

Act No. 513
Public Acts of 1996
Approved by the Governor
January 12, 1997
Filed with the Secretary of State
January 13, 1997

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senators Cisky, North, Steil and Berryman

ENROLLED SENATE BILL No. 1111

AN ACT to amend sections 7, 8, 9, and 15 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," section 7 as amended by Act No. 323 of the Public Acts of 1996, section 8 as amended by Act No. 334 of the Public Acts of 1993, section 9 as amended by Act No. 1 of the Public Acts of 1996, and section 15 as amended by Act No. 417 of the Public Acts of 1982, being sections 207.557, 207.558, 207.559, and 207.565 of the Michigan Compiled Laws; and to add section 7a.

The People of the State of Michigan enact:

Section 1. Sections 7, 8, 9, and 15 of Act No. 198 of the Public Acts of 1974, section 7 as amended by Act No. 323 of the Public Acts of 1996, section 8 as amended by Act No. 334 of the Public Acts of 1993, section 9 as amended by Act No. 1 of the Public Acts of 1996, and section 15 as amended by Act No. 417 of the Public Acts of 1982, being sections 207.557, 207.558, 207.559, and 207.565 of the Michigan Compiled Laws, are amended and section 7a is added to read as follows:

Sec. 7. (1) Within 60 days after receipt of an approved application or an appeal of a disapproved application that was submitted to the commission before October 31 of that year, the commission shall determine whether the facility is a speculative building or designed and acquired primarily for the purpose of restoration or replacement of obsolete industrial property or the construction of new industrial property, and whether the facility otherwise complies with section 9 and with the other provisions of this act. If the commission so finds, it shall issue an industrial facilities exemption certificate. Before issuing a certificate the commission shall notify the state treasurer of the application and shall obtain the written concurrence of the department of consumer and industry services that the application complies with the requirements in section 9. Except as otherwise provided in section 7a, the effective date of the certificate for a replacement facility or new facility is the immediately succeeding December 31 following the date the certificate is issued. For a speculative building or a portion of a speculative building, except as otherwise provided in section 7a, the effective date of the certificate is the immediately succeeding December 31 following the date the speculative building, or the portion of a speculative building, is used as a manufacturing facility.

(2) The commission shall send an industrial facilities exemption certificate, when issued, by certified mail to the applicant, and a certified copy by certified mail to the assessor of the assessing unit in which the facility is located or to be located, and that copy shall be filed in his or her office. Notice of the commission's refusal to issue a certificate shall be sent by certified mail to the same persons.

(3) Notwithstanding any other provision of this act, if on December 29, 1986 a local governmental unit passed a resolution approving an exemption certificate for 10 years for real and personal property but the commission did not receive the application until 1992 and the application was not made complete until 1995, then the commission shall issue, for that property, an industrial facilities exemption certificate that begins December 30, 1987 and ends December 30, 1997.

Sec. 7a. If, after reviewing the application described in section 7, the commission determines that the cost of the facility exceeds \$150,000,000.00 of state equalized value, then all of the following apply:

(a) The replacement, restoration, or construction of the facility shall be completed within 6 years of the effective date of the initial industrial facilities exemption certificate or a greater time as authorized by the commission for good cause.

(b) The commission shall provide not more than 3 separate industrial facilities exemption certificates for the facility. The initial industrial facilities exemption certificate shall be effective for not more than 14 years. The second industrial facilities exemption certificate shall be effective 2 years after the initial industrial facilities exemption certificate becomes effective and shall continue to be effective for not more than 14 years. The third industrial facilities exemption certificate shall be effective 4 years after the initial industrial facilities exemption certificate becomes effective and shall continue to be effective for not more than 14 years. The commission may modify each certificate during the replacement, restoration, or construction of the facility.

(c) For each industrial facilities exemption certificate, the commission shall determine the portion of the facility to be completed. During the first 2 years of the industrial facilities exemption certificate period, the state equalized valuation of that portion of the facility shall be used to calculate the industrial facilities tax as provided in section 14. Upon the expiration of each industrial facilities exemption certificate or its revocation under section 15, that portion of the facility is subject to the general ad valorem property tax.

(d) Notwithstanding subdivision (b), an industrial facilities exemption certificate for a facility described in this section shall expire not more than 12 years from the completion of the facility.

Sec. 8. A facility or that portion of a facility described in section 7a, for which an industrial facilities exemption certificate is in effect, but not the land on which the facility is located or to be located or inventory of the facility, for the period on and after the effective date of the certificate and continuing so long as the industrial facilities exemption certificate is in force, is exempt from ad valorem real and personal property taxes and the lessee, occupant, user, or person in possession of that facility for the same period is exempt from ad valorem taxes imposed under Act No. 189 of the Public Acts of 1953, being sections 211.181 and 211.182 of the Michigan Compiled Laws.

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 an 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.

(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.

(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 this 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 consumer and industry services.

(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, is not 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.

(h) The provisions of subdivision (c) do not apply to a new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in April of 1992 if the application was approved by the local governing body and was denied by the state tax commission in April of 1993.

(i) The provisions of subdivisions (b) and (c) and section 4(3) do not apply to 1 or more of the following:

(i) A facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in October 1995 for construction that was commenced in July 1992 in a district that was established by the legislative body of the local governmental unit in July 1994. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16(3).

