## **HOUSE BILL No. 5050**

July 13, 2005, Introduced by Rep. Robertson and referred to the Committee on Commerce.

A bill to amend 1974 PA 198, 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 impose and provide for the disposition of an administrative fee; 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,"

by amending section 9 (MCL 207.559), as amended by 1999 PA 140.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 9. (1) The legislative body of the local governmental
- 2 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

- 1 aggregate amount of industrial facilities exemption certificates
- 2 previously granted and currently in force, shall not have the
- 3 effect of substantially impeding the operation of the local
- 4 governmental unit or impairing the financial soundness of a taxing
- 5 unit that levies an ad valorem property tax in the local
- 6 governmental unit in which the facility is located or to be
- 7 located. If the state equalized valuation of property proposed to
- 8 be exempt pursuant to an application under consideration,
- 9 considered together with the aggregate state equalized valuation of
- 10 property exempt under certificates previously granted and currently
- 11 in force, exceeds 5% of the state equalized valuation of the local
- 12 governmental unit, the commission, with the approval of the state
- 13 treasurer, shall make a separate finding and shall include a
- 14 statement in the order approving the industrial facilities
- 15 exemption certificate that exceeding that amount shall not have the
- 16 effect of substantially impeding the operation of the local
- 17 governmental unit or impairing the financial soundness of an
- 18 affected taxing unit.
- 19 (2) Except for an application for a speculative building,
- 20 which is governed by subsection (4), the legislative body of the
- 21 local governmental unit shall not approve an application and the
- 22 commission shall not grant an industrial facilities exemption
- 23 certificate unless the applicant complies with all of the following
- 24 requirements:
- 25 (a) The commencement of the restoration, replacement, or
- 26 construction of the facility occurred not earlier than 12 months
- 27 before the filing of the application for the industrial facilities

- 1 exemption certificate. If the application is not filed within the
- 2 12-month period, the application may be filed within the succeeding
- 3 12-month period and the industrial facilities exemption certificate
- 4 shall in this case expire 1 year earlier than it would have expired
- 5 if the application had been timely filed. This subdivision does not
- 6 apply for applications filed with the local governmental unit after
- 7 December 31, 1983.
- 8 (b) For applications made after December 31, 1983, the
- 9 proposed facility shall be located within a plant rehabilitation
- 10 district or industrial development district that was duly
- 11 established in a local governmental unit eligible under this act to
- 12 establish a district and that was established upon a request filed
- 13 or by the local governmental unit's own initiative taken before the
- 14 commencement of the restoration, replacement, or construction of
- 15 the facility.
- 16 (c) For applications made after December 31, 1983, the
- 17 commencement of the restoration, replacement, or construction of
- 18 the facility occurred not earlier than 6 months before the filing
- 19 of the application for the industrial facilities exemption
- 20 certificate.
- 21 (d) The application relates to a construction, restoration, or
- 22 replacement program that when completed constitutes a new or
- 23 replacement facility within the meaning of this act and that shall
- 24 be situated within a plant rehabilitation district or industrial
- 25 development district duly established in a local governmental unit
- 26 eliqible under this act to establish the district.
- (e) Completion of the facility is calculated to, and will at

- 1 the time of issuance of the certificate have the reasonable
- 2 likelihood to create employment, retain employment, prevent a loss
- 3 of employment, or produce energy in the community in which the
- 4 facility is situated.
- 5 (f) Completion of the facility does not constitute merely the
- 6 addition of machinery and equipment for the purpose of increasing
- 7 productive capacity but rather is primarily for the purpose and
- 8 will primarily have the effect of restoration, replacement, or
- 9 updating the technology of obsolete industrial property. An
- 10 increase in productive capacity, even though significant, is not an
- 11 impediment to the issuance of an industrial facilities exemption
- 12 certificate if other criteria in this section and act are met. This
- 13 subdivision does not apply to a new facility.
- 14 (g) The provisions of subdivision (c) do not apply to a new
- 15 facility located in an existing industrial development district
- 16 owned by a person who filed an application for an industrial
- 17 facilities exemption certificate in April of 1992 if the
- 18 application was approved by the local governing body and was denied
- 19 by the state tax commission in April of 1993.
- 20 (h) The provisions of subdivisions (b) and (c) and section
- 21 4(3) do not apply to 1 or more of the following:
- 22 (i) A facility located in an industrial development district
- 23 owned by a person who filed an application for an industrial
- 24 facilities exemption certificate in October 1995 for construction
- 25 that was commenced in July 1992 in a district that was established
- 26 by the legislative body of the local governmental unit in July
- 27 1994. An industrial facilities exemption certificate described in

