in the protective covenants to qualify for certification. All lots will be seeded or sodded and shrubs and trees must be planted to maintain a park-like atmosphere. Areas that are sold or set aside for future expansion must also be maintained as lawn area within 25 feet of streets, roadways and curbs. Areas that are disturbed (such as through excavation, grading, etc.) must be restored to the above standards within 6 months. Landscaping will be installed within one year of the Certificate of Occupancy. All developments must meet state and local groundwater and watershed standards.
5. Improved Parking – At a minimum, all parking areas, driveways, truck turnaround areas and truck loading/unloading areas will be paved with concrete, asphalt or other hard surface material. Parking must be well maintained.
6. Screened Outdoor Storage – All activities of a business will be carried on within the confines of the building. In those instances when outside storage is a necessity, an opaque fence or wall (that is architecturally compatible to the building’s finished materials), or landscaping will shield all items outdoors, so as to effectively screen the view of such storage area from public streets and adjoining properties.
7. Location of Loading Docks – Loading and unloading areas will be designed to permit the pickup and delivery of materials without impeding the public right of way. Design of the truck wells of loading area will not encroach upon the required front yard setback line. Truck or rail docks should be located at the side yard or rear yard of the building. Certified Industrial Park properties approved before 2000 may be permitted to maintain front yard truck wells or loading areas where they are required due to design and space limitations.
8. Continuous Management – Protective Covenants must state who is responsible for the constant maintenance of the park’s covenants and restrictions, i.e.: owner/developer, municipality or major property owners. In all cases, the management entity of the park will have the authority to enforce the covenants and restrictions on all tenants and future tenants of the park. Management must also maintain non-development and non-developable areas located within the park.
9. Setback Specifications – Setbacks must be specified and no activities should take place within the setback areas, except sidewalks may be placed in the front setback.
10. Signage – Signs identifying the person, firm, company or corporation shall be permitted. Signs must be permanent, may be of a freestanding nature, or attached to the building, but signs cannot exceed the height of the building. Outdoor advertising, billboards, neon or flashing lights are not permitted. Sign materials should be compatible with the appearance of the building’s finished materials.

### DATA AND SOURCE:

For a list of current Certified Business Parks in Michigan, see: <https://www.medaweb.org/certified-business-parks?view=featured>

## CONDITIONAL LAND TRANSFERS

### ENABLING LEGISLATION;

**STATUTORY CITATION:** 1984 PA 425; as amended by 1990 PA 22, 2011 PA 114; M.C.L. 124.21 et seq.

### SUMMARY PROGRAM

#### DESCRIPTION:

The Conditional Land Transfer Act of 1984 allows municipalities to share, by contractual agreement, property tax revenues generated by a conditional land transfer for the purpose of economic development. The Act defines an economic development project as "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."

### ELIGIBILITY AND

#### BENEFITS:

Open to any city, village or township in Michigan. The program allows two or more local units of government to jointly benefit from an economic development project that otherwise might not have been built. PA 425 agreements have been cast as a preferable alternative to annexation proceedings, which typically are politically charged and have a winner-take-all outcome.

### TERMS AND PERFORMANCE

#### GUARANTEES:

Intergovernmental agreements under this Act may last up to 50 years and may be renewed. At the close of the predetermined agreement period, the agreement must provide for the return of the transferred parcel to one unit of government. Unless the agreement specifies otherwise, the property is under the jurisdiction of the transferee local unit.

The following are required terms and conditions for local units when executing PA 425 agreements:

Purpose and Consideration: Factors taken into consideration by a city and village before entering into the PA 425 agreement are spelled out in the statute, but they also must be spelled out in the agreement.

Duration: Length of term of agreement must be spelled out. Can be up to 50 years with extensions mutually agreed upon of up to 50 years.

Description of Property: Legal description of property to be transferred.

Tax Sharing Formula: The amount of taxes and other revenue the local units will share, and adjustment amounts, if any.

Schedule and Method of Distribution: The date the collecting local unit is required to remit the shared revenue and method of payment.

Method of Enforcement: How each participating party may enforce the agreement up to and including the return of the transferred area to the intended transferee, liquidated damages, etc.

Jurisdiction: Unless the contract specifies otherwise, property which is conditionally transferred by a PA 425 agreement is under the total jurisdiction of the transferee local unit, including any applicable resident and non-resident income tax.

