

# HOUSE BILL No. 5047

July 25, 1991, Introduced by Rep. Clack and referred to the Committee on Taxation.

A bill 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:

1       Section 1. Section 9 of Act No. 198 of the Public Acts of  
2 1974, as amended by Act No. 338 of the Public Acts of 1990, being  
3 section 207.559 of the Michigan Compiled Laws, is amended to read  
4 as follows:

1       Sec. 9. (1) The legislative body of the local governmental  
2 unit, in its resolution approving an application, shall set forth  
3 a finding and determination that the granting of the industrial  
4 facilities exemption certificate, considered together with the  
5 aggregate amount of industrial facilities exemption certificates  
6 previously granted and currently in force, shall not have the  
7 effect of substantially impeding the operation of the local gov-  
8 ernmental unit or impairing the financial soundness of a taxing  
9 unit that levies an ad valorem property tax in the local govern-  
10 mental unit in which the facility is located or to be located.  
11 If the state equalized valuation of property proposed to be  
12 exempt pursuant to an application under consideration, considered  
13 together with the aggregate state equalized valuation of property  
14 exempt under certificates previously granted and currently in  
15 force, exceeds 5% of the state equalized valuation of the local  
16 governmental unit, the commission, with the approval of the state  
17 treasurer, shall make a separate finding and shall include a  
18 statement in the order approving the industrial facilities exemp-  
19 tion certificate that exceeding that amount shall not have the  
20 effect of substantially impeding the operation of the local gov-  
21 ernmental unit or impairing the financial soundness of any  
22 affected taxing unit.

23       (2) Except for an application for a speculative building,  
24 which is governed by subsection (4), the legislative body of the  
25 local governmental unit shall not approve an application and the  
26 commission shall not grant an industrial facilities exemption

1 certificate unless the applicant complies with all of the  
2 following requirements:

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

13 (b) For applications made after December 31, 1983, the pro-  
14 posed facility shall be located within a plant rehabilitation  
15 district or industrial development district that was duly estab-  
16 lished in a local governmental unit eligible under this act to  
17 establish a district and that was established upon a request  
18 filed or by the local governmental unit's own initiative taken  
19 before the commencement of the restoration, replacement, or con-  
20 struction of the facility.

21 (c) For applications made after December 31, 1983, the com-  
22 mencement of the restoration, replacement, or construction of the  
23 facility occurred not earlier than 6 months before the filing of  
24 the application for the industrial facilities exemption  
25 certificate. Additionally, a facility, located in an existing  
26 industrial development district, for which construction began in  
27 July 1988 and was completed in January 1989 may apply for an

1 industrial facilities exemption certificate not later than  
2 February 1, 1991. The provisions of this subdivision do not  
3 apply to an owner for whom a transfer of employment was approved  
4 pursuant to subdivision (f) in December of 1989 and who filed an  
5 application for an industrial facilities exemption certificate in  
6 June of 1990 if the application as approved by the local govern-  
7 ing body was forwarded to the state tax commission ~~prior to~~  
8 BEFORE December 1, 1990.

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

16 (e) Completion of the facility is calculated to, and will at  
17 the time of issuance of the certificate have the reasonable like-  
18 lihood to create employment, retain employment, prevent a loss of  
19 employment, or produce energy in the community in which the  
20 facility is situated.

21 (f) Completion of the facility shall not have the effect of  
22 transferring employment from 1 or more local governmental units  
23 of the state to the local governmental unit in which the facility  
24 is to be located, except that this restriction shall not prevent  
25 the granting of a certificate if the legislative body of each  
26 local governmental unit from which employment is to be  
27 transferred consents by resolution to the granting of the

1 certificate. If the local governmental unit does not give its  
2 consent, a copy of the resolution of denial showing reasons for  
3 the denial shall be filed within 20 days after adoption with the  
4 department of commerce.

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

15 (3) If the replacement facility when completed ~~will~~ IS not  
16 ~~be~~ located on the same premises or contiguous premises as the  
17 obsolete industrial property, ~~then~~ the applicant shall ~~make~~  
18 ~~provision~~ PROVIDE for the obsolete industrial property by way of  
19 demolition, sale, or transfer to another person ~~with the effect~~  
20 SO that the obsolete industrial property ~~shall~~ within a reason-  
21 able time SHALL again be subject to assessment and taxation under  
22 the general property tax act, Act No. 206 of the Public Acts of  
23 1893, as amended, being sections 211.1 to 211.157 of the Michigan  
24 Compiled Laws, or be used in a manner consistent with the general  
25 purposes of this act, subject to approval of the commission.

26 (4) The legislative body of the local governmental unit  
27 shall not approve an application and the commission shall not

1 grant an industrial facilities exemption certificate that applies  
2 to a speculative building unless the speculative building is or  
3 is to be located in a plant rehabilitation district or industrial  
4 development district duly established by a local governmental  
5 unit eligible under this act to establish a district; the specu-  
6 lative building was constructed less than 9 years before the  
7 filing of the application for the industrial facilities exemption  
8 certificate; the speculative building has not been occupied since  
9 completion of construction; and the speculative building other-  
10 wise qualifies under subsection (2)(e) and (f) for an industrial  
11 facilities exemption certificate. An industrial facilities  
12 exemption certificate granted under this subsection shall expire  
13 as provided in section 16(3).

14 (5) THE LEGISLATIVE BODY OF THE LOCAL GOVERNMENTAL UNIT  
15 SHALL NOT APPROVE AN APPLICATION AND THE COMMISSION SHALL NOT  
16 GRANT AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE UNLESS THE  
17 LEGISLATIVE BODY OF EACH AFFECTED TAXING UNIT APPROVES THE GRANT-  
18 ING OF THE INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE.

19 (6) ~~(5)~~ Not later than September 1, 1989, the commission  
20 shall provide to all local assessing units the name, address, and  
21 telephone number of the person on the commission staff responsi-  
22 ble for providing procedural information concerning this act.

23 ~~After October 1, 1989, a~~ A local unit of government shall  
24 notify each prospective applicant of this information in  
25 writing.