

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 164**

A bill to amend 1961 PA 120, entitled

"An act to authorize the development or redevelopment of principal shopping districts and business improvement districts; to permit the creation of certain boards; to provide for the operation of principal shopping districts and business improvement districts; to provide for the creation, operation, and dissolution of business improvement zones; and to authorize the collection of revenue and the bonding of certain local governmental units for the development or redevelopment projects,"

by amending sections 10, 10b, 10c, 10e, and 10f (MCL 125.990, 125.990b, 125.990c, 125.990e, and 125.990f), as amended by 2020 PA 91.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1** Sec. 10. As used in this chapter:
- 2** (a) "Assessable property" means real property in a zone area

1 other than **property classified as residential real property under**
2 **section 34c of the general property tax act, 1893 PA 206, MCL**
3 **211.34c, or** real property exempt from the collection of taxes under
4 the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.
5 ~~However, assessable property may include real property in a zone~~
6 ~~area classified as residential real property under section 34c of~~
7 ~~the general property tax act, 1893 PA 206, MCL 211.34c, only if the~~
8 ~~plan for the zone area designates property classified as~~
9 ~~residential real property in the zone area as assessable property~~
10 ~~as part of its assessment proceeding.~~

11 (b) "Assessment" means an assessment imposed under this
12 chapter against assessable property for the benefit of the property
13 owners.

14 (c) "Assessment ~~revenues~~ **revenue**" means the money collected
15 by a business improvement zone from any assessments, including any
16 interest on the assessments.

17 (d) "Board" means the board of directors of a business
18 improvement zone.

19 (e) "Business improvement zone" means a business improvement
20 zone created under this chapter.

21 (f) "Nonprofit corporation" means a nonprofit corporation
22 organized under the nonprofit corporation act, 1982 PA 162, MCL
23 450.2101 to 450.3192, and that complies with all of the following:

24 (i) The articles of incorporation of the nonprofit corporation
25 provide that the nonprofit corporation may promote a business
26 improvement zone and may also provide management services related
27 to the implementation of a zone plan.

28 (ii) The nonprofit corporation is exempt from federal income
29 tax under section 501(c)(4) or (6) of the internal revenue code **of**

1 1986, ~~28-26~~ USC 501.

2 (g) "Person" means an individual, partnership, corporation,
3 limited liability company, association, or other legal entity.

4 (h) "Project" means any activity **within a zone area** for the
5 benefit of property owners authorized by section 10a. ~~to enhance~~
6 ~~the business environment within a zone area.~~

7 (i) "Property owner" means a person ~~who~~**that** owns, or an agent
8 authorized in writing by a person ~~who~~**that** owns, assessable
9 property according to the records of the treasurer of the city or
10 village in which the business improvement zone is located.

11 (j) **"Proportional voting" means voting with an allocation of**
12 **votes under section 10f(7) if provided for in a zone plan or a**
13 **proposed zone plan.**

14 (k) ~~(j)~~"Qualifying period" means the period in which a
15 business improvement zone is authorized to operate and impose and
16 collect assessments, beginning on the date that the business
17 improvement zone is approved by the property owners voting on the
18 question as provided in section 10f and ending 7 to 10 calendar
19 years after that date as determined in the petition described in
20 section 10c. The 10-year period or qualifying period of a business
21 improvement zone that was created before June 28, 2018 begins on
22 the date that the business improvement zone was approved by the
23 property owners voting on the question as provided in section 10f.

24 (l) ~~(k)~~"Zone area" means the area designated in the zone plan
25 as the area to be served by the business improvement zone.

26 (m) ~~(l)~~"Zone plan" means a set of goals, strategies,
27 objectives, and guidelines for the operation of a business
28 improvement zone.

29 Sec. 10b. (1) One or more business improvement zones may be

1 established within a city or village.

2 (2) ~~The zone plan shall allocate assessments on the basis of~~
3 ~~the benefit to assessable property.~~ A zone area shall **must** be
4 contiguous, with the exception of public streets, alleys, parks,
5 and other public rights-of-way.