## CONDITIONAL LAND TRANSFERS (CONTINUED)

Recision and Termination: The contract must provide specific terms for the manner for rescinding or terminating the agreement prior to its otherwise intended expiration date.

Source: A presentation given by William B. Beach of Miller Canfield, Paddock and Stone to the Annexation program of the Michigan Municipal League in 1998.

### CHANGES SINCE 2007 UPDATE:

2011 PA 114 amended the Act to delete a requirement that an employee who is transferred may not, by reason of the transfer, be placed in any worse position with respect to workers' compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefits that he or she had before the transfer

### DATA AND SOURCE:

MEDC, <http://www.michiganbusiness.org/cm/files/fact-sheets/conditionallandusetransferpa425.pdf>

### DISCUSSION:

PA 425 agreements are commonly used when a business entity seeks to expand operations but cannot be accommodated for lack of real estate or adequate utility infrastructure. The host local unit, not wishing to lose the tax base, will often seek a PA 425 agreement with a neighboring local unit. This allows the business to build adequate facilities in the neighboring local unit (though the PA 425 agreement does not mandate that the local units be contiguous) while each local unit is accorded a stipulated portion of property tax revenue from the new business expansion.

The danger with PA 425 land transfers is that over time, each participating governmental unit will lose sight of the conditional aspects of the deal. PA 425 land transfers are an economic development tool, but business operations change over time, often in much less than the 50-100 years contemplated by the Act.

## ECONOMIC DEVELOPMENT CORPORATIONS ACT

### ENABLING LEGISLATION;

**STATUTORY CITATION:** 1974 PA 338; as amended by 2002 PA 357, 2010 PA 240, M.C.L. 125.1601 et seq.

### SUMMARY PROGRAM

#### DESCRIPTION:

This Act was based on legislative findings that public sector assistance may be necessary in the land acquisition process to assist private sector interests with industrial economic development efforts. PA 338 allows local units of government to establish development corporations to assist private developers with commercial and industrial development projects.

The Act extends tax-exempt status to all municipally-owned property acquired under it. While the General Property Tax Act extends tax-exempt status to such property held for a "public purpose," tax-exempt status does typically not extend to property not expressly held as such.

### ELIGIBILITY AND BENEFITS:

All municipalities in Michigan are eligible to set up an economic development corporation.

In addition to extending tax-exempt status to properties acquired by Economic Development Corporations, EDCs may also issue tax-exempt bonds for development projects, allowing a lower interest rate to finance development.

### CHANGES SINCE 2007 UPDATE:

2010 PA 240 amended the Act to include a transit-oriented facility and a transit-oriented development in the list of primary purposes and uses for eligible property.

### DISCUSSION:

The Economic Development Corporations Act confers many of the powers of the Urban Redevelopment Corporations Law of 1941 (1941 PA 250; M.C.L. 125.901 et seq.) to an economic development corporation established by a local unit.

The Urban Redevelopment Corporations Law enabled 1 or more individuals, corporations or partnerships to incorporate Redevelopment Corporations to clear, re-plan, rehabilitate, modernize, beautify, and reconstruct substandard and unsanitary areas in cities and townships (township development areas are limited to property used for state offices or facilities, hospitals, prisons, or institutions of higher education) to serve a public purpose. Property held by Redevelopment Corporations is exempt from increases in assessed valuation for up to 40 years, but improvements made to the property are not. A city may acquire property by condemnation on behalf of the Redevelopment Corporation.

## WAIVER OF PERSONAL PROPERTY TAX

### ENABLING LEGISLATION;

**STATUTORY CITATION:** 1998 PA 328, 2000 PA 415; M.C.L. 211.9f

The enactment of 2014 PA 87, which phases in an exemption of all manufacturing-related personal property from the property tax starting in 2016, will substantially limit the impact of the local exemption option provided in 1998 PA 328. However, this exemption will continue for personal property that does not meet the definition in 2014 PA 87 of “eligible manufacturing personal property”.

This program may be repealed in 2014 (see 2014 PA 87):

M.C.L. 211.9f, section 8 states that any personal property exempt under this statute as of December 31, 2012, will remain exempt until the later of: the date the property would otherwise be exempt from the collection of taxes under this act under M.C.L. 211 section 9m, 9n, or 9o, or the date that eligible manufacturing personal property is no longer exempt under the resolution adopted by the local government that originally exempted the property from taxation under 211.9f.

