

Act No. 217
Public Acts of 2001
Approved by the Governor
December 27, 2001
Filed with the Secretary of State
December 28, 2001
EFFECTIVE DATE: December 28, 2001

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

**Introduced by Reps. Richardville, Thomas, LaSata, Richner, Cassis, Koetje, Howell, Newell, Frank, Basham, Patterson, Toy, Julian, Kooiman, Vear, Sanborn, Bishop, Mead, DeVuyst, Rivet, Allen, Gilbert, Van Woerkom, Mortimer, Zelenko, Waters, Kolb, Lipsey, Middaugh and Lemmons
Reps. Birkholz, DeRossett, Ehardt, George, Hagar, Jansen, Jelinek, Kowall, Kuipers, Lockwood, Mans, McConico, Murphy, Neumann, Pappageorge, Raczkowski, Shackleton, Sheltroun, Spade, Stallworth, Vander Roest and Vander Veen were named co-sponsors**

ENROLLED HOUSE BILL No. 4621

AN ACT to amend 1992 PA 147, entitled "An act to provide for the development and rehabilitation of residential housing; to provide for the creation of neighborhood enterprise zones; to provide for obtaining neighborhood enterprise zone certificates for a period of time and to prescribe the contents of the certificates; to provide for the exemption of certain taxes; to provide for the levy and collection of a specific tax on the owner of certain facilities; and to prescribe the powers and duties of certain officers of the state and local governmental units," by amending sections 2, 3, 9, 10, 11, and 12 (MCL 207.772, 207.773, 207.779, 207.780, 207.781, and 207.782), section 9 as amended by 1996 PA 449, section 10 as amended by 2001 PA 158, and section 12 as amended by 1994 PA 391; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

- (a) "Commission" means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.
- (b) "Condominium unit" means that portion of a structure intended for separate ownership, intended for residential use, and established pursuant to the condominium act, 1978 PA 59, MCL 559.101 to 559.276.
- (c) "Developer" means a person who is the owner of a new facility at the time of construction or of a rehabilitated facility at the time of rehabilitation for which a neighborhood enterprise zone certificate is applied for or issued.
- (d) "Local governmental unit" means a qualified local governmental unit as that term is defined under section 2 of the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2782.
- (e) "New facility" means a new structure or a portion of a new structure that has as its primary purpose residential housing consisting of 1 or 2 units, 1 of which is or will be occupied by an owner as his or her principal residence. New facility includes a new individual condominium unit, in a structure with 1 or more condominium units, that has as its primary purpose residential housing and that is or will be occupied by an owner as his or her principal residence. New facility does not include apartments.
- (f) "Neighborhood enterprise zone certificate" or "certificate" means a certificate issued pursuant to sections 4, 5, and 6.
- (g) "Owner" means the record title holder of, or the vendee of the original land contract pertaining to, a new facility or a rehabilitated facility for which a neighborhood enterprise zone certificate is applied for or issued.

(h) "Rehabilitated facility" means an existing structure or a portion of an existing structure with a current true cash value of \$80,000.00 or less per unit that has or will have as its primary purpose residential housing consisting of 1 to 8 units, the owner of which proposes improvements that if done by a licensed contractor would cost in excess of \$5,000.00 per owner-occupied unit or 50% of the true cash value, whichever is less, or \$7,500.00 per nonowner-occupied unit or 50% of the true cash value, whichever is less, or the owner proposes improvements that would be done by the owner and not a licensed contractor and the cost of the materials would be in excess of \$3,000.00 per owner-occupied unit or \$4,500.00 per nonowner-occupied unit and will bring the structure into conformance with minimum local building code standards for occupancy or improve the livability of the units while meeting minimum local building code standards. Rehabilitated facility also includes an individual condominium unit, in a structure with 1 or more condominium units that has as its primary purpose residential housing, the owner of which proposes the above described improvements. Rehabilitated facility does not include a facility rehabilitated with the proceeds of an insurance policy for property or casualty loss.

Sec. 3. (1) The governing body of a local governmental unit by resolution may designate 1 or more neighborhood enterprise zones within that local governmental unit. A neighborhood enterprise zone shall contain not less than 10 platted parcels of land. All the land within a neighborhood enterprise zone shall also be compact and contiguous.

(2) The total acreage of the neighborhood enterprise zones designated under this act shall not exceed 15% of the total acreage contained within the boundaries of the local governmental unit.

(3) Not less than 60 days before the passage of a resolution designating a neighborhood enterprise zone or the repeal or amendment of a resolution under subsection (5), the clerk of the local governmental unit shall give written notice to the assessor and to the governing body of each taxing unit that levies ad valorem property taxes in the proposed neighborhood enterprise zone. Before acting upon the resolution, the governing body of the local governmental unit shall make a finding that a proposed neighborhood enterprise zone is consistent with the master plan of the local governmental unit and the neighborhood preservation and economic development goals of the local governmental unit. The governing body before acting upon the resolution shall also adopt a statement of the local governmental unit's goals, objectives, and policies relative to the maintenance, preservation, improvement, and development of housing for all persons regardless of income level living within the proposed neighborhood enterprise zone. Additionally, before acting upon the resolution the governing body shall pass a housing inspection ordinance that at a minimum requires that before the sale of a unit in a new or rehabilitated facility for which a neighborhood enterprise zone certificate is in effect, an inspection is made of the unit to determine compliance with any local construction or safety codes and that a sale may not be finalized until there is compliance with those local construction or safety codes. The governing body shall hold a public hearing not later than 45 days after the date the notice is sent but before acting upon the resolution.

