

**SUBSTITUTE FOR
HOUSE BILL NO. 5525**

A bill to amend 2014 PA 92, entitled
"State essential services assessment act,"
by amending sections 3, 7, 9, and 11 (MCL 211.1053, 211.1057,
211.1059, and 211.1061), sections 3 and 7 as amended by 2015 PA
120.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Acquisition cost" means the fair market value of personal
3 property at the time of acquisition by the first owner, including
4 the cost of freight, sales tax, and installation, and other
5 capitalized costs, except capitalized interest. There is a
6 rebuttable presumption that the acquisition price paid by the first
7 owner for personal property, and any costs of freight, sales tax,

1 and installation, and other capitalized costs, except capitalized
2 interest, reflect the acquisition cost. For property described in
3 subdivision (e)(i) that ~~would otherwise be~~ **PRIOR TO THE CURRENT TAX**
4 **YEAR WAS** exempt under section 7k of the general property tax act,
5 1893 PA 206, MCL 211.7k, under an industrial facilities exemption
6 certificate issued under 1974 PA 198, MCL 207.551 to 207.572, and
7 effective before January 1, 2013, ~~and~~ **WHICH HAS BEEN EXTENDED FOR**
8 **PROPERTY NOT YET EXEMPT UNDER SECTION 9M OR 9N OF THE GENERAL**
9 **PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND 211.9N,** for property
10 described in subdivision (e)(iii) that is exempt under an
11 industrial facilities exemption certificate issued under 1974 PA
12 198, MCL 207.551 to 207.572, **AND BEGINNING IN 2017 FOR CONSTRUCTION**
13 **IN PROGRESS,** and effective before January 1, 2013, acquisition cost
14 means 1/2 of the fair market value of that personal property at the
15 time of acquisition by the first owner, including the cost of
16 freight, sales tax, and installation, and other capitalized costs,
17 except capitalized interest. The acquisition cost for personal
18 property exempt under the Michigan renaissance zone act, 1996 PA
19 376, MCL 125.2681 to 125.2696, is \$0.00 except for the 3 years
20 immediately preceding the expiration of the exemption of that
21 personal property under the Michigan renaissance zone act, 1996 PA
22 376, MCL 125.2681 to 125.2696, during which period of time the
23 acquisition cost for that personal property means the fair market
24 value of that personal property at the time of acquisition by the
25 first owner, including the cost of freight, sales tax, and
26 installation, and other capitalized costs, except capitalized
27 interest, multiplied by the percentage reduction in the exemption

1 as provided in section 9(3) of the Michigan renaissance zone act,
2 1996 PA 376, MCL 125.2689. The ~~state tax commission~~ **DEPARTMENT** may
3 provide guidelines for circumstances in which the actual
4 acquisition price is not determinative of acquisition cost and the
5 basis of determining acquisition cost in those circumstances. When
6 the acquisition cost, year of acquisition by the first owner, or
7 both are unknown, the ~~state tax commission~~ **DEPARTMENT** may provide
8 guidelines for estimating the acquisition cost and year of
9 acquisition by the first owner. The state tax commission may issue
10 guidelines that allow for the reduction of acquisition cost for
11 property that is idle, is obsolete or has material obsolescence, or
12 is surplus.

13 (b) "Assessment" means the state essential services assessment
14 levied under section 5.

15 (c) "Assessment year" means the year in which the state
16 essential services assessment levied under section 5 is due.

17 (d) "Eligible claimant" means a person that claims an
18 exemption for eligible personal property.

19 (e) "Eligible personal property" means all of the following:

20 (i) Personal property exempt under section 9m or 9n of the
21 general property tax act, 1893 PA 206, MCL 211.9m and 211.9n.

