



HOUSE BILL No. 5246

February 1, 2000, Introduced by Reps. Thomas, Schauer, Hale, Bogardus, Scott, Schermesser, DeHart, Jacobs, Brater, Bob Brown, Minore, Garcia, Dennis and Daniels and referred to the Committee on Economic Development.

A bill to provide for the establishment of obsolete property rehabilitation 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 certain local government officials; and to provide penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "obsolete property rehabilitation act".

3 Sec. 2. As used in this act:

4 (1) "Commercial property" means land improvements classified
5 by law for general ad valorem tax purposes as real property

1 including real property assessable as personal property pursuant
2 to sections 8(d) and 14(6) of the general property tax act, 1893
3 PA 206, MCL 211.8 and 211.14, the primary purpose and use of
4 which is the operation of a commercial business enterprise and
5 shall include facilities related to a commercial business enter-
6 prise under the same ownership, including, but not limited to,
7 office, engineering, research and development, warehousing, parts
8 distribution, retail sales, and other commercial activities.

9 Commercial property may be owned or leased, but only the owner of
10 the commercial property is eligible for an exemption certificate
11 issued pursuant to section 6. Commercial property does not
12 include any of the following:

13 (a) Land.

14 (b) Property of a public utility.

15 (c) Inventory.

16 (2) "Commercial housing property" means that portion of real
17 property not occupied by an owner of that real property that is
18 classified as residential real property under section 34c of the
19 general property tax act, 1893 PA 206, MCL 211.34c, is a
20 multiple-unit dwelling, or is a dwelling unit in a multiple pur-
21 pose structure, used for residential purposes. Commercial hous-
22 ing property may be owned or leased, but only the owner of the
23 commercial housing property is eligible for an exemption certifi-
24 cate issued pursuant to section 6.

25 (3) "Commission" means the state tax commission created by
26 1927 PA 360, MCL 209.101 to 209.107.

1 (4) "Department" means the department of treasury.

2 (5) "Facility" means a building or group of contiguous
3 buildings built for commercial, commercial housing, or industrial
4 purposes.

5 (6) "Industrial property" means land improvements, build-
6 ings, structures, and other real property, the primary purpose
7 and use of which is the manufacture of goods or materials or the
8 processing of goods and materials by physical or chemical change;
9 or agricultural processing facilities. Industrial property shall
10 include facilities related to a manufacturing operation under the
11 same ownership, including, but not limited to, office, engineer-
12 ing, research and development, warehousing, parts distribution
13 facilities, or research and development laboratories. Industrial
14 property shall not include any of the following:

15 (a) Land.

16 (b) Property of a public utility.

17 (c) Inventory.

18 (7) "Local governmental unit" means a city, village, or
19 township.

20 (8) "Obsolete properties tax" means the specific tax levied
21 under this act.

22 (9) "Obsolete property" means commercial property, indus-
23 trial property, or commercial housing property the condition of
24 which is significantly impaired due to changes in design, con-
25 struction, composition, technology, or other similar factors that
26 make the property less desirable and less valuable for continued
27 use.

1 (10) "Obsolete property rehabilitation district" means an
2 area of a local governmental unit established as provided in sec-
3 tion 3. Only those properties within the district meeting the
4 definition of "obsolete property" are eligible for an exemption
5 certificate issued pursuant to section 6.

6 (11) "Obsolete property rehabilitation exemption
7 certificate" means the certificate issued pursuant to section 6.

8 (12) "Rehabilitation" means changes to obsolete property
9 other than replacement that are required to restore or modify the
10 property, together with all appurtenances, to an economically
11 efficient condition. Rehabilitation includes major renovation
12 and modification including, but not necessarily limited to, the
13 improvement of floor loads, correction of deficient or excessive
14 height, new or improved fixed building equipment, including heat-
15 ing, ventilation, and lighting, reducing multistory facilities to
16 1 or 2 stories, improved structural support including founda-
17 tions, improved roof structure and cover, floor replacement,
18 improved wall placement, improved exterior and interior appear-
19 ance of buildings, and other physical changes required to restore
20 or change the obsolete property to an economically efficient
21 condition. Rehabilitation shall not include improvements aggre-
22 gating less than 10% of the true cash value of the property at
23 commencement of the rehabilitation of the obsolete property.