- 1 this subparagraph shall expire as provided in section 16(3).
- 2 (ii) A facility located in an industrial development district
- 3 that was established in January 1994 and was owned by a person who
- 4 filed an application for an industrial facilities exemption
- 5 certificate in February 1994 if the personal property and real
- 6 property portions of the application were approved by the
- 7 legislative body of the local governmental unit and the personal
- 8 property portion of the application was approved by the state tax
- 9 commission in December 1994 and the real property portion of the
- 10 application was denied by the state tax commission in December
- 11 1994. An industrial facilities exemption certificate described in
- 12 this subparagraph shall expire as provided in section 16(3).
- 13 (iii) A facility located in an industrial development district
- 14 that was established in December 1995 and was owned by a person who
- 15 filed an application for an industrial facilities exemptions
- 16 certificate in November or December 1995 for construction that was
- 17 commenced in September 1995.
- 18 (i) The provisions of subdivision (c) do not apply to any of
- 19 the following:
- 20 (i) A new facility located in an existing industrial
- 21 development district owned by a person who filed an application for
- 22 an industrial facilities exemption certificate in October 1993 if
- 23 the application was approved by the legislative body of the local
- 24 governmental unit and the real property portion of the application
- 25 was denied by the state tax commission in December 1993.
- 26 (ii) A new facility located in an existing industrial
- 27 development district owned by a person who filed an application for

- 1 an industrial facilities exemption certificate in September 1993 if
- 2 the personal property portion of the application was approved by
- 3 the legislative body of the local governmental unit and the real
- 4 property portion of the application was denied by the legislative
- 5 body of the local governmental unit in October 1993 and
- 6 subsequently approved by the legislative body of the local
- 7 governmental unit in September 1994.
- 8 (iii) A facility located in an existing industrial development
- 9 district owned by a person who filed an application for an
- 10 industrial facilities exemption certificate in August 1993 if the
- 11 application was approved by the local governmental unit in
- 12 September 1993 and the application was denied by the state tax
- 13 commission in December 1993.
- 14 (iv) A facility located in an existing industrial development
- 15 district occupied by a person who filed an application for an
- 16 industrial facilities exemption certificate in June of 1995 if the
- 17 application was approved by the legislative body of the local
- 18 governmental unit in October of 1995 for construction that was
- 19 commenced in November or December of 1994.
- 20 (v) A facility located in an existing industrial development
- 21 district owned by a person who filed an application for an
- 22 industrial facilities exemption certificate in June of 1995 if the
- 23 application was approved by the legislative body of the local
- 24 governmental unit in July of 1995 and the personal property portion
- 25 of the application was approved by the state tax commission in
- **26** November of 1995.
- 27 (j) If the facility is locating in a plant rehabilitation

