

Act No. 146
Public Acts of 2000
Approved by the Governor
June 6, 2000
Filed with the Secretary of State
June 6, 2000
EFFECTIVE DATE: June 6, 2000

**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 2000**

**Introduced by Reps. Cameron Brown, Raczkowski, LaSata, Kukuk, Hager, Kowall, Voorhees, Hart, Van Woerkom, Richardville, DeRossett, Shackleton, Julian, Bishop, Faunce, Middaugh, Gilbert, Garcia, Sanborn, Ruth Johnson, Rocca, Caul, Howell, Birkholz, Vander Roest, Bisbee and Pappageorge
Reps. Allen, Bovin, Bob Brown, Callahan, Cassis, Cherry, Green, Jamnick, Jelinek, Kilpatrick, Koetje, Law, Lemmons, Lockwood, Mans, Mead, O'Neil, Patterson, Pestka, Richner, Rivet, Spade, Thomas, Toy, Vear and Woronchak named co-sponsors**

ENROLLED HOUSE BILL No. 5444

AN ACT to provide for the establishment of obsolete property rehabilitation districts in certain 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:

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

Sec. 2. As used in this act:

(a) “Commercial housing property” means that portion of real property not occupied by an owner of that real property that is classified as residential real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, is a multiple-unit dwelling, or is a dwelling unit in a multiple-purpose structure, used for residential purposes. Commercial housing property also includes a building or group of contiguous buildings previously used for industrial purposes that will be converted to a multiple-unit dwelling or dwelling unit in a multiple-purpose structure, used for residential purposes.

(b) “Commercial property” means land improvements classified by law for general ad valorem tax purposes as real property including real property assessable as personal property pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, the primary purpose and use of which is the operation of a commercial business enterprise. Commercial property shall also include facilities related to a commercial business enterprise under the same ownership at that location, including, but not limited to, office, engineering, research and development, warehousing, parts distribution, retail sales, and other commercial activities. Commercial property also includes a building or group of contiguous buildings previously used for industrial purposes that will be converted to the operation of a commercial business enterprise or a multiple-unit dwelling or a dwelling unit in a multiple-purpose structure, used for residential purposes. Commercial property does not include any of the following:

- (i) Land.
- (ii) Property of a public utility.
- (c) "Commission" means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.
- (d) "Department" means the department of treasury.
- (e) "Facility", except as otherwise provided in this act, means a building or group of contiguous buildings.
- (f) "Functionally obsolete" means that term as defined in section 2 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2652.
- (g) "Obsolete properties tax" means the specific tax levied under this act.
- (h) "Obsolete property" means commercial property or commercial housing property, that is 1 or more of the following:
 - (i) Blighted, as that term is defined in section 2 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2652.
 - (ii) A facility as that term is defined under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.
 - (iii) Functionally obsolete.
- (i) "Obsolete property rehabilitation district" means an area of a qualified local governmental unit established as provided in section 3. Only those properties within the district meeting the definition of "obsolete property" are eligible for an exemption certificate issued pursuant to section 6.
- (j) "Obsolete property rehabilitation exemption certificate" or "certificate" means the certificate issued pursuant to section 6.
- (k) "Qualified local governmental unit" means 1 or more of the following:
 - (i) A city with a median family income of 150% or less of the statewide median family income as reported in the 1990 federal decennial census that meets 1 or more of the following criteria:
 - (A) Contains or has within its borders an eligible distressed area as that term is defined in section 11(u)(ii) and (iii) of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.
 - (B) Is contiguous to a city with a population of 500,000 or more.
 - (C) Has a population of 10,000 or more that is located outside of an urbanized area as delineated by the United States bureau of the census.
 - (D) Is the central city of a metropolitan area designated by the United States office of management and budget.
 - (E) Has a population of 100,000 or more that is located in a county with a population of 2,000,000 or more according to the 1990 federal decennial census.
 - (ii) A township with a median family income of 150% or less of the statewide median family income as reported in the 1990 federal decennial census that meets 1 or more of the following criteria:
 - (A) Is contiguous to a city with a population of 500,000 or more.
 - (B) All of the following:
 - (I) Contains or has within its borders an eligible distressed area as that term is defined in section 11(u)(ii) of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.
 - (II) Has a population of 10,000 or more.
 - (iii) A village with a population of 500 or more as reported in the 1990 federal decennial census located in an area designated as a rural enterprise community before 1998 under title XIII of the omnibus budget reconciliation act of 1993, Public Law 103-66, 107 Stat. 416.
 - (iv) A city that meets all of the following criteria:
 - (A) Has a population of more than 20,000 or less than 5,000 and is located in a county with a population of 2,000,000 or more according to the 1990 federal decennial census.
 - (B) As of January 1, 2000, has an overall increase in the state equalized valuation of real and personal property of less than 65% of the statewide average increase since 1972 as determined for the designation of eligible distressed areas under section 11(u)(ii)(B) of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.
 - (l) "Rehabilitation" means changes to obsolete property other than replacement that are required to restore or modify the property, together with all appurtenances, to an economically efficient condition. Rehabilitation includes major renovation and modification including, but not necessarily limited to, the improvement of floor loads, correction of deficient or excessive height, new or improved fixed building equipment, including heating, ventilation, and lighting, reducing multistory facilities to 1 or 2 stories, improved structural support including foundations, improved roof structure and cover, floor replacement, improved wall placement, improved exterior and interior appearance of