(4) Upon receipt of a notice under subsection (3), the assessor shall determine and furnish to the governing body of the local governmental unit the amount of the true cash value of the property located within the proposed neighborhood enterprise zone and any other information considered necessary by the governing body.

(5) A resolution designating a neighborhood enterprise zone, other than a zone designated under subsection (2), may be repealed or amended not sooner than 3 years after the date of adoption or of the most recent amendment of the resolution by the governing body of the local governmental unit. The repeal or amendment of the resolution shall take effect 6 months after adoption. However, an action taken under this subsection does not invalidate a certificate that is issued or in effect and a facility for which a certificate is issued or in effect shall continue to be included in the total acreage limitations under this section until the certificate is expired or revoked.

(6) Upon passage, amendment, or repeal of a resolution under this section, the clerk of the local governmental unit shall notify the commission of the action taken.

Sec. 9. (1) Except as provided in subsection (10), there is levied on the owner of a new facility or a rehabilitated facility to which a neighborhood enterprise zone certificate is issued a specific tax known as the neighborhood enterprise zone tax.

(2) A new facility or a rehabilitated facility for which a neighborhood enterprise zone certificate is in effect, but not the land on which the facility is located, is exempt from ad valorem real property taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(3) The amount of the neighborhood enterprise zone tax on a new facility is determined each year by multiplying the taxable value of the facility, not including the land, by 1 of the following:

(a) For property that would otherwise meet the definition of a homestead under section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd, if that property was not exempt from ad valorem property taxes under this act, 1/2 of the average rate of taxation levied in this state in the immediately preceding calendar year on homestead property and qualified agricultural property as defined in section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd. However, in 1994 only, the average rate of taxation shall be the average rate of taxation levied in 1993 upon all property in this state upon which ad valorem taxes are assessed.

(b) For property that is not a homestead under section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd, 1/2 of the average rate of taxation levied upon commercial, industrial, and utility property upon which ad valorem taxes are assessed as determined for the immediately preceding calendar year by the state board of assessors under section 13 of 1905 PA 282, MCL 207.13. However, in 1994 only, the average rate of taxation shall be the average rate of taxation levied in 1993 upon all property in this state upon which ad valorem taxes are assessed.

(4) The amount of the neighborhood enterprise zone tax on a rehabilitated facility is determined each year by multiplying the taxable value of the rehabilitated facility, not including the land, for the tax year immediately preceding the effective date of the neighborhood enterprise zone certificate by the total mills collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, for the current year by all taxing units within which the rehabilitated facility is located.

(5) The neighborhood enterprise zone tax is an annual tax, payable at the same times, in the same installments, and to the same officer or officers as taxes collected 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 neighborhood enterprise zone tax received by the officer or officers each year to the state, cities, townships, villages, school districts, counties, and authorities at the same times and in the same proportions as required for the disbursement of taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157. To determine the proportion for the disbursement of taxes under this subsection and for attribution of taxes under subsection (7) for taxes collected after June 30, 1994, the number of mills levied for local school district operating purposes to be used in the calculation shall equal the number of mills for local school district operating purposes levied in 1993 minus the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, for the year for which the disbursement is calculated.

(6) An intermediate school district 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 that would otherwise be disbursed to or retained by the 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. If and for the period that the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, is amended or its successor act is enacted or amended to include a provision that provides for adjustments in state school aid to account for the receipt of revenues provided under this act in place of exempted ad valorem property tax, revenues required to be remitted or returned to the state treasury to the credit of the state school aid fund shall be distributed instead to the intermediate school districts. If the sum of any industrial facility tax levied under 1974 PA 198, MCL 207.551 to 207.572, the commercial facilities tax levied under the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, and the neighborhood enterprise zone tax paid to the state treasury to the credit of the state school aid fund that would otherwise be disbursed to the intermediate school district exceeds the amount received by the intermediate school district 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, the department of treasury shall allocate to each eligible intermediate school district an amount equal to the difference between the sum of the industrial facility tax, the commercial facilities tax, and the neighborhood enterprise zone tax paid to the state treasury to the credit of the state school aid fund and the amount the intermediate school district received 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.

(7) For neighborhood enterprise zone taxes levied after 1993 for school operating purposes, the amount that would otherwise be disbursed to a local school district 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.

(8) 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. The neighborhood enterprise zone tax is a lien on the real property upon which the new facility or rehabilitated facility subject to the certificate is located until paid. The continuance of a certificate is conditional upon the annual payment of the neighborhood enterprise zone tax and the ad valorem tax on the land collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(9) If payment of the tax under this act is not made by the March 1 following the levy of the tax, the tax shall be turned over to the county treasurer and collected in the same manner as a delinquent tax under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(10) A new facility or 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 neighborhood enterprise zone 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 neighborhood enterprise zone tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. The neighborhood enterprise zone tax calculated under this subsection shall be disbursed proportionately to the local taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff.