However, 211.9f (9) states if either House Bill No. 6026 of the 96th Legislature, 2012 PA 408, or Senate Bill No. 822 of the 97th Legislature passes during the 2014 election, subsection (8) shall not apply after the date of that election.

### PROGRAM

#### DESCRIPTION:

Qualifying local units of government may waive personal property taxes for new equipment purchased or leased by eligible businesses, subject to approval from the State Tax Commission. Local units qualify by having various tax-abatement or financing districts and either by meeting standards of economic distress or by containing eligible businesses that maintain jobs and capital investment.

### ELIGIBILITY AND

#### BENEFITS:

Qualified local units of government – cities, villages and townships with “eligible distressed areas” – that eliminate personal property taxes offer a competitive advantage in business attraction, namely, a built-in tax abatement on new personal property. Only new personal property leased or owned by an “eligible business” located within an “eligible district” is exempt.

For the purposes of the Act, “*eligible distressed areas*” are one of the following:

- The term “eligible distressed area” as defined by the Michigan State Housing Development Authority (see **Appendix H** for a list and definition), or
- An area that contains an “eligible business” that “maintains 150 retained jobs at a facility, maintains 1,000 or more full-times jobs in this state, and makes new capital investment in this state” as described by the Michigan Economic Growth Authority Act, M.C.L. 207.808 subsection (5)(b)(ii).

An “*Eligible business*” is a business primarily engaged in manufacturing, mining, research and development, wholesale trade or office operations.

Qualified local units of government may enact PA 328 agreements only within one or more of the following “*eligible districts*”:

1. Industrial Facilities Property Tax Authorities
2. Renaissance Zones

## WAIVER OF PERSONAL PROPERTY TAX (CONTINUED)

3. Enterprise Zones
4. Brownfield Redevelopment Authorities
5. Federal Empowerment Zones, Enterprise Communities, and Empowerment Zones which become Renewal Communities
6. Tax Increment Finance Authorities
7. Local Development Finance Authorities
8. Downtown Development Authorities

### CHANGES SINCE 2007 UPDATE:

2007 PA 115 and 116 amended the Act to maintain the tax-exempt status of new personal property sold or leased by an existing eligible business to an acquiring eligible business; and extend the exemption to any new personal property leased or purchased by that business.

2008 PA 230 amended the Act to allow the governing body of an eligible local assessing district to exempt all new personal property owned or leased by an eligible business located in one or more "distressed parcels" from the collection of taxes under the Act. "Distressed parcel" is a parcel of real estate in a city or village that is located in a qualified downtown revitalization district, is zoned to allow for mixed use, and either has a blighted or functionally obsolete building located on the parcel or is a vacant parcel that previously had been occupied.

2008 PA 285 amended the Act to make additional facilities eligible for existing property tax exemptions. The facilities include major distribution and logistics facilities, headquarters facilities, competitive edge technology businesses, information technology facilities, and certain businesses that are currently eligible for business tax credits under the Michigan Economic Growth Authority Act.

2010 PA 249 amended the Act to revise the definition of "new personal property": the previous definition refers to personal property that was not previously subject to tax under the Act or was not previously placed in service in this State. The new definition deletes "in this State" and refers to property not previously placed in service by an eligible business claiming an exemption under Section 9f.

2010 PA 274 amended the Act to allow a Next Michigan Development Corporation to exempt new personal property owned or leased by an eligible Next Michigan business from personal property taxes. Next Michigan Development Corporations are described on page --.

2012 PA 399 added sections 9m, 9n, and 9o to the Act to exempt qualified new personal property from taxation beginning December 31, 2015. The exemption applies to eligible manufacturing personal property acquired after December 31, 2012, if it has been subject to taxation for at least 10 years, and, for industrial personal property or commercial personal property owned by a person in a local unit, if the combined taxable value of all such property owned by or under the control of the person is less than \$40,000 in that local unit.

### DATA AND SOURCE:

Since program inception through 2014, 372 personal property tax waiver projects in 51 counties have been approved. Source: State Tax Commission

### DISCUSSION:

PA 328 provides distressed areas with an alternative to the Industrial Facilities Tax Abatement (discussed on page 44) for new personal property for manufacturing and research and development business concerns.