buildings, and other physical changes required to restore or change the obsolete property to an economically efficient condition. Rehabilitation shall not include improvements aggregating less than 10% of the true cash value of the property at commencement of the rehabilitation of the obsolete property.

(m) "Rehabilitated facility" means a commercial property or commercial housing property that has undergone rehabilitation or is in the process of being rehabilitated, including rehabilitation that changes the intended use of the building. A rehabilitated facility does not include property that is to be used as a professional sports stadium. A rehabilitated facility does not include property that is to be used as a casino. As used in this subdivision, "casino" means a casino or a parking lot, hotel, motel, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(n) "Taxable value" means the value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

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

(a) Obsolete property in an area characterized by obsolete commercial property or commercial housing property.

(b) Commercial property that is obsolete property that was owned by a qualified local governmental unit on the effective date of this act, and subsequently conveyed to a private owner.

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

(3) Before adopting a resolution establishing an obsolete property rehabilitation district, the legislative body shall give written notice by certified mail to the owners of all real property within the proposed obsolete property rehabilitation district and shall afford an opportunity for a hearing on the establishment of the obsolete property rehabilitation district at which any of those owners and any other resident or taxpayer of the qualified local governmental unit may appear and be heard. The legislative body shall give public notice of the hearing not less than 10 days or more than 30 days before the date of the hearing.

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

Sec. 4. (1) If an obsolete property rehabilitation district is established under section 3, the owner of obsolete property may file an application for an obsolete property rehabilitation exemption certificate with the clerk of the qualified local governmental unit that established the obsolete property rehabilitation district. The application shall be filed in the manner and form prescribed by the commission. The application shall contain or be accompanied by a general description of the obsolete facility and a general description of the proposed use of the rehabilitated facility, the general nature and extent of the rehabilitation to be undertaken, a descriptive list of the fixed building equipment that will be a part of the rehabilitated facility, a time schedule for undertaking and completing the rehabilitation of the facility, a statement of the economic advantages expected from the exemption, including the number of jobs to be retained or created as a result of rehabilitating the facility, including expected construction employment, and information relating to the requirements in section 8.

(2) Upon receipt of an application for an obsolete property rehabilitation exemption certificate, the clerk of the qualified local governmental unit shall notify in writing the assessor of the local tax collecting unit in which the obsolete facility is located, and the legislative body of each taxing unit that levies ad valorem property taxes in the qualified local governmental unit in which the obsolete facility is located. Before acting upon the application, the legislative body of the qualified local governmental unit shall hold a public hearing on the application and give public notice to the applicant, the assessor, a representative of the affected taxing units, and the general public. The hearing on each application shall be held separately from the hearing on the establishment of the obsolete property rehabilitation district.

(3) Upon receipt of an application for an obsolete property rehabilitation exemption certificate for a facility located on property that was owned by a qualified local governmental unit on the effective date of this act, and subsequently conveyed to a private owner, the clerk of the qualified local governmental unit, in addition to the other requirements of this section, shall request the assessor of the local tax collecting unit in which the facility is located to determine the taxable value of the property. This determination shall be made prior to the hearing on the application for an obsolete property rehabilitation exemption certificate held pursuant to subsection (2).

Sec. 5. The legislative body of the qualified local governmental unit, not more than 60 days after receipt of the application by the clerk, shall by resolution either approve or disapprove the application for an obsolete property rehabilitation exemption certificate in accordance with section 8 and the other provisions of this act. The clerk shall retain the original of the application and resolution. If approved, the clerk shall forward a copy of the application and resolution to the commission. If disapproved, the reasons shall be set forth in writing in the resolution, and the clerk shall send, by certified mail, a copy of the resolution to the applicant and to the assessor. A resolution is not effective unless approved by the commission as provided in section 6.