(ii) A facility located in an industrial development district that was established in January 1994 and was owned by a person who filed an application for an industrial facilities exemption certificate in February 1994 if the personal property and real property portions of the application were approved by the legislative body of the local governmental unit and the personal property portion of the application was approved by the state tax commission in December 1994 and the real property portion of the application was denied by the state tax commission in December 1994. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16(3).

(iii) A facility located in an industrial development district that was established in December 1995 and was owned by a person who filed an application for an industrial facilities exemptions certificate in November or December 1995 for construction that was commenced in September 1995.

(j) The provisions of subdivision (c) do not apply to any of the following:

(i) A new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in October 1993 if the application was approved by the legislative body of the local governmental unit and the real property portion of the application was denied by the state tax commission in December 1993.

(ii) A new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in September 1993 if the personal property portion of the application was approved by the legislative body of the local governmental unit and the real property portion of the application was denied by the legislative body of the local governmental unit in October 1993 and subsequently approved by the legislative body of the local governmental unit in September 1994.

(iii) A facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in August 1993 if the application was approved by the local governmental unit in September 1993 and the application was denied by the state tax commission in December 1993.

(iv) A facility located in an existing industrial development district occupied by a person who filed an application for an industrial facilities exemption certificate in June of 1995 if the application was approved by the legislative body of the local governmental unit in October of 1995 for construction that was commenced in November or December of 1994.

(v) A facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in June of 1995 if the application was approved by the legislative body of the

local governmental unit in July of 1995 and the personal property portion of the application was approved by the state tax commission in November of 1995.

(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 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, 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.

(6) Notwithstanding any other provision of this act, if on December 29, 1986 a local governmental unit passed a resolution approving an exemption certificate for 10 years for real and personal property but the commission did not receive the application until 1992 and the application was not made complete until 1995, then the commission shall issue, for that property, an industrial facilities exemption certificate that begins December 30, 1987 and ends December 30, 1997. The facility described in this subsection shall be taxed under this act as if it was granted an industrial facilities exemption certificate on December 30, 1987.

(7) Notwithstanding any other provision of this act, if a local governmental unit passed a resolution approving an industrial facilities exemption certificate for a new facility on July 8, 1991 but rescinded that resolution and passed a resolution approving an industrial facilities exemption certificate for that same facility as a replacement facility on October 21, 1996, the commission shall issue for that property an industrial facilities exemption certificate that begins December 30, 1991 and ends December 2003. The replacement facility described in this subsection shall be taxed under this act as if it was granted an industrial facilities exemption certificate on December 30, 1991.

Sec. 15. (1) Upon receipt of a request by certified mail to the commission by the holder of an industrial facilities exemption certificate requesting revocation of the certificate, the commission shall by order revoke the certificate in whole or revoke the certificate with respect to its real property component, or its personal property component, whichever is requested.

(2) The legislative body of a local governmental unit may by resolution request the commission to revoke the industrial facilities exemption certificate of a facility upon the grounds that, except as provided in section 7a, completion of the replacement facility or new facility has not occurred within 2 years after the effective date of the certificate, unless a greater time has been authorized by the commission for good cause; that the replacement, restoration, or construction of the facility has not occurred within 6 years after the date the initial industrial facilities exemption certificate was issued as provided in section 7a, unless a greater time has been authorized by the commission for good cause; that completion of the speculative building has not occurred within 2 years after the date the certificate was issued except as provided in section 7a, unless a greater time has been authorized by the commission for good cause; that a speculative building for which a certificate has been issued but is not yet effective has been used as other than a manufacturing facility; that the certificate issued for a speculative building has not become effective within 2 years after the December 31 following the date the certificate was issued; or that the purposes for which the certificate was issued are not being fulfilled as a result of a failure of the holder to proceed in good faith with the replacement, restoration, or construction and operation of the replacement facility or new facility or with the use of the speculative building as a manufacturing facility in a manner consistent with the purposes of this act and in the absence of circumstances that are beyond the control of the holder.

(3) Upon receipt of the resolution, the commission shall give notice in writing by certified mail to the holder of the certificate, to the local legislative body, to the assessor of the assessing unit, and to the legislative body of each local taxing unit which levies taxes upon property in the local governmental unit in which the facility is located. The commission shall afford to the holder of the certificate, the local legislative body, the assessor, and a representative of the legislative body of each taxing unit an opportunity for a hearing. The commission shall by order revoke the certificate if the commission finds that completion except as provided in section 7a of the replacement facility or new facility has not occurred within 2 years after the effective date of the certificate or a greater time as authorized by the

commission for good cause; that completion of the speculative building has not occurred within 2 years after the date the certificate was issued except as provided in section 7a, unless a greater time has been authorized by the commission for good cause; that a speculative building for which a certificate has been issued but is not yet effective has been used as other than a manufacturing facility; that the certificate issued for a speculative building has not become effective within 2 years after the December 31 following the date the certificate was issued; or that the holder of the certificate has not proceeded in good faith with the replacement, restoration, or construction and operation of the facility or with the use of the speculative building as a manufacturing facility in good faith in a manner consistent with the purposes of this act and in the absence of circumstances that are beyond the control of the holder.

(4) The order of the commission revoking the certificate shall be effective on the December 31 next following the date of the order and the commission shall send by certified mail copies of its order of revocation to the holder of the certificate, to the local legislative body, to the assessor of the assessing unit in which the facility is located, and to the legislative body of each taxing unit which levies taxes upon property in the local governmental unit in which the facility is located.

(5) A revocation of a certificate issued for a speculative building shall specify and apply only to that portion of the speculative building for which the grounds for revocation relate.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.