22 (ii) Personal property that is eligible manufacturing personal
23 property as defined in section 9m **OF THE GENERAL PROPERTY TAX ACT,**
24 **1893 PA 206, MCL 211.9M,** and that is exempt under section 9f of the
25 general property tax act, 1893 PA 206, MCL 211.9f, which exemption
26 was approved under section 9f of the general property tax act, 1893
27 PA 206, MCL 211.9f, after 2013, unless both of the following

1 conditions are satisfied:

2 (A) The application for the exemption was filed with the
3 eligible local assessing district or Next Michigan development
4 corporation before August 5, 2014.

5 (B) The resolution approving the exemption states that the
6 project is expected to have total new personal property of over
7 \$25,000,000.00 within 5 years of the adoption of the resolution by
8 the eligible local assessing district or Next Michigan development
9 corporation.

10 (iii) Personal property subject to an extended industrial
11 facilities exemption certificate under section 11a of 1974 PA 198,
12 MCL 207.561a.

13 (iv) Personal property subject to an extended exemption under
14 section 9f(8)(a) of the general property tax act, 1893 PA 206, MCL
15 211.9f.

16 (f) "Fund board" means the board of directors of the Michigan
17 strategic fund created under the Michigan strategic fund act, 1984
18 PA 270, MCL 125.2001 to 125.2094.

19 (g) "Michigan economic development corporation" means the
20 Michigan economic development corporation, the public body
21 corporate created under section 28 of article VII of the state
22 constitution of 1963 and the urban cooperation act of 1967, 1967
23 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal
24 agreement effective April 5, 1999, and subsequently amended,
25 between local participating economic development corporations
26 formed under the economic development corporations act, 1974 PA
27 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund.

1 (h) "Michigan strategic fund" means the Michigan strategic
2 fund created under the Michigan strategic fund act, 1984 PA 270,
3 MCL 125.2001 to 125.2094.

4 (i) "Next Michigan development corporation" means that term as
5 defined under the Next Michigan development act, 2010 PA 275, MCL
6 125.2951 to 125.2959.

7 (J) "ACQUIRED BY" MEANS, FOR PROPERTY THAT IS CONSTRUCTION IN
8 PROGRESS ONLY, THE YEAR THE PROPERTY IS FIRST REPORTED ON THE
9 COMBINED DOCUMENT FILED PURSUANT TO SECTION 7(8) IN THE REPORT OF
10 THE FAIR MARKET VALUE AND YEAR OF ACQUISITION BY THE FIRST OWNER OF
11 QUALIFIED NEW PERSONAL PROPERTY OR QUALIFIED PREVIOUSLY EXISTING
12 PERSONAL PROPERTY.

13 (K) "DEPARTMENT" MEANS THE DEPARTMENT OF TREASURY.

14 Sec. 7. (1) The department ~~of treasury~~ shall collect and
15 administer the assessment as provided in this section.

16 (2) Not later than May 1 in each assessment year, the
17 department ~~of treasury~~ shall make available in electronic form to
18 each eligible claimant a statement for calculation of the
19 assessment as provided in section 5. **THAT STATEMENT SHALL BE**
20 **DEVELOPED FROM THE INFORMATION SUBMITTED BY THE ELIGIBLE CLAIMANT**
21 **ON THE COMBINED DOCUMENT AS REQUIRED BY SECTIONS 9M AND 9N OF THE**
22 **GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND 211.9N.**

23 (3) Not later than August 15 in each assessment year, each
24 eligible claimant shall ~~submit electronically to the department of~~
25 ~~treasury~~ **REVISE AS NECESSARY AND CERTIFY** the completed statement ~~7~~
26 ~~in a form and manner prescribed by the department of treasury, and~~
27 **MAKE** full payment of the assessment levied under section 5 for that

1 assessment year as calculated in section 5(2). The department ~~of~~
2 ~~treasury~~ may waive or delay the electronic ~~filing~~ **CERTIFICATION**
3 requirement at its discretion. The department ~~of treasury~~ may
4 accept a timely filed statement **THAT CALCULATES THE TAX UNDER THIS**
5 **ACT THAT IS TRANSMITTED AND CERTIFIED** using reporting software
6 approved by the department, ~~of treasury~~, subject to audit under
7 subsection (6). A statement ~~submitted~~ **CERTIFIED** by an eligible
8 claimant shall include all of the eligible claimant's eligible
9 personal property located in this state subject to the assessment
10 levied under section 5. The ~~completed~~ statement required under this
11 subsection shall not be subject to disclosure under the freedom of
12 information act, 1976 PA 442, MCL 15.231 to 15.246.