Sec. 6. (1) Not more than 60 days after receipt of a copy of the application and resolution adopted under section 5, the commission shall approve or disapprove the resolution.

(2) Following approval of the application by the legislative body of the qualified local governmental unit and the commission, the commission shall issue to the applicant an obsolete property rehabilitation exemption certificate in the form the commission determines, which shall contain all of the following:

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

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

(c) A statement of the taxable value of the obsolete property, separately stated for real and personal property, for the tax year immediately preceding the effective date of the certificate after deducting the taxable value of the land and personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14.

(d) A statement of the period of time authorized by the legislative body of the qualified local governmental unit within which the rehabilitation shall be completed.

(e) If the period of time authorized by the legislative body of the qualified local governmental unit pursuant to subdivision (d) is less than 12 years, the exemption certificate shall contain the factors, criteria, and objectives, as determined by the resolution of the qualified local governmental unit, necessary for extending the period of time, if any.

(3) The effective date of the certificate is the December 31 immediately following the date of issuance of the certificate.

(4) The commission shall file with the clerk of the qualified local governmental unit a copy of the obsolete property rehabilitation exemption certificate, and the commission shall maintain a record of all certificates filed. The commission shall also send, by certified mail, a copy of the obsolete property rehabilitation exemption certificate to the applicant and the assessor of the local tax collecting unit in which the obsolete property is located.

Sec. 7. (1) A rehabilitated facility for which an obsolete property rehabilitation exemption certificate is in effect, but not the land on which the rehabilitated facility is located, or personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, for the period on and after the effective date of the certificate and continuing so long as the obsolete property rehabilitation exemption certificate is in force, is exempt from ad valorem property taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

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

(3) If the number of years determined by the legislative body of the qualified local governmental unit for the period a certificate remains in force is less than 12 years, the review of the certificate for the purpose of determining an extension shall be based upon factors, criteria, and objectives that shall be placed in writing, determined and approved at the time the certificate is approved by resolution of the legislative body of the qualified local governmental unit and sent, by certified mail, to the applicant, the assessor of the local tax collecting unit in which the obsolete property is located, and the commission.

Sec. 8. (1) If the taxable value of the property proposed to be exempt pursuant to an application under consideration, considered together with the aggregate taxable value of property exempt under certificates previously granted and currently in force under this act or under 1974 PA 198, MCL 207.551 to 207.572, exceeds 5% of the taxable value of the qualified local governmental unit, the legislative body of the qualified local governmental unit shall make a separate finding and shall include a statement in its resolution approving the application that exceeding that amount shall not

have the effect of substantially impeding the operation of the qualified local governmental unit or impairing the financial soundness of an affected taxing unit.

(2) The legislative body of the qualified local governmental unit shall not approve an application for an obsolete property exemption certificate unless the applicant complies with all of the following requirements:

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

(b) The application relates to a rehabilitation program that when completed constitutes a rehabilitated facility within the meaning of this act and that shall be situated within an obsolete property rehabilitation district established in a qualified local governmental unit eligible under this act to establish such a district.

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

(d) The applicant states, in writing, that the rehabilitation of the facility would not be undertaken without the applicant's receipt of the exemption certificate.

(e) The applicant is not delinquent in the payment of any taxes related to the facility.

Sec. 9. The assessor of each qualified local governmental unit in which there is a rehabilitated facility with respect to which 1 or more obsolete property rehabilitation exemption certificates have been issued and are in force shall determine annually as of December 31 the value and taxable value, both for real and personal property, of each rehabilitated facility separately, having the benefit of a certificate and upon receipt of notice of the filing of an application for the issuance of a certificate, shall determine and furnish to the local legislative body the value and the taxable value of the property to which the application pertains and other information as may be necessary to permit the local legislative body to make the determinations required by section 8(2).

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

(2) The amount of the obsolete properties tax, in each year, shall be determined by adding the results of both of the following calculations:

(a) Multiplying the total mills levied as ad valorem taxes for that year by all taxing units within which the rehabilitated facility is located by the taxable value of the real and personal property of the obsolete property on the December 31 immediately preceding the effective date of the obsolete property rehabilitation exemption certificate after deducting the taxable valuation of the land and of personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, for the tax year immediately preceding the effective date of the obsolete property rehabilitation exemption certificate.