- 1 district or an industrial development district from another
- 2 location in this state, the owner of the facility is not delinquent
- 3 in any of the taxes described in section 10(1)(a) of the Michigan
- 4 renaissance zone act, 1996 PA 376, MCL 125.2690, or substantially
- 5 delinquent in any of the taxes described in and as provided under
- 6 section 10(1)(b) of the Michigan renaissance zone act, 1996 PA 376,
- **7** MCL 125.2690.
- 8 (3) If the replacement facility when completed will not be
- 9 located on the same premises or contiguous premises as the obsolete
- 10 industrial property, then the applicant shall make provision for
- 11 the obsolete industrial property by demolition, sale, or transfer
- 12 to another person with the effect that the obsolete industrial
- 13 property shall within a reasonable time again be subject to
- 14 assessment and taxation under the general property tax act, 1893 PA
- 15 206, MCL 211.1 to 211.157, or be used in a manner consistent with
- 16 the general purposes of this act, subject to approval of the
- 17 commission.
- 18 (4) The legislative body of the local governmental unit shall
- 19 not approve an application and the commission shall not grant an
- 20 industrial facilities exemption certificate that applies to a
- 21 speculative building unless the speculative building is or is to be
- 22 located in a plant rehabilitation district or industrial
- 23 development district duly established by a local governmental unit
- 24 eligible under this act to establish a district; the speculative
- 25 building was constructed less than 9 years before the filing of the
- 26 application for the industrial facilities exemption certificate;
- 27 the speculative building has not been occupied since completion of

- 1 construction; and the speculative building otherwise qualifies
- 2 under subsection (2)(e) for an industrial facilities exemption
- 3 certificate. An industrial facilities exemption certificate granted
- 4 under this subsection shall expire as provided in section 16(3).
- 5 (5) Not later than September 1, 1989, the commission shall
- 6 provide to all local assessing units the name, address, and
- 7 telephone number of the person on the commission staff responsible
- 8 for providing procedural information concerning this act. After
- 9 October 1, 1989, a local unit of government shall notify each
- 10 prospective applicant of this information in writing.
- 11 (6) Notwithstanding any other provision of this act, if on
- 12 December 29, 1986 a local governmental unit passed a resolution
- 13 approving an exemption certificate for 10 years for real and
- 14 personal property but the commission did not receive the
- 15 application until 1992 and the application was not made complete
- 16 until 1995, then the commission shall issue, for that property, an
- 17 industrial facilities exemption certificate that begins December
- 18 30, 1987 and ends December 30, 1997. The facility described in this
- 19 subsection shall be taxed under this act as if it was granted an
- 20 industrial facilities exemption certificate on December 30, 1987.
- 21 (7) Notwithstanding any other provision of this act, if a
- 22 local governmental unit passed a resolution approving an industrial
- 23 facilities exemption certificate for a new facility on July 8, 1991
- 24 but rescinded that resolution and passed a resolution approving an
- 25 industrial facilities exemption certificate for that same facility
- 26 as a replacement facility on October 21, 1996, the commission shall
- 27 issue for that property an industrial facilities exemption

- 1 certificate that begins December 30, 1991 and ends December 2003.
- 2 The replacement facility described in this subsection shall be
- 3 taxed under this act as if it was granted an industrial facilities
- 4 exemption certificate on December 30, 1991.
- **5** (8) Property owned or operated by a casino is not industrial
- 6 property or otherwise eligible for an abatement or reduction of ad
- 7 valorem property taxes under this act. As used in this subsection,
- 8 "casino" means a casino or a parking lot, hotel, motel, convention
- 9 and trade center, or retail store owned or operated by a casino, an
- 10 affiliate, or an affiliated company, regulated by this state
- 11 pursuant to the Michigan gaming control and revenue act, the
- 12 Initiated Law of 1996, MCL 432.201 to 432.226.
- 13 (9) NOTWITHSTANDING SECTION 16A AND ANY OTHER PROVISION OF
- 14 THIS ACT, IF A LOCAL GOVERNMENTAL UNIT PASSED A RESOLUTION
- 15 APPROVING AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE FOR A NEW
- 16 FACILITY ON OCTOBER 28, 1996 FOR A CERTIFICATE THAT EXPIRED IN
- 17 DECEMBER 2003, THE COMMISSION SHALL ISSUE FOR THAT PROPERTY AN
- 18 INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE THAT BEGINS ON DECEMBER
- 19 30, 2005 AND ENDS DECEMBER 30, 2010.