13 (4) If an eligible claimant does not ~~submit~~ **CERTIFY** the
14 statement and full payment of the assessment levied under section 5
15 by August 15, the department ~~of treasury~~ shall issue a notice to
16 the eligible claimant not later than September 15. The notice shall
17 include a statement explaining the consequences of nonpayment as
18 set forth in subsection (5) and instructing the eligible claimant
19 of its potential responsibility under subsection (5)(e). An
20 eligible claimant shall submit payment in full by October 15 of the
21 assessment year along with a penalty of 1% per week on the unpaid
22 balance for each week payment is not made in full up to a maximum
23 of 5% of the total amount due and unpaid. For the eligible
24 claimant's first assessment year, the penalty shall be waived if
25 the eligible claimant ~~submits~~ **CERTIFIES** the statement and **MAKES**
26 full payment of the assessment levied under section 5 by September
27 15. An eligible claimant may amend a ~~filed~~ **CERTIFIED** statement for

1 the current year up to September 15. Payments made due to an
2 amended statement are subject to the penalties as described in this
3 subsection. The department ~~of treasury~~ shall issue refunds for
4 overpayments due to an amended statement. All refunds due to
5 overpayment shall be remitted without interest except as provided
6 by section 37 of the tax tribunal act, 1973 PA 186, MCL 205.737.

7 (5) For any assessment year in which an eligible claimant does
8 not submit payment in full and any penalty due under subsection (4)
9 or (6) by October 15, or if the ~~state tax commission~~ **DEPARTMENT**
10 discovers that the property is not eligible under section 9m or 9n
11 of the general property tax act, 1893 PA 206, MCL 211.9m and
12 211.9n, all of the following shall apply:

13 (a) The ~~state tax commission~~ **DEPARTMENT** shall ~~issue an order~~
14 ~~to~~ rescind no later than the first Monday in December for the
15 assessment year any exemption described in section 9m or 9n of the
16 general property tax act, 1893 PA 206, MCL 211.9m and 211.9n,
17 granted for any parcel for which payment in full and any penalty
18 due have not been received or for which the ~~state tax commission~~
19 **DEPARTMENT** discovers that the property is not eligible under
20 section 9m or 9n of the general property tax act, 1893 PA 206, MCL
21 211.9m and 211.9n.

22 (b) ~~The~~ **UPON REQUEST OF THE DEPARTMENT, THE** state tax
23 commission shall issue an order to rescind no later than the first
24 Monday in December for the assessment year any exemption under
25 section 9f of the general property tax act, 1893 PA 206, MCL
26 211.9f, which exemption was approved under section 9f of the
27 general property tax act, 1893 PA 206, MCL 211.9f, after 2013 for

1 any parcel for which payment in full and any penalty due have not
 2 been received or for which the state tax commission discovers that
 3 the property is not eligible ~~under section 9m or 9n of the general~~
 4 ~~property tax act, 1893 PA 206, MCL 211.9m and 211.9n.~~**PERSONAL**
 5 **PROPERTY.**