24 (13) "Rehabilitated facility" means a commercial property,
25 industrial property, or commercial housing property that has
26 undergone rehabilitation, including rehabilitation that changes
27 the intended use of the building.

1 (14) "Taxable value" means that value determined under the
2 general property tax act, 1893 PA 206, MCL 211.1a to 211.131e.

3 Sec. 3. (1) A local governmental unit, by resolution of its
4 legislative body, may establish 1 or more obsolete property reha-
5 bilitation districts, that may consist of 1 or more parcels or
6 tracts of land or a portion of a parcel or tract of land, if at
7 the time the resolution is adopted, a parcel or tract of land or
8 portion of a parcel or tract of land within the district is
9 either of the following:

10 (a) Obsolete commercial, commercial housing, or industrial
11 property in an area characterized by obsolete commercial, commer-
12 cial housing, or industrial property and a decline in commercial,
13 commercial housing, or industrial activity.

14 (b) Obsolete commercial or industrial facilities that were
15 owned by a local governmental unit and subsequently conveyed to a
16 private owner and zoned for commercial, commercial housing, or
17 industrial.

18 (2) The legislative body of a local governmental unit may
19 establish an obsolete property rehabilitation district on its own
20 initiative or upon a written request filed by the owner or owners
21 of property comprising 50% of the taxable value of all property
22 located within a proposed obsolete property rehabilitation
23 district. The written request must be filed with the clerk of
24 the local governmental unit.

25 (3) Before adopting a resolution establishing an obsolete
26 property rehabilitation district, the legislative body shall give
27 written notice by certified mail to the owners of all real

1 property within the proposed obsolete property rehabilitation
2 district and shall afford an opportunity for a hearing on the
3 establishment of the obsolete property rehabilitation district at
4 which any of those owners and any other resident or taxpayer of
5 the local governmental unit may appear and be heard. The legis-
6 lative body shall give public notice of the hearing not less than
7 10 nor more than 30 days before the date of the hearing.

8 (4) The legislative body of the local governmental unit, in
9 its resolution establishing an obsolete property rehabilitation
10 district, shall set forth a finding and determination that the
11 district meets the requirements set forth in subsection (1).

12 (5) An obsolete property rehabilitation district established
13 by a township shall be applicable only within the unincorporated
14 territory of the township and shall not be applicable within a
15 village located in that township.

16 Sec. 4. (1) If an obsolete property rehabilitation district
17 is established under section 3, the owner or lessee of an obso-
18 lete commercial, commercial housing, or industrial facility may
19 file an application for an obsolete property rehabilitation
20 exemption certificate with the clerk of the local governmental
21 unit that established the obsolete property rehabilitation
22 district. The application shall be filed in the manner and form
23 prescribed by the commission. The application shall contain or
24 be accompanied by a general description of the obsolete facility
25 and a general description of the proposed use of the facility,
26 the general nature and extent of the rehabilitation to be
27 undertaken, a descriptive list of the fixed building equipment

1 that will be a part of the rehabilitated facility, a time
2 schedule for undertaking and completing the rehabilitation of the
3 facility, a statement of the economic advantages expected from
4 the exemption, including the number of jobs to be retained or
5 created as a result of completing the facility, including
6 expected construction employment, and information relating to the
7 requirements in section 8.

8 (2) Upon receipt of an application for an obsolete property
9 rehabilitation exemption certificate, the clerk of the local gov-
10 ernmental unit shall notify in writing the assessor of the local
11 tax collecting unit in which the obsolete facility is located,
12 and the legislative body of each taxing unit that levies ad
13 valorem property taxes in the local governmental unit in which
14 the obsolete facility is located. Before acting upon the appli-
15 cation, the legislative body of the local governmental unit shall
16 hold a public hearing on the application and give public notice
17 to the applicant, the assessor, a representative of the affected
18 taxing unit, and the general public. The hearing on each appli-
19 cation shall be held separately from the hearing on the estab-
20 lishment of the obsolete property rehabilitation district.

