



Fletcher Paper Mill, Alpena



Mill in 2004



NOAA, Alpena

Establishing a Brownfield Redevelopment Authority

Pursuant to the
Brownfield Redevelopment Financing Act,
1996 PA 381, as amended
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INTRODUCTION

A Brownfield Redevelopment Authority (BRA) is created and appointed by a county, city, village or township and is responsible for developing Brownfield Plans. It may also issue revenue and tax increment financing (TIF) bonds or notes to finance eligible brownfield activities and capture taxes from the eligible brownfield property to repay the obligations.

A BRA can prepare a property for redevelopment by conducting an environmental assessment or initiating other response activities. The BRA can be reimbursed with tax increment revenue (TIR) once the property is redeveloped. If the BRA anticipates using school taxes for reimbursement of certain environmental or non-environmental activities, a Work Plan must be approved in advance by the Michigan Department of Environmental Quality (DEQ) or Michigan Strategic Fund (MSF), as appropriate.

This guide is designed to clarify parts of the Brownfield Redevelopment Financing Act, 1996 Public Act (PA) 381, as amended (Act 381) (Michigan Compiled Law [MCL] [125.2651 through 125.2672](#)), but should not be relied upon as a substitute for a thorough reading and understanding of the statute. Users should contact their legal counsel regarding any issues with Act 381.

Part 1 – Establishing a Brownfield Redevelopment Authority

A city, village, township, or county can establish one or more BRAs and adopt Brownfield Plans (Plans) pursuant to Act 381 Section 3.

A BRA may use tax increment financing (TIF) to help redevelop eligible brownfield properties that are in a Plan. A local governing body must decide whether to approve a Plan developed by a BRA, since the local governing body has jurisdiction over the use of taxes for the TIF. The following sections offer the step by step process for establishing a BRA.

Step 1 – Informational Meeting(s)

Hold one or more meetings with community leaders (i.e., mayor, president, chairperson, commission, council, board of trustees, finance department, planning departments, etc.) to explain the purpose and powers of a BRA and the benefits to the community.

Tips

- Representatives of the DEQ and Michigan Economic Development Corporation (MEDC) can provide assistance to the local unit of government throughout this process.
- If contemplating a county BRA, meet with each of the local units of government within the county to solicit their participation.

Step 2 – Resolution of Intent to Establish BRA

The local governing body (i.e., a city council, commission, township board, county commission, etc.) must adopt a resolution of intent to establish a BRA, as specified in Act 381 Section 4 of the legislation. The resolution must set a public hearing date. The hearing must be held before the governing body can create the BRA.

Tips

- For a county BRA, all participating local governing bodies must concur by resolution to be included in the county's BRA. Act 381 does not indicate when such concurrence must be obtained. However, it would be prudent to obtain a concurring resolution from the participating local units of government before adopting the resolution of intent to establish a BRA.

- A county BRA only has authority over eligible property in local governing units that have adopted a resolution to join the county BRA and concurred with the provisions of a Plan.
- A sample Resolution of Intent to Create a BRA can be found in Act 381 Sample Notices and Documents on the MEDC website.
- A sample Resolution of Concurrence by Municipality to Join County BRA can be found in Act 381 Sample Notices and Documents on the MEDC website.

Step 3 – Public Hearing Notification

The notice of the public hearing (set by the resolution in Step 2) must include the date, time, and place of the hearing.

Tip

- A sample Notice of Public Hearing can be found in Act 381 Sample Notices and Documents on the MEDC website.

Step 4 – Public Hearing

The local governing body must hold a public hearing in accordance with the Open Meetings Act, 1976 PA 267, [MCL 15.261 through 15.275](#) and any local requirements on the date stated in the notice.

Step 5 – Resolution Establishing a BRA

If the governing body intends to establish a BRA, it must adopt a resolution establishing the BRA within 30 days of the public hearing. The resolution may be adopted immediately after completing the public hearing, at the same session of the governing body required in Step 4.

Tips

- A sample Resolution Establishing a BRA and Appointing Board Members can be found in Act 381 Sample Notices and Documents on the MEDC website.

Step 6 – Establishing a BRA Board

The BRA board is established by the local governing body. It may consist of between five and nine individuals appointed by the chief executive officer of the municipality and approved by the governing body. Initial appointments shall be for one, two, and three years, an equal number of each as practical, then for three year terms thereafter. Act 381 Section 5 states that the governing body may establish a new board for the BRA, or designate the trustees or governing board of the following as the BRA board members:

- Economic Development Corporation (EDC)
- Downtown Development Authority
- Tax Increment Finance Authority
- Local Development Finance Authority

Tips

- The board may be established and board members appointed at the conclusion of the public hearing in Step 4.
- The Incompatible Public Offices Act, 1978 PA 566, [MCL 15.181 through 15.185](#) should be reviewed by the local governing body’s attorney when deciding whether to appoint an elected official as a BRA member. This type of appointment to a BRA is unusual, but not prohibited by Act 381.

Step 7 – Filing Resolution Establishing the BRA with the State

The resolution establishing a BRA, passed by the local governing body in Step 5, must be filed with the State of Michigan promptly after its adoption. Although Act 381 Section 4(3) specifies filing with the Secretary of State, it should be filed with the Michigan Department of State, Office of the Great Seal. MEDC and DEQ Brownfield staff must be notified via email that a new BRA will be created. Contact information for the Office of the Great Seal can be found in the letter referenced below.

Tips

- A resolution establishing the BRA may be challenged in court by any person with standing within 60 days after the resolution is filed.
- A sample Letter to Michigan Department of State, Office of the Great Seal can be found in Act 381 Sample Notices and Documents on the MEDC website.

Step 8 – BRA Organizational Meeting

The BRA board should conduct an organizational meeting at which it:

- Elects the officers of the board
- May adopt bylaws by majority resolution
- Shall adopt rules of governing and procedure
- Establishes regular meetings
- May employ a director, subject to approval by the governing body that created the BRA

Tips

- The director may not be a member of the board. However, a local government employee or official (i.e., city/village manager, chamber staff person, EDC staff person) may serve as the director on a shared-time basis. The BRA may agree to reimburse the municipality for such services.
- Sample Bylaws can be found in Act 381 Sample Notices and Documents on the MEDC website.
- A sample Resolution Approving the Bylaws can be found in Act 381 Sample Notices and Documents on the MEDC website.

Municipal Agreements with County Brownfield Authorities

A municipality that has a BRA can pass a local resolution or enter into an agreement that allows the county BRA to undertake projects within the municipality. In addition, an agreement should be developed to address when the county's BRA has jurisdiction and how future Local Brownfield Revolving Fund(s) (LBRF) will be divided among the participating governmental units.

The benefits of allowing a county BRA to manage brownfield projects within local jurisdictions may include governmental cost savings; administrative efficiency; and greater LBRF.