

Chapter 9 - Brownfield Financing

Grant R. Trigger and H. Kirk Meadows

Chapter Contents

I. State Law

A. Part 201: Making Brownfield Redevelopment Possible

1. Original Strict Liability: MERA
2. Responsibility-Based Liability: BEAs

B. Act 381

1. Overview
 - a. Tax Increment Financing
 - b. Brownfield Redevelopment Authority
 - c. Brownfield Plans and Work Plans
 - d. School Tax Restrictions
2. As Originally Passed: Act 381
 - a. Facility Only
 - b. BEA, Due Care, Response Activities Only
3. Expanded Scope: Act 145 of 2000
 - a. Qualified Local Governmental Unit Concept
 - b. Functionally Obsolete and Blighted Property
 - c. Additional Eligible Activities
4. Other Interim Amendments
 - a. Assessor's Affidavit Requirement
 - b. Interest
 - c. Others
5. Main Problems and Issues
 - a. Interest
 - b. MDEQ Approval Process
 - c. Reluctance to Approve Additional Response Activities
 - d. Others
6. Part 201 Workgroup and Recommendations
7. Recent Amendments
 - a. Definitions and Eligibility
 - i. Eligible Activities
 - ii. Eligible Property
 - b. Activities Requiring Work Plan Approval
 - c. Interest
 - d. MDEQ Work Plan Approval Process and Criteria
 - e. Other Procedural Amendments
8. Remaining Practical and Policy Issues

C. SBT/MBT Credit

1. SBT Credit
2. MBT Credit Versus SBT Credit

- [3. Proposed \[Or By That Time, Actual\] Amendments: HB 5511 or Equivalent](#)
- [4. Remaining Practical and Policy Issues](#)
- [D. Other State Incentives Commonly Associated With Brownfield Redevelopment Projects](#)
 - [1. OPRA](#)
 - [2. NEZ](#)
 - [3. Land Bank: TURBO](#)
 - [4. Renaissance Zone](#)
 - [5. Others](#)

[II. Federal Law](#)

[A. CERCLA and Its Impact on Brownfields in Michigan](#)

- [1. Strict Liability](#)
- [2. Small Business Liability Relief and Brownfields Revitalization Act of 2002](#)
 - [a. Types of Exemptions: BFPP, Contiguous Owner, Innocent Landowner](#)
 - [b. Common Elements of Exemptions](#)
- [3. PPAs: Comfort Letters](#)
- [4. Limited Impact in Michigan: MDEQ/EPA MOU and Practical Considerations](#)

[B. Remediation Tax Credit](#)

- [1. Criteria](#)
- [2. Process](#)

[C. Other Incentives](#)

[Endnotes](#)

The Michigan Environmental Law Deskbook Website is a free service of the State Bar of Michigan and its Environmental Law Section. The information obtained from this site is not intended to replace official versions of that information and is subject to revision. The Environmental Law Section presents this information, without warranties, express or implied, regarding the accuracy of the information, timeliness, or completeness. If you believe the information is inaccurate, out-of-date, or incomplete or if you have problems accessing or reading the information, please send your concerns to the Section.