(b) Multiplying the mills levied for school operating purposes for that year under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, by the taxable value of the real and personal property of the rehabilitated facility, after deducting all of the following:

(i) The taxable value of the land and of the personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14.

(ii) The taxable value used to calculate the tax under subdivision (a).

(3) The obsolete properties tax shall be collected, disbursed, and assessed in accordance with this act.

(4) The obsolete properties tax is an annual tax, payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, are payable. Except as otherwise provided in this section, the officer or officers shall disburse the obsolete properties tax payments received by the officer or officers each year to and among this state, cities, school districts, counties, and authorities, at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(5) For intermediate school districts receiving state aid under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, of the amount of obsolete property tax that would otherwise be disbursed to an intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of state aid, shall be paid to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(6) The amount of obsolete property tax described in subsection (2)(a) that would otherwise be disbursed to a local school district for school operating purposes, and all of the amount described in subsection (2)(b), shall be paid instead to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(7) The officer or officers shall send a copy of the amount of disbursement made to each unit under this section to the commission on a form provided by the commission.

(8) A rehabilitated facility located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the obsolete properties tax levied under this act to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except for that portion of the obsolete properties tax attributable to a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. The obsolete properties tax calculated under this subsection shall be disbursed proportionately to the taxing unit or units that levied the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff.

Sec. 11. The amount of the tax applicable to real property, until paid, is a lien upon the real property to which the certificate is applicable. Proceedings upon the lien as provided by law for the foreclosure in the circuit court of mortgage liens upon real property may commence only upon the filing by the appropriate collecting officer of a certificate of nonpayment of the obsolete properties tax applicable to real property, together with an affidavit of proof of service of the certificate of nonpayment upon the owner of the facility by certified mail, with the register of deeds of the county in which the property is situated.

Sec. 12. The legislative body of the qualified local governmental unit may, by resolution, revoke the obsolete property rehabilitation exemption certificate of a facility if it finds that the completion of rehabilitation of the facility has not occurred within the time authorized by the legislative body in the exemption certificate or a duly authorized extension of that time, or that the holder of the obsolete property exemption certificate has not proceeded in good faith with the operation of the rehabilitated 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 of the exemption certificate.

Sec. 13. An obsolete property rehabilitation exemption certificate may be transferred and assigned by the holder of the certificate to a new owner of the rehabilitated facility if the qualified local governmental unit approves the transfer after application by the new owner.

Sec. 14. Not later than October 15 each year, each qualified local governmental unit granting an obsolete property rehabilitation exemption shall report to the commission on the status of each exemption. The report must include the current value of the property to which the exemption pertains, the value on which the obsolete property rehabilitation tax is based, a current estimate of the number of jobs retained or created by the exemption, and a current estimate of the number of new residents occupying commercial housing property units covered by the exemption.

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

(2) After this act has been in effect for 3 years, the department shall prepare and submit to the committees of the house of representatives and senate responsible for tax policy and economic development issues an economic analysis of the costs and benefits of this act in the 3 qualified local governmental units in which it has been most heavily utilized.

Sec. 16. A new exemption shall not be granted under this act after December 31, 2010, but an exemption then in effect shall continue until the expiration of the exemption certificate.

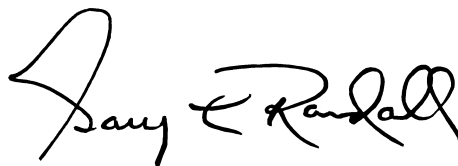
Sec. 17. (1) Within 60 days after the granting of an obsolete property rehabilitation exemption certificate under section 6 for a rehabilitated facility, the state treasurer may, for a period not to exceed 6 years, exclude up to 1/2 of the number of mills levied for school operating purposes under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, from the specific tax calculation on the facility under section 10(2)(b) if the state treasurer determines that reducing the number of mills used to calculate the specific tax under section 10(2)(b) is necessary to reduce unemployment, promote economic growth, and increase capital investment in qualified local governmental units.

(2) The state treasurer shall not grant more than 25 exclusions under this section each year.

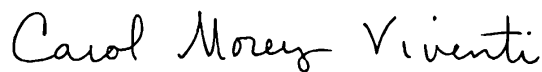
Enacting section 1. This act does not take effect unless all of the following bills of the 90th Legislature are enacted into law:

- (a) Senate Bill No. 269.
- (b) House Bill No. 4400.
- (c) House Bill No. 5443.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.