



HOUSE BILL No. 5196

November 10, 1993, Introduced by Reps. Schroer, Harder, Profit, Gagliardi and Griffin 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. 201 of the Public Acts of 1991, 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. 201 of the Public Acts of 1991, 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 does not apply for applications filed
12 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. The provisions of this subdivision do
21 not apply to an industrial development district established in
22 March 1991 if the owner of the facility began construction in
23 September 1990 and requested the establishment of a plant reha-
24 bilitation district in December 1990. The provisions of this
25 subdivision do not apply to a district created in May 1989 if a
26 building permit was issued to an owner of a facility located in
27 the district in August 1988 who had a transfer of employment

1 approved pursuant to subdivision (f) in October 1988 and who
2 filed an application for an industrial facilities exemption cer-
3 tificate in September 1988. If the provisions of this subdivi-
4 sion do not apply, an application for an industrial facilities
5 exemption certificate filed in September 1988 shall be presumed
6 to comply with subdivision (c) notwithstanding the date on which
7 the application is effective. The provisions of section 4(3) do
8 not apply to a facility located in a district for which the pro-
9 visions of this subdivision do not apply.

10 (c) For applications made after December 31, 1983, the com-
11 mencement of the restoration, replacement, or construction of the
12 facility occurred not earlier than 6 months before the filing of
13 the application for the industrial facilities exemption
14 certificate. The provisions of this subdivision do not apply to
15 a facility located in an industrial development district estab-
16 lished in March 1991 if the owner of the facility began construc-
17 tion in September 1990 and requested the establishment of a plant
18 rehabilitation district in December 1990. The provisions of this
19 subdivision do not apply to the building and building improve-
20 ments of a tenant who was issued a building permit in April 1986,
21 who filed an application for industrial facilities exemption cer-
22 tificate in December 1986, who had a transfer of employment
23 approved pursuant to subdivision (f) in February 1987, and whose
24 industrial facilities exemption certificate was partially
25 approved in September 1987. THE PROVISIONS OF THIS SUBDIVISION
26 DO NOT APPLY TO A NEW FACILITY LOCATED IN AN EXISTING INDUSTRIAL
27 DEVELOPMENT DISTRICT OWNED BY A PERSON WHO FILED AN APPLICATION

1 FOR AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE IN APRIL OF
2 1992 IF THE APPLICATION WAS APPROVED BY THE LOCAL GOVERNING BODY
3 AND WAS DENIED BY THE STATE TAX COMMISSION IN APRIL OF 1993.

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

11 (e) Completion of the facility is calculated to, and will at
12 the time of issuance of the certificate have the reasonable like-
13 lihood to create employment, retain employment, prevent a loss of
14 employment, or produce energy in the community in which the
15 facility is situated.

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

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

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

22 (4) The legislative body of the local governmental unit
23 shall not approve an application and the commission shall not
24 grant an industrial facilities exemption certificate that applies
25 to a speculative building unless the speculative building is or
26 is to be located in a plant rehabilitation district or industrial
27 development district duly established by a local governmental

1 unit eligible under this act to establish a district; the
2 speculative building was constructed less than 9 years before the
3 filing of the application for the industrial facilities exemption
4 certificate; the speculative building has not been occupied since
5 completion of construction; and the speculative building other-
6 wise qualifies under subsection (2)(e) and (f) for an industrial
7 facilities exemption certificate. An industrial facilities
8 exemption certificate granted under this subsection shall expire
9 as provided in section 16(3).

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