6 (3) A business improvement zone may be established in a city
7 or village even if the city or village has established a principal
8 shopping district or business improvement district under chapter 1.
9 Assessable property ~~shall~~ **must** not be included in any of the
10 following:

11 (a) More than 1 business improvement zone established under
12 this chapter.

13 (b) Both a principal shopping district and a business
14 improvement district established under chapter 1.

15 (4) **A zone plan may provide for assessments. If a zone plan**
16 **provides for assessments, the zone plan must include a basis for**
17 **the allocation of assessments in compliance with section 10h on the**
18 **basis of 1 or more of the following:**

19 (a) **Assessed value.**

20 (b) **Taxable value.**

21 (c) **Square footage.**

22 (d) **Street frontage.**

23 (e) **Any other factor relating to assessable property**
24 **identified in the zone plan.**

25 (5) **If the zone plan for a zone area provides a basis for the**
26 **allocation of assessments on the basis of assessed value, the**
27 **majority of all properties within the zone area, both by assessed**
28 **value and square footage, must be assessable property.**

29 (6) **If the zone plan for a zone area provides a basis for the**

1 allocation of assessments on a basis other than assessed value, the
 2 majority of all properties within the zone area, both by taxable
 3 value and square footage, must be assessable property.

4 (7) A zone plan may provide for caps on the assessment amounts
 5 paid by an owner of assessable property and for caps on the growth
 6 of assessment amounts.

7 Sec. 10c. A person may initiate the establishment of a
 8 business improvement zone by the delivery of a petition to the
 9 clerk of the city or village in which a proposed zone area is
 10 located. The petition ~~shall~~**must** include all of the following:

11 (a) An attached map and description of the geographic
 12 boundaries of the zone area sufficient to identify each assessable
 13 property included.

14 (b) The signatures of property owners of parcels **of assessable**
 15 **property within the zone area, or their authorized agents,**
 16 representing not less than 30% of the property owners **of assessable**
 17 **property** within the zone area. **In determining whether the threshold**
 18 **under this subdivision is met, the number of required signatures**
 19 **must be determined and the signatures of property owners must be**
 20 **allocated, in the same manner as any proportional vote provided in**
 21 **the proposed zone plan under subdivision (d).**

22 (c) An attached listing, by tax parcel identification number,
 23 of all parcels within the zone area, separately identifying
 24 assessable property.

25 (d) An attached zone plan, which ~~shall~~**must** include all of the
 26 following:

27 (i) The proposed initial board of directors for the zone,
 28 ~~including no less than 1 owner of residential real property if~~
 29 ~~residential real property is determined assessable property by the~~

1 ~~local governmental unit under section 10,~~ except for a member of
 2 the board of directors who may be appointed by the city or village
 3 under section 10g(2).

4 (ii) The method for removal, appointment, and replacement of
 5 the **members of the** board.

6 (iii) A description of projects planned during the qualifying
 7 period, including the scope, nature, and duration of the projects.

8 (iv) An estimate of the total amount of expenditures for
 9 projects planned during the qualifying period.

10 (v) The proposed source or sources of financing for the
 11 projects **planned during the qualifying period.**

12 (vi) If the proposed financing includes assessments, the
 13 projected amount or rate of the assessments for each year and the
 14 ~~formula-basis~~ to be used in allocating the assessment to be imposed
 15 on ~~the basis of the benefit to assessable~~ property.

16 (vii) A plan of dissolution for the business improvement zone.

17 (viii) Beginning on ~~the effective date of the amendatory act~~
 18 ~~that added this subparagraph,~~ **June 28, 2018**, the number of calendar
 19 years in the qualifying period, not more than 10 calendar years and
 20 not less than 7 calendar years.

21 (ix) **If proportional voting will apply, a description of the**
 22 **proportional voting mechanism to be used or, if proportional voting**
 23 **will not apply, a statement to that effect.**

24 (e) A ~~formula-basis~~ for allocating assessments in the zone
 25 area that is ~~based on the benefit to assessable property.~~
 26 **consistent with section 10b.**

27 Sec. 10e. (1) If a petition is delivered to the clerk of the
 28 city or village in accordance with section 10c, the governing body
 29 of the city or village shall within 28 days schedule a public

1 hearing of the governing body to review the zone plan and any
2 proposed assessment and to receive public comment. The clerk shall
3 notify all owners of parcels within the zone area of the public
4 hearing by first-class mail.