21 (3) Upon receipt of an application for an obsolete property
22 rehabilitation exemption certificate for a facility located on
23 property that was owned by a local governmental unit and subse-
24 quently conveyed to a private owner, the clerk of the local gov-
25 ernmental unit, in addition to the other requirements of this
26 section, shall request the assessor of the local tax collecting
27 unit in which the facility is located to determine the taxable

1 value of the property. This determination shall be made prior to
2 the hearing on the application for an obsolete property rehabili-
3 tation exemption certificate held pursuant to subsection (2).

4 Sec. 5. The legislative body of the local governmental
5 unit, not more than 60 days after receipt of the application by
6 the clerk, shall by resolution either approve or disapprove the
7 application for an obsolete property rehabilitation exemption
8 certificate in accordance with section 8 and the other provisions
9 of this act. The clerk shall retain the original of the applica-
10 tion and resolution. If disapproved, the reasons shall be set
11 forth in writing in the resolution, and the clerk shall send, by
12 certified mail, a copy of the resolution to the applicant and to
13 the assessor.

14 Sec. 6. (1) If the legislative body of the local governmen-
15 tal unit approves the application for an obsolete property reha-
16 bilitation exemption certificate under section 5, the clerk of
17 the local governmental unit shall issue to the applicant an obso-
18 lete property rehabilitation exemption certificate in the form
19 the commission determines. The certificate shall contain all of
20 the following:

21 (a) A legal description of the real property on which the
22 obsolete facility is located.

23 (b) A statement that unless revoked as provided in this act
24 the certificate shall remain in force for the period stated in
25 the certificate.

26 (c) A statement of the taxable value of the obsolete
27 property, separately stated for real and personal property, for

1 the tax year immediately preceding the effective date of the
2 certificate after deducting the taxable value of the land and
3 personal property other than personal property assessed pursuant
4 to section 14(6) of the general property tax act, 1893 PA 206,
5 MCL 211.14.

6 (d) A statement of the period of time authorized by the leg-
7 islative body within which the rehabilitation shall be
8 completed.

9 (e) In cases in which the period of time authorized by the
10 legislative body pursuant to subdivision (d) is less than 12
11 years, the exemption certificate shall contain the factors, cri-
12 teria, and objectives, as determined by resolution of the legis-
13 lative body of the local governmental unit, necessary for extend-
14 ing the period of time, if any.

15 (2) The effective date of the certificate shall be the
16 December 31 immediately succeeding the date of issuance of the
17 certificate.

18 (3) The clerk of the local governmental unit shall file with
19 the commission a copy of the obsolete property rehabilitation
20 exemption certificate and the commission shall maintain a record
21 of all certificates filed. The clerk of the local governmental
22 unit shall also send, by certified mail, a copy of the obsolete
23 property rehabilitation exemption certificate to the applicant
24 and the assessor of the local tax collecting unit in which the
25 obsolete property is located.

26 Sec. 7. (1) A facility for which an obsolete property
27 rehabilitation exemption certificate is in effect, but not the

1 land on which the facility is located, or personal property other
2 than personal property assessed pursuant to section 14(6) of the
3 general property tax act, 1893 PA 206, MCL 211.14, for the period
4 on and after the effective date of the certificate and continuing
5 so long as the obsolete property rehabilitation exemption certif-
6 icate is in force, is exempt from ad valorem property taxes.

7 (2) Unless earlier revoked as provided in section 12, an
8 obsolete property rehabilitation exemption certificate shall
9 remain in force and effect for a period to be determined by the
10 legislative body of the local governmental unit. The certificate
11 may be issued for a period of at least 1 year, but not to exceed
12 12 years. If the number of years determined is less than 12, the
13 certificate may be subject to review by the legislative body of
14 the local governmental unit and the certificate may be extended.
15 The total amount of time determined for the certificate including
16 any extensions shall not exceed 12 years after the completion of
17 the rehabilitated facility. The certificate shall commence with
18 its effective date and end on the December 31 immediately suc-
19 ceeding the last day of the number of years determined. The date
20 of issuance of a certificate of occupancy, if required by an
21 appropriate authority, shall be the date of completion of the
22 rehabilitated facility.