6 (c) ~~The~~**UPON REQUEST OF THE DEPARTMENT, THE** state tax
 7 commission shall issue an order to rescind no later than the first
 8 Monday in December for the assessment year any exemption for
 9 eligible personal property subject to an extended industrial
 10 facilities exemption certificate under section 11a of 1974 PA 198,
 11 MCL 207.561a, for any parcel for which payment in full and any
 12 penalty due have not been received or for which the ~~state tax~~
 13 ~~commission~~**DEPARTMENT** discovers that the property is not eligible
 14 ~~under section 9m or 9n of the general property tax act, 1893 PA~~
 15 ~~206, MCL 211.9m and 211.9n.~~**PERSONAL PROPERTY.**

16 (d) ~~The~~**UPON REQUEST OF THE DEPARTMENT, THE** state tax
 17 commission shall issue an order to rescind no later than the first
 18 Monday in December for the assessment year any extended exemption
 19 for eligible personal property under section 9f(8)(a) of the
 20 general property tax act, 1893 PA 206, MCL 211.9f, for any parcel
 21 for which payment in full and any penalty due have not been
 22 received or for which the ~~state tax commission~~**DEPARTMENT** discovers
 23 that the property is not eligible ~~under section 9m or 9n of the~~
 24 ~~general property tax act, 1893 PA 206, MCL 211.9m and~~
 25 ~~211.9n.~~**PERSONAL PROPERTY.**

26 (e) The eligible claimant shall file with the assessor of the
 27 township or city within 30 days of the date of the ~~state tax~~

1 ~~commission order to rescind~~ **RESCISSION** issued under subdivisions
2 (a) to (d) a statement under section 19 of the general property tax
3 act, 1893 PA 206, MCL 211.19, for all property for which the
4 exemption has been rescinded under this section.

5 (f) Within 60 days of ~~an order of A~~ rescission ~~by the state~~
6 ~~tax commission~~ under subdivisions (a) to (d), the treasurer of the
7 local tax collecting unit shall issue amended tax bills for any
8 taxes, including penalty and interest, that were not billed under
9 the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, or
10 under 1974 PA 198, MCL 207.551 to 207.572, and that are owed as a
11 result of the ~~order of~~ rescission.

12 (6) An eligible claimant shall provide access to the books and
13 records, for audit purposes, relating to the location and
14 description; the date of purchase, lease, or acquisition; and the
15 purchase price, lease amount, or value of all personal property
16 owned by, leased by, or in the possession of that person or a
17 related entity if requested by the assessor of the township or
18 city, county equalization department, or department ~~of treasury~~ for
19 the year in which the statement is filed and the immediately
20 preceding 3 years. The department ~~of treasury~~ shall develop and
21 implement an audit program which includes, but is not limited to,
22 the audit of statements submitted under subsection (3) and amended
23 statements submitted under subsection (4) for the current calendar
24 year and the 3 calendar years immediately preceding the
25 commencement of an audit. An assessment as a result of an audit
26 shall be paid in full within 35 days of issuance and shall include
27 penalties and interest as described in section 154(3) of the

1 general property tax act, 1893 PA 206, MCL 211.154. Refunds as a
2 result of an audit under this subsection shall be without interest.
3 The exemption for personal property for which an assessment has
4 been issued as a result of an audit under this subsection shall be
5 subject to the rescission provisions of subsection (5) for the
6 years of the assessment if full payment is not timely made as
7 required by this subsection.

8 (7) An eligible claimant may appeal an assessment levied under
9 section 5 or a penalty or rescission under this section to the
10 ~~state tax commission~~ **MICHIGAN TAX TRIBUNAL** by filing a petition not
11 later than December 31 in that tax year. An eligible claimant may
12 appeal an assessment issued, including penalties, interest, or
13 rescission, as a result of an audit conducted under subsection (6)
14 by filing a petition with the ~~state tax commission~~ **MICHIGAN TAX**
15 **TRIBUNAL** within ~~30~~ **35** days of the date of that assessment's
16 issuance. The department of ~~treasury~~ may appeal to the ~~state tax~~
17 ~~commission~~ **MICHIGAN TAX TRIBUNAL** by filing a petition for the
18 current calendar year and 3 immediately preceding calendar years.
19 ~~The state tax commission shall decide any appeal based on the~~
20 ~~written petition and the written recommendation of state tax~~
21 ~~commission staff and any other relevant information. The department~~
22 ~~of treasury or any eligible claimant may appeal the determination~~
23 ~~of the state tax commission to the Michigan tax tribunal within 35~~
24 ~~days of the date of the determination.~~