5 (2) At the public hearing required under subsection (1), or at
6 the next regularly scheduled meeting of the governing body of the
7 city or village, the governing body shall approve or reject the
8 establishment of the business improvement zone and the zone plan
9 attached to the petition under section 10c. If the governing body
10 rejects the establishment of the business improvement zone and the
11 zone plan, the clerk shall notify all property owners within the
12 proposed zone of a meeting of the property owners within the
13 proposed zone, which ~~shall~~**must** be held not sooner than 7 days or
14 later than 21 days after the date of the rejection by the governing
15 body. The notice ~~shall~~**must** be sent by first-class mail to the
16 property owners not less than 7 days ~~prior to~~**before** the scheduled
17 date of the meeting and ~~shall~~**must** include the specific location
18 and the scheduled date and time of the meeting, as determined by
19 the person initiating the establishment of the business improvement
20 zone under section 10c(1). ~~Any notice required as part of the~~
21 ~~assessment process shall include a statement that a property owner~~
22 ~~of residential real property within a business improvement zone may~~
23 ~~seek a homestead deferment for an assessment under this act in the~~
24 ~~same manner as provided in section 4 of 1976 PA 225, MCL~~
25 ~~211.764.10c.~~

26 (3) At the meeting, the property owners may amend the zone
27 plan if approved by a majority of the property owners voting at the
28 meeting, **using proportional voting if applicable under the zone**
29 **plan**. The amended zone plan may be resubmitted to the clerk of the

1 city or village without the requirement of a new petition under
2 section 10c for approval or rejection at a meeting of the governing
3 body of the city or village not later than 28 days after the
4 amended zone plan is resubmitted to the clerk. If a zone plan is
5 not rejected within 56 days of the date the amended zone plan is
6 resubmitted to the clerk, the amended zone plan is considered
7 approved by the governing body of the city or village. If the
8 amended zone plan is rejected by the governing body, then the
9 amended zone plan may not be resubmitted without the delivery of a
10 new petition under section 10c.

11 (4) A governing body of a city or village shall consider the
12 establishment of a business improvement zone and a zone plan for
13 the business improvement zone under this section if all of the
14 following apply:

15 (a) The zone plan complies with the requirements of section
16 10c.

17 (b) The zone plan for the business improvement zone provides
18 that the services to be provided by the business improvement zone
19 and the projects under the zone plan would be supplemental to the
20 services, projects, and functions of the city or village.

21 (c) The zone plan provides a basis for allocating assessments
22 that complies with this chapter.

23 (5) Approval of the business improvement zone and zone plan
24 ~~shall serve~~ **serves** as a determination by the city or village that
25 any assessment set forth in the zone plan, including the basis for
26 allocating the assessment, is appropriate, subject only to the
27 approval of the business improvement zone and the zone plan by the
28 property owners in accordance with section 10f.

29 (6) If the governing body of the city or village approves the

1 business improvement zone and zone plan or if the amended zone plan
2 is considered approved under subsection (3), the clerk of the city
3 or village shall set an election pursuant to section 10f not more
4 than 49 days following the approval.

5 (7) The clerk of the city or village shall send to the
6 property owners notice by first-class mail of the election not less
7 than 28 days before the election and publish the notice at least
8 once in a newspaper of general circulation in the city or village
9 in which the zone area is located not less than 7 days or more than
10 21 days ~~prior to~~ **before** the date scheduled for the election. ~~Any~~
11 ~~notice required as part of the assessment process shall include a~~
12 ~~statement that a property owner of residential real property within~~
13 ~~a business improvement zone may seek a homestead deferment for an~~
14 ~~assessment under this act in the same manner as provided in section~~
15 ~~4 of 1976 PA 225, MCL 211.764.~~

16 (8) The election described in this section and section 10f is
17 not an election subject to the Michigan election law, 1954 PA 116,
18 MCL 168.1 to 168.992.

