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EXEMPT CONTAMINATED SITES

House Bill 5092

Sponsor: Rep. Jan Dolan

Committee: Urban Policy

Complete to 10-16-95

A SUMMARY OF HOUSE BILL 5092 AS INTRODUCED 9-20-95

The bill would amend the General Property Tax Act to permit a local tax collecting unit to provide a property tax exemption for "additions", or part of additions, to environmentally contaminated sites, under certain circumstances. An "addition" would be defined as new construction and other increases in the value of the property as defined in the act (see below). A contaminated site would be defined under the bill to mean property that is identified on the list of environmentally contaminated sites prepared under the provisions of the Natural Resources and Environmental Protection Act or identified on any other list or registry of environmentally contaminated sites compiled or maintained by the Department of Environmental Quality [DEQ].

An exemption could be granted if there was no known or solvent responsible party financially capable of undertaking remediation of the property. The exemption period would be negotiated under an agreement with the local tax collecting unit. In addition, a local tax collecting unit could also negotiate an agreement with the person who had been granted the exemption to exempt, in whole or in part, personal property that was located on the exempted additions. The terms and conditions of the real property tax agreement would also apply to the personal property tax agreement. However, the total property and personal taxes exempted could not exceed the response activity costs required to abate the existing environmental contamination.

Definition of "Additions". Under Section 34d of the General Property Tax Act, the term "additions" is defined as:

- omitted real property, meaning previously existing tangible real property not included in the assessment.
- omitted personal property.
- new construction. The value of new construction would be 50 percent of true cash value.
- previously exempt property, which would be valued at 50 percent of true cash value, unless it had been subject to a so-called poverty exemption, in which case, taxable value would be used in the calculation. The taxable value of a property that had previously been exempt (i.e., was no longer exempt) as a "new facility" under the act granting industrial facility exemptions would be the taxable value that the property would have had if it had not been exempt.

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-- replacement construction, which means construction replacing property damaged or destroyed by accident or act of God where the construction's true cash value did not exceed the true cash value of property damaged or destroyed in the immediately preceding three years.

-- an increase in taxable value due to the complete or partial remediation of environmental contamination. The degree of remediation would be determined by the Department of Natural Resources. (Note: An amendment would be necessary to refer to the new Department of Environmental Quality, which has responsibility for environmental matters.)

-- an increase in the property's occupancy rate if 1) a loss had previously been allowed due to a decrease in occupancy or 2) if the value of new construction had been reduced because of a below-market occupancy rate.

-- public services, such as water service, sewer service, a primary access road, natural gas service, electrical service, telephone service, sidewalks, or street lighting. (For purposes of determining taxable value of real property, the value of public services is the amount of increase in the property's true cash value attributable to the available public services.)

Additions would not include increased value attributable to: platting, splits, or combinations of property; a change in zoning; and, for the purposes of the calculation of the Headlee millage reduction process only, increased taxable value after a transfer of ownership of property.

Agreement to Exempt Additions. A local tax collecting unit could negotiate an agreement to exempt taxes on additions and on personal property with one or more persons (excluding the person responsible for the contamination) who proposed to abate the contamination and redevelop the property to which the additions were made. The agreement would include a detailed description of the exempted additions and of all exempt personal property; a detailed description, including estimated costs, of proposed response activities; the extent and period of the redemption; a detailed description of proposed redevelopment activities; and a statement that an exemption would begin when the DEQ approved the remedial action plan. The agreement could also include the following: alternative dispute resolution procedures; enforcement rights; remedies and penalties in the event of noncompliance; penalties in the event of revocation of the exemption; and any other terms and conditions agreed upon by the parties.

The bill would also require that the local tax collecting unit annually review the agreement before December 31 to confirm compliance. If the person awarded the exemption were not in compliance, the tax collecting unit could revoke the exemption and avail itself of any remedy or impose any penalty provided for in the agreement. A revocation could be appealed to the State Tax Commission.

MCL 211.157ff and MCL 211.159f