25 (8) ~~For any year before 2023, the~~ **THE** department of ~~treasury~~
26 may require eligible claimants to **ANNUALLY** file by February 20 of
27 the ~~EACH~~ year a combined document that includes the affidavit ~~FORM~~

1 TO CLAIM THE EXEMPTION under sections 9f(9), 9m, and 9n of the
 2 general property tax act, 1893 PA 206, MCL 211.9f, 211.9m, and
 3 211.9n, ~~the affidavit~~ AND under section 11a of 1974 PA 198, MCL
 4 207.561a, A REPORT OF THE FAIR MARKET VALUE AND YEAR OF ACQUISITION
 5 BY THE FIRST OWNER OF ELIGIBLE PERSONAL PROPERTY, AND FOR ANY YEAR
 6 BEFORE 2023, a statement under section 19 of the general property
 7 tax act, 1893 PA 206, MCL 211.19. ~~and a report of the acquisition~~
 8 ~~cost and year of acquisition by the first owner of eligible~~
 9 ~~personal property.~~ ALL OF THE FOLLOWING APPLY TO THE FILING OF A
 10 COMBINED DOCUMENT UNDER THIS SUBSECTION:

11 (A) The combined document shall be in a form prescribed by the
 12 ~~state tax commission.~~ DEPARTMENT.

13 (B) LEASING COMPANIES ARE NOT ELIGIBLE TO RECEIVE THE
 14 EXEMPTION UNDER THIS SECTION AND MAY NOT USE THE COMBINED DOCUMENT
 15 PRESCRIBED IN THIS SECTION. WITH RESPECT TO PERSONAL PROPERTY THAT
 16 IS THE SUBJECT OF A LEASE AGREEMENT, REGARDLESS OF WHETHER THE
 17 AGREEMENT CONSTITUTES A LEASE FOR FINANCIAL OR TAX PURPOSES, ALL OF
 18 THE FOLLOWING APPLY:

19 (i) IF THE PERSONAL PROPERTY IS ELIGIBLE MANUFACTURING
 20 PERSONAL PROPERTY, THE LESSEE AND LESSOR MAY ELECT THAT THE LESSEE
 21 REPORT THE LEASED PERSONAL PROPERTY ON THE COMBINED DOCUMENT.

22 (ii) AN ELECTION MADE BY THE LESSOR AND THE LESSEE UNDER THIS
 23 SUBDIVISION SHALL BE MADE IN A FORM AND MANNER APPROVED BY THE
 24 DEPARTMENT.

25 (iii) ABSENT AN ELECTION, THE PERSONAL PROPERTY SHALL BE
 26 REPORTED BY THE LESSOR ON THE PERSONAL PROPERTY STATEMENT UNLESS
 27 THE EXEMPTION FOR ELIGIBLE MANUFACTURING PERSONAL PROPERTY IS

1 CLAIMED BY THE LESSEE ON THE COMBINED DOCUMENT.

2 (C) FOR ELIGIBLE PERSONAL PROPERTY EXEMPT UNDER THE MICHIGAN
3 RENAISSANCE ZONE ACT, 1996 PA 376, MCL 125.2681 TO 125.2696, AN
4 ELIGIBLE CLAIMANT SHALL REPORT THE FAIR MARKET VALUE OF THAT
5 PERSONAL PROPERTY AT THE TIME OF ACQUISITION BY THE FIRST OWNER,
6 INCLUDING THE COST OF FREIGHT, SALES TAX, INSTALLATION, AND OTHER
7 CAPITALIZED COSTS, EXCEPT CAPITALIZED INTEREST.