23 (3) If the number of years determined by the legislative
24 body of the local governmental unit for the period a certificate
25 remains in force is less than 12 years, the review of the certif-
26 icate for the purpose of determining an extension shall be based
27 upon factors, criteria, and objectives that shall be placed in

1 writing, determined and approved at the time the certificate is
2 approved by resolution of the legislative body of the local gov-
3 ernmental unit and sent, by certified mail, to the applicant, the
4 assessor of the local tax collecting unit in which the obsolete
5 property is located, and the commission.

6 Sec. 8. (1) If the taxable value of the property proposed
7 to be exempt pursuant to an application under consideration, con-
8 sidered together with the aggregate taxable value of property
9 exempt under certificates previously granted and currently in
10 force under this act or under 1974 PA 198, MCL 207.551 to
11 207.572, exceeds 5% of the taxable value of the property in the
12 local governmental unit, the legislative body of the local gov-
13 ernmental unit shall make a separate finding and shall include a
14 statement in its resolution approving the application that
15 exceeding that amount shall not have the effect of substantially
16 impeding the operation of the local governmental unit or impair-
17 ing the financial soundness of an affected taxing unit.

18 (2) The legislative body of the local governmental unit
19 shall not approve an application for an obsolete property exemp-
20 tion certificate unless the applicant complies with all of the
21 following requirements:

22 (a) The commencement of the rehabilitation of the facility
23 does not occur before the establishment of the obsolete property
24 rehabilitation district.

25 (b) The application relates to a rehabilitation program that
26 when completed constitutes a rehabilitated facility within the
27 meaning of this act and that shall be situated within an obsolete

1 property rehabilitation district established in a local
2 governmental unit eligible under this act to establish a
3 district.

4 (c) Completion of the rehabilitated facility is calculated
5 to, and will at the time of issuance of the certificate have the
6 reasonable likelihood to, increase commercial activity, create
7 employment, retain employment, prevent a loss of employment, or
8 increase the number of residents in the community in which the
9 facility is situated.

10 (d) The applicant states, in writing, that the rehabilita-
11 tion of the facility would not be undertaken without the
12 applicant's receipt of the exemption certificate.

13 (e) The applicant is completely current in the payment of
14 all taxes related to the facility.

15 Sec. 9. The assessor of each city, township, or village in
16 which there is a rehabilitated facility with respect to which 1
17 or more obsolete property rehabilitation exemption certificates
18 have been issued and are in force shall determine annually as of
19 December 31 the value and taxable value, for both real and per-
20 sonal property, of each rehabilitated facility separately, having
21 the benefit of a certificate and upon receipt of notice of the
22 filing of an application for the issuance of a certificate, shall
23 determine and furnish to the local legislative body the value and
24 the taxable value of the property to which the application per-
25 tains and other information necessary to permit the local legis-
26 lative body to make the determinations required by section 8(2).

1 Sec. 10. (1) There is levied upon every owner of a
2 rehabilitated facility to which an obsolete property
3 rehabilitation exemption certificate is issued a specific tax to
4 be known as the obsolete properties tax.

5 (2) The amount of the obsolete properties tax, in each year,
6 shall be determined by multiplying the total mills levied as ad
7 valorem taxes for that year by all taxing units within which the
8 facility is located by the taxable value of the real and personal
9 property of the obsolete property for the tax year immediately
10 preceding the effective date of the obsolete property rehabilita-
11 tion exemption certificate after deducting the taxable value of
12 the land and of personal property other than personal property
13 assessed pursuant to section 14(6) of the general property tax
14 act, 1893 PA 206, MCL 211.14.