19 (9) The person ~~who~~ **that** filed the petition under section 10c,
20 the proposed board members, and the property owners may, at the
21 option and under the direction of the clerk, assist the clerk of
22 the city or village in conducting the election to ~~keep~~ **minimize** the
23 expenses of the election ~~at a minimum.~~ **incurred by the city or**
24 **village.**

25 Sec. 10f. (1) All property owners as of the date of the
26 delivery of the petition as provided in section 10c are eligible to
27 participate in the election. The election ~~shall~~ **must** be conducted
28 by mail. The question to be voted on by the property owners is the
29 adoption of the zone plan and the establishment of the business

1 improvement zone, including the identity of the initial board.

2 (2) A zone plan and the proposal for the establishment of a
3 business improvement zone, including the identity of the initial
4 board, ~~shall be~~ **are** considered adopted upon the approval of more
5 than 60% of the property owners voting in the election, **using**
6 **proportional voting if applicable under the zone plan.**

7 (3) Upon acceptance or rejection of a business improvement
8 zone and zone plan by the property owners, the resulting business
9 improvement zone or the person filing the petition under section
10 10c shall, at the request of the city or village, reimburse the
11 city or village for all or a portion of the reasonable expenses
12 incurred to comply with this chapter. The governing body of the
13 city or village may forgive and choose not to collect all or a
14 portion of the reasonable expenses incurred to comply with this
15 chapter.

16 (4) Adoption of a business improvement zone and zone plan
17 under this section authorizes the creation of the business
18 improvement zone and the implementation of the zone plan for the
19 qualifying period.

20 (5) Adoption of a business improvement zone and zone plan
21 under this section and the creation of the business improvement
22 zone does not relieve the business improvement zone from following,
23 or does not waive any rights of the city or village to enforce, any
24 applicable laws, statutes, or ordinances. A business improvement
25 zone created under this chapter shall comply with all applicable
26 state and federal laws.

27 (6) To the extent not protected by the immunity conferred by
28 1964 PA 170, MCL 691.1401 to 691.1419, a city or village that
29 approves a business improvement zone within its boundaries is

1 immune from civil or administrative liability arising from any
2 actions of that business improvement zone.

3 (7) Subject to subsection (8), if a zone plan provides for
4 proportional voting, the proportional vote of a property owner must
5 be allocated as follows:

6 (a) If the zone plan for the zone area provides a basis for
7 allocating assessments based upon taxable value, the votes of
8 property owners may be proportionate to the amount that the taxable
9 value of their respective real property for the preceding calendar
10 year bears to the taxable value of all assessable property in the
11 zone area for that calendar year.

12 (b) If the zone plan for the zone area provides for allocation
13 of assessments based upon assessed value, the votes of property
14 owners may be proportionate to the amount that the assessed value
15 of their respective real property for the preceding calendar year
16 bears to the assessed value of all assessable property in the zone
17 area for that calendar year.

18 (c) If the zone plan for the zone area provides a basis for
19 allocating assessments other than taxable value or assessed value,
20 the votes of property owners may be proportionate to the amount
21 that the assessment for their respective real property for the
22 prior calendar year bears to the total value of assessments for
23 assessable property in the zone area in that calendar year.

24 (8) The proportional vote allocated to any 1 property owner
25 must not exceed 25% of the total vote. If the proportional vote of
26 a single property owner under this section exceeds 25%, the amount
27 in excess of 25% must be reallocated among the remaining property
28 owners in proportion to the amount that the assessment of their
29 respective assessable property for the prior calendar year bears to

1 the assessment of all assessable property in the zone area owned by
2 the remaining property owners during that calendar year. For
3 purposes of this subsection, property owners that are affiliates
4 shall be treated as a single property owner.

5 (9) As used in this section, "affiliate" means that term as
6 defined in section 90/ of the Michigan strategic fund act, 1984 PA
7 270, MCL 125.2090/.