Sec. 10. (1) Except as provided in subsections (2) and (3), the effective date of the neighborhood enterprise zone certificate is December 31 in the year in which the new facility or rehabilitated facility is substantially completed and, for a new facility, occupied by an owner as a principal residence, as evidenced by the owner filing with the assessor of the local assessing unit all of the following:

(a) For a new facility, a certificate of occupancy.

(b) For a rehabilitated facility, a certificate that the improvements meet minimum local building code standards issued by the local building inspector or other authorized officer or a certificate of occupancy if required by local building permits or building codes.

(c) For a rehabilitated facility, documentation proving the cost requirements of section 2(h) are met.

(d) For a new facility, an affidavit executed by an owner affirming that the new facility is occupied by an owner as a principal residence.

(2) If a new facility is substantially completed in a year but is not occupied by an owner as a principal residence until the following year, upon the request of the owner, the effective date of the neighborhood enterprise zone certificate shall be December 31 in the year immediately preceding the date of occupancy by the owner as a principal residence.

(3) Upon the request of the owner, the effective date of the neighborhood enterprise zone certificate for a rehabilitated facility shall be December 31 in the year immediately preceding the date on which the rehabilitated facility is substantially completed.

Sec. 11. (1) Upon receipt of a request by certified mail to the commission by the holder of a neighborhood enterprise zone certificate requesting revocation of the certificate, the commission by order shall revoke the certificate.

(2) The certificate shall expire if the owner fails to complete the filing requirements under section 10 within 2 years of the date the certificate was issued. The holder of the certificate may request in writing to the commission a 1-year automatic extension of the certificate if the owner has proceeded in good faith with the construction or rehabilitation of the facility in a manner consistent with the purposes of this act and the delay in completion or occupancy by an owner is due to circumstances beyond the control of the holder of the certificate. Upon request of the local governmental unit, the commission shall extend the certificate if the new facility has not been occupied.

(3) The certificate for a new facility is automatically revoked if the new facility is no longer a homestead as that term is defined in section 7a of the general property tax act, 1893 PA 206, MCL 211.7a. However, if the owner or any subsequent owner submits a certificate before the revocation is effective, the commission, upon application of the owner, shall rescind the order of revocation. If the certificate is submitted after revocation of the certificate, the commission, upon application of the owner, shall reinstate the certificate for the remaining period of time for which the original certificate would have been in effect.

(4) If the owner of the facility fails to make the annual payment of the neighborhood enterprise zone tax and the ad valorem property tax on the land under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, the commission by order shall revoke the certificate. However, if payment of these taxes is made before the revocation is effective, the commission, upon application of the owner, shall rescind the order of revocation. If payment of these taxes and any subsequent ad valorem property tax due on the facility is made after revocation of the certificate, the commission, upon application of the owner, shall reinstate the certificate for the remaining period of time for which the original certificate would have been in effect.

(5) If a new facility or a rehabilitated facility ceases to have as its primary purpose residential housing, the commission by order shall revoke the certificate for that facility. A new or rehabilitated facility does not cease to be used for its primary purpose if it is temporarily damaged or destroyed in whole or in part.

(6) If the governing body of a local governmental unit determines that a new facility or a rehabilitated facility is not in compliance with any local construction, building, or safety codes and notifies the commission by certified mail of the noncompliance, the commission by order shall revoke the certificate.

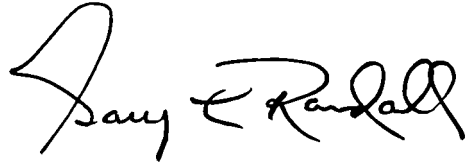
(7) The revocation shall be effective beginning the December 31 following the date of the order or, if the certificate is automatically revoked under subsection (3), the December 31 following the automatic revocation. The commission shall send by certified mail copies of the order of revocation to the holder of the certificate, to the local governmental unit in which the facility is located, to the assessor of that local governmental unit, and to the legislative body of each taxing unit that levies taxes upon property in the local governmental unit in which the new facility or rehabilitated facility is located.

Sec. 12. (1) Unless earlier revoked as provided in section 11, a neighborhood enterprise zone certificate shall remain in effect until 12 years from the effective date of the certificate. If the new facility or rehabilitated facility is sold or transferred to another owner who otherwise complies with this act and, for a new facility, uses the new facility as a principal residence, the certificate shall remain in effect.

(2) If a rehabilitated facility was sold before December 29, 1994 and a certificate was in effect for that facility at the time of the sale, and the new owner of the rehabilitated facility otherwise complies with this act, the certificate shall be reinstated and remain in effect for the remainder of the original 12-year period unless earlier revoked under section 11.

Enacting section 1. Section 17 of the neighborhood enterprise zone act, 1992 PA 147, MCL 207.787, is repealed.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.