15 (3) The obsolete properties tax shall be collected, dis-
16 bursed, and assessed in accordance with this act.

17 (4) The obsolete properties tax is an annual tax, payable at
18 the same times, in the same installments, and to the same officer
19 or officers as taxes imposed under the general property tax act,
20 1893 PA 206, MCL 211.1 to 211.157, are payable. Except as other-
21 wise provided in this section, the officer or officers shall dis-
22 burse the obsolete properties tax payments received by the offi-
23 cer or officers each year to and among this state, cities, town-
24 ships, villages, school districts, counties, and authorities, at
25 the same times and in the same proportions as required by law for
26 the disbursement of taxes collected under the general property
27 tax act, 1893 PA 206, MCL 211.1 to 211.157.

1 (5) The officer or officers shall send a copy of the amount
2 of disbursement made to each unit under this section to the com-
3 mission on a form provided by the commission.

4 (6) A rehabilitated facility located in a renaissance zone
5 under the Michigan renaissance zone act, 1996 PA 376,
6 MCL 125.2681 to 125.2696, is exempt from the obsolete properties
7 tax levied under this act to the extent and for the duration pro-
8 vided pursuant to the Michigan renaissance zone act, 1996 PA 376,
9 MCL 125.2681 to 125.2696, except for that portion of the obsolete
10 properties tax attributable to a special assessment or a tax
11 described in section 7ff(2) of the general property tax act, 1893
12 PA 206, MCL 211.7ff. The obsolete properties tax calculated
13 under this subsection shall be disbursed proportionately to the
14 taxing unit or units that levied the special assessment or the
15 tax described in section 7ff(2) of the general property tax act,
16 1893 PA 206, MCL 211.7ff.

17 Sec. 11. The amount of the tax applicable to real property,
18 until paid, is a lien upon the real property to which the certif-
19 icate is applicable. Proceedings upon the lien as provided by
20 law for the foreclosure in the circuit court of mortgage liens
21 upon real property may commence only upon the filing by the offi-
22 cer of a certificate of nonpayment of the obsolete properties tax
23 applicable to real property, together with an affidavit of proof
24 of service of the certificate of nonpayment upon the owner of the
25 facility by certified mail with the register of deeds of the
26 county in which the property is situated.

1 Sec. 12. The legislative body of the local governmental
2 unit may, by resolution, revoke the obsolete property
3 rehabilitation exemption certificate of a facility if it finds
4 that the completion of rehabilitation of the facility has not
5 occurred within the time authorized by the legislative body in
6 the exemption certificate or a duly authorized extension of that
7 time for good cause, or that the holder of the obsolete property
8 exemption certificate has not proceeded in good faith with the
9 operation of the facility in a manner consistent with the pur-
10 poses of this act and in the absence of circumstances that are
11 beyond the control of the holder of the exemption certificate.

12 Sec. 13. An obsolete property rehabilitation exemption cer-
13 tificate may be transferred and assigned by the holder of the
14 certificate to a new owner of the facility but only with the
15 approval of the local governmental unit after application by the
16 new owner.

17 Sec. 14. Not later than October 15 each year, each govern-
18 mental unit granting an obsolete property rehabilitation exemp-
19 tion shall report to the commission on the status of each exemp-
20 tion certificate. The report must include the current value of
21 the property to which the exemption pertains, the value on which
22 the obsolete property rehabilitation tax is based, a current
23 estimate of the number of jobs retained or created by the exemp-
24 tion, and a current estimate of the number of new residents occu-
25 pying commercial housing property units covered by the
26 exemption.

1 Sec. 15. (1) The department annually shall prepare and
2 submit to the committees of the house of representatives and
3 senate responsible for tax policy and economic development issues
4 a report on the utilization of obsolete property rehabilitation
5 districts, based on the information filed with the commission.

6 (2) After this act has been in effect for 3 years, the
7 department shall prepare and submit to the committees of the
8 house of representatives and senate responsible for tax policy
9 and economic development issues an economic analysis of the costs
10 and benefits of this act in the 3 communities where it has been
11 most heavily utilized.