8 (D) The combined document shall be filed with the assessor of
9 the township or city in which the eligible personal property is
10 located.

11 (E) The assessor shall transmit the information contained in
12 the combined document filed under this subsection, and other parcel
13 information required by the department, ~~of treasury,~~ to the
14 department ~~of treasury~~ in the form and in the manner prescribed by
15 the department ~~of treasury~~ no later than April 1.

16 Sec. 9. (1) The fund board may adopt a resolution to exempt
17 from the assessment under this act eligible personal property
18 designated in the resolution as provided in this section and
19 described in subsection (3)(c) that is owned by, leased to, or in
20 the possession of an eligible claimant. In the resolution, the fund
21 board may determine that the eligible personal property designated
22 in the resolution shall be subject to the alternative state
23 essential services assessment under the alternative state essential
24 services assessment act. The resolution shall not be approved if
25 the state treasurer, or his or her designee to the fund board,
26 votes against the resolution.

27 (2) An exemption under this section is effective in the

1 assessment year immediately succeeding the year in which the fund
2 board adopts the resolution under subsection (1) and shall continue
3 in effect for a period specified in the resolution. A copy of the
4 resolution shall be filed with the ~~state tax commission~~**DEPARTMENT**.

5 (3) The fund board shall provide for a detailed application,
6 approval, and compliance process published and available on the
7 fund's website. The detailed application, approval, and compliance
8 process shall, at a minimum, contain the following:

9 (a) An eligible claimant, or a next Michigan development
10 corporation on behalf of an eligible claimant, may apply for an
11 exemption to the assessment in a form and manner determined by the
12 fund board.

13 (b) After receipt of an application, the fund may enter into
14 an agreement with an eligible claimant if the eligible claimant
15 agrees to make certain investments of eligible personal property in
16 this state.

17 (c) An eligible claimant shall present a business plan or
18 demonstrate that a minimum of \$25,000,000.00 will be invested in
19 additional eligible personal property in this state during the
20 duration of the written agreement.

21 (d) The written agreement shall provide in a clear and concise
22 manner all of the conditions imposed, including specific time
23 frames, on the eligible claimant, to receive the exemption to the
24 assessment under this section.

25 (e) The written agreement shall provide that the exemption
26 under this section is revoked if the eligible claimant fails to
27 comply with the provisions of the written agreement.

1 (f) The written agreement shall provide for a repayment
2 provision on the exemption to the assessment if the eligible
3 claimant fails to comply with the provisions of the written
4 agreement.

5 (g) The written agreement shall provide for an audit provision
6 that requires the fund to verify that the specific time frames for
7 the investment have been met.

8 (4) The fund board shall consider the following criteria to
9 the extent reasonably applicable to the type of investment proposed
10 when approving an exemption to the assessment:

11 (a) Out-of-state competition.

12 (b) Net-positive return to this state.

13 (c) Level of investment made by the eligible claimant.

14 (d) Business diversification.

15 (e) Reuse of existing facilities.

16 (f) Near-term job creation or significant job retention as a
17 result of the investment made in eligible personal property.

18 (g) Strong links to Michigan suppliers.

19 (h) Whether the project is in a local unit of government that
20 contains an eligible distressed area as that term is defined in
21 section 11 of the state housing development authority act of 1966,
22 1966 PA 346, MCL 125.1411.

23 (5) The fund board, or the Michigan economic development
24 corporation, may charge actual and reasonable fees for costs
25 associated with administering the activities authorized under this
26 section.

27 Sec. 11. (1) Proceeds of the assessment collected under

1 section 7 shall be credited to the general fund.

2 (2) Beginning in fiscal year 2014-2015 and each fiscal year
3 thereafter, the legislature shall appropriate funds in an amount
4 equal to the necessary expenses incurred by the department of
5 ~~treasury~~ in implementing this act.