

Act No. 201  
Public Acts of 1991  
Approved by the Governor  
January 3, 1992  
Filed with the Secretary of State  
January 3, 1992

**STATE OF MICHIGAN  
86TH LEGISLATURE  
REGULAR SESSION OF 1991**

Introduced by Senator Dingell

# **ENROLLED SENATE BILL No. 485**

AN ACT to amend section 9 of Act No. 198 of the Public Acts of 1974, entitled "An act to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide penalties," as amended by Act No. 338 of the Public Acts of 1990, being section 207.559 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Section 9 of Act No. 198 of the Public Acts of 1974, as amended by Act No. 338 of the Public Acts of 1990, being section 207.559 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 9. (1) The legislative body of the local governmental unit, in its resolution approving an application, shall set forth a finding and determination that the granting of the industrial facilities exemption certificate, considered together with the aggregate amount of industrial facilities exemption certificates previously granted and currently in force, shall not have the effect of substantially impeding the operation of the local governmental unit or impairing the financial soundness of a taxing unit that levies an ad valorem property tax in the local governmental unit in which the facility is located or to be located. If the state equalized valuation of property proposed to be exempt pursuant to an application under consideration, considered together with the aggregate state equalized valuation of property exempt under certificates previously granted and currently in force, exceeds 5% of the state equalized valuation of the local governmental unit, the commission, with the approval of the state treasurer, shall make a separate finding and shall include a statement in the order approving the industrial facilities exemption certificate that exceeding that amount shall not have the effect of substantially impeding the operation of the local governmental unit or impairing the financial soundness of any affected taxing unit.

(2) Except for an application for a speculative building, which is governed by subsection (4), the legislative body of the local governmental unit shall not approve an application and the commission shall not grant an industrial facilities exemption certificate unless the applicant complies with all of the following requirements:

(a) The commencement of the restoration, replacement, or construction of the facility occurred not earlier than 12 months before the filing of the application for the industrial facilities exemption certificate. If the application is not filed within the 12-month period, the application may be filed within the succeeding 12-month period and the industrial facilities exemption certificate shall in this case expire 1 year earlier than it would have expired if the application had been timely filed. This subdivision does not apply for applications filed with the local governmental unit after December 31, 1983.

(b) For applications made after December 31, 1983, the proposed facility shall be located within a plant rehabilitation district or industrial development district that was duly established in a local governmental unit eligible under this act to establish a district and that was established upon a request filed or by the local governmental unit's own initiative taken before the commencement of the restoration, replacement, or construction of the facility. The provisions of this subdivision do not apply to an industrial development district established in March 1991 if the owner of the facility began construction in September 1990 and requested the establishment of a plant rehabilitation district in December 1990. The provisions of this subdivision do not apply to a district created in May 1989 if a building permit was issued to an owner of a facility located in the district in August 1988 who had a transfer of employment approved pursuant to subdivision (f) in October 1988 and who filed an application for an industrial facilities exemption certificate in September 1988. If the provisions of this subdivision do not apply, an application for an industrial facilities exemption certificate filed in September 1988 shall be presumed to comply with subdivision (c) notwithstanding the date on which the application is effective. The provisions of section 4(3) do not apply to a facility located in a district for which the provisions of this subdivision do not apply.

(c) For applications made after December 31, 1983, the commencement of the restoration, replacement, or construction of the facility occurred not earlier than 6 months before the filing of the application for the industrial facilities exemption certificate. The provisions of this subdivision do not apply to a facility located in an industrial development district established in March 1991 if the owner of the facility began construction in September 1990 and requested the establishment of a plant rehabilitation district in December 1990. The provisions of this subdivision do not apply to the building and building improvements of a tenant who was issued a building permit in April 1986 who filed an application for industrial facilities exemption certificate in December 1986, who had a transfer of employment approved pursuant to subdivision (f) in February 1987, and whose industrial facilities exemption certificate was partially approved in September 1987.

(d) The application relates to a construction, restoration, or replacement program that when completed constitutes a new or replacement facility within the meaning of this act and that shall be situated within a plant rehabilitation district or industrial development district duly established in a local governmental unit eligible under this act to establish the district.

(e) Completion of the facility is calculated to, and will at the time of issuance of the certificate have the reasonable likelihood to create employment, retain employment, prevent a loss of employment, or produce energy in the community in which the facility is situated.

(f) Completion of the facility shall not have the effect of transferring employment from 1 or more local governmental units of the state to the local governmental unit in which the facility is to be located, except that this restriction does not prevent the granting of a certificate if the legislative body of each local governmental unit from which employment is to be transferred consents by resolution to the granting of the certificate. If the local governmental unit does not give its consent, a copy of the resolution of denial showing reasons for the denial shall be filed within 20 days after adoption with the department of commerce.

(g) Completion of the facility does not constitute merely the addition of machinery and equipment for the purpose of increasing productive capacity but rather is primarily for the purpose and will primarily have the effect of restoration, replacement, or updating the technology of obsolete industrial property. An increase in productive capacity, even though significant, shall not constitute an impediment to the issuance of an industrial facilities exemption certificate if other criteria in this section and act are met. This subdivision does not apply to a new facility.

(3) If the replacement facility when completed will not be located on the same premises or contiguous premises as the obsolete industrial property, then the applicant shall make provision for the obsolete industrial property by way of demolition, sale, or transfer to another person with the effect that the obsolete industrial property shall within a reasonable time again be subject to assessment and taxation under the general property tax act, Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Michigan Compiled Laws, or be used in a manner consistent with the general purposes of this act, subject to approval of the commission.

(4) The legislative body of the local governmental unit shall not approve an application and the commission shall not grant an industrial facilities exemption certificate that applies to a speculative building unless the speculative building is or is to be located in a plant rehabilitation district or industrial development district duly established by a local governmental unit eligible under this act to establish a district; the speculative building was constructed less than 9 years before the filing of the application for the industrial facilities exemption certificate; the speculative building has not been occupied since completion of construction; and the speculative building otherwise qualifies under subsection (2)(e) and (f) for an industrial facilities exemption certificate. An industrial facilities exemption certificate granted under this subsection shall expire as provided in section 16(3).

(5) Not later than September 1, 1989, the commission shall provide to all local assessing units the name, address, and telephone number of the person on the commission staff responsible for providing procedural information concerning this act. After October 1, 1989, a local unit of government shall notify each prospective applicant of this information in writing.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved-----

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Governor.