

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 1376

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 sections 2, 7, and 14 (MCL 207.552, 207.557, and 207.564), section 2 as amended by 2008 PA 170, section 7 as amended by 2006 PA 483, and section 14 as amended by 2007 PA 146.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2. (1) "Commission" means the state tax commission  
2           created by 1927 PA 360, MCL 209.101 to 209.107.

1 (2) "Facility" means either a replacement facility, a new  
2 facility, or, if applicable by its usage, a speculative building.

3 (3) "Replacement facility" means 1 of the following:

4 (a) In the case of a replacement or restoration that occurs on  
5 the same or contiguous land as that which is replaced or restored,  
6 industrial property that is or is to be acquired, constructed,  
7 altered, or installed for the purpose of replacement or restoration  
8 of obsolete industrial property together with any part of the old  
9 altered property that remains for use as industrial property after  
10 the replacement, restoration, or alteration.

11 (b) In the case of construction on vacant noncontiguous land,  
12 property that is or will be used as industrial property that is or  
13 is to be acquired, constructed, transferred, or installed for the  
14 purpose of being substituted for obsolete industrial property if  
15 the obsolete industrial property is situated in a plant  
16 rehabilitation district in the same city, village, or township as  
17 the land on which the facility is or is to be constructed and  
18 includes the obsolete industrial property itself until the time as  
19 the substituted facility is completed.

20 (4) "New facility" means new industrial property other than a  
21 replacement facility to be built in a plant rehabilitation district  
22 or industrial development district.

23 (5) "Local governmental unit" means a city, village, or  
24 township located in this state.

25 (6) "Industrial property" means land improvements, buildings,  
26 structures, and other real property, and machinery, equipment,  
27 furniture, and fixtures or any part or accessory whether completed

1 or in the process of construction comprising an integrated whole,  
2 the primary purpose and use of which is the engaging in a high-  
3 technology activity, operation of a strategic response center,  
4 operation of a motorsports entertainment complex, operation of a  
5 logistical optimization center, operation of qualified commercial  
6 activity, operation of a major distribution and logistics facility,  
7 the manufacture of goods or materials, creation or synthesis of  
8 biodiesel fuel, or the processing of goods and materials by  
9 physical or chemical change; property acquired, constructed,  
10 altered, or installed due to the passage of proposal A in 1976; the  
11 operation of a hydro-electric dam by a private company other than a  
12 public utility; or agricultural processing facilities. Industrial  
13 property includes facilities related to a manufacturing operation  
14 under the same ownership, including, but not limited to, office,  
15 engineering, research and development, warehousing, or parts  
16 distribution facilities. Industrial property also includes research  
17 and development laboratories of companies other than those  
18 companies that manufacture the products developed from their  
19 research activities and research development laboratories of a  
20 manufacturing company that are unrelated to the products of the  
21 company. For applications approved by the legislative body of a  
22 local governmental unit between June 30, 1999 and December 31,  
23 2007, industrial property also includes an electric generating  
24 plant that is not owned by a local unit of government, including,  
25 but not limited to, an electric generating plant fueled by biomass.  
26 Industrial property also includes convention and trade centers **IN**  
27 **WHICH CONSTRUCTION BEGINS NOT LATER THAN DECEMBER 31, 2010 AND IS**

1 over 250,000 square feet in size OR, IF LOCATED IN A COUNTY WITH A  
2 POPULATION OF MORE THAN 750,000 AND LESS THAN 1,100,000, IS OVER  
3 100,000 SQUARE FEET IN SIZE OR, IF LOCATED IN A COUNTY WITH A  
4 POPULATION OF MORE THAN 26,000 AND LESS THAN 28,000, IS OVER 30,000  
5 SQUARE FEET IN SIZE. Industrial property also includes a federal  
6 reserve bank operating under 12 USC 341, located in a city with a  
7 population of 750,000 or more. Industrial property may be owned or  
8 leased. However, in the case of leased property, the lessee is  
9 liable for payment of ad valorem property taxes and shall furnish  
10 proof of that liability. Industrial property does not include any  
11 of the following:

12 (a) Land.

13 (b) Property of a public utility other than an electric  
14 generating plant that is not owned by a local unit of government  
15 and for which an application was approved by the legislative body  
16 of a local governmental unit between June 30, 1999 and December 31,  
17 2007.

18 (c) Inventory.

19 (7) "Obsolete industrial property" means industrial property  
20 the condition of which is substantially less than an economically  
21 efficient functional condition.

22 (8) "Economically efficient functional condition" means a  
23 state or condition of property the desirability and usefulness of  
24 which is not impaired due to changes in design, construction,  
25 technology, or improved production processes, or from external  
26 influencing factors that make the property less desirable and  
27 valuable for continued use.

1           (9) "Research and development laboratories" means building and  
2 structures, including the machinery, equipment, furniture, and  
3 fixtures located in the building or structure, used or to be used  
4 for research or experimental purposes that would be considered  
5 qualified research as that term is used in section 41 of the  
6 internal revenue code, 26 USC 41, except that qualified research  
7 also includes qualified research funded by grant, contract, or  
8 otherwise by another person or governmental entity.

9           (10) "Manufacture of goods or materials" or "processing of  
10 goods or materials" means any type of operation that would be  
11 conducted by an entity included in the classifications provided by  
12 sector 31-33 – manufacturing, of the North American industry  
13 classification system, United States, 1997, published by the office  
14 of management and budget, regardless of whether the entity  
15 conducting that operation is included in that manual.

16           (11) "High-technology activity" means that term as defined in  
17 section 3 of the Michigan economic growth authority act, 1995 PA  
18 24, MCL 207.803.

19           (12) "Logistical optimization center" means a sorting and  
20 distribution center that supports a private passenger motor vehicle  
21 assembly center and its manufacturing process for the purpose of  
22 optimizing transportation, just-in-time inventory management, and  
23 material handling, and to which all of the following apply:

24           (a) The sorting and distribution center is within 2 miles of a  
25 private passenger motor vehicle assembly center that, together with  
26 supporting facilities, contains at least 800,000 square feet.

27           (b) The sorting and distribution center contains at least

1 950,000 square feet.

2 (c) The sorting and distribution center has applied for an  
3 industrial facilities exemption certificate after June 30, 2005 and  
4 before January 1, 2006.

5 (d) The private passenger motor vehicle assembly center is  
6 located on land conditionally transferred by a township with a  
7 population of more than 25,000 under 1984 PA 425, MCL 124.21 to  
8 124.30, to a city with a population of more than 100,000 that  
9 levies an income tax under the city income tax act, 1964 PA 284,  
10 MCL 141.501 to 141.787.

11 (13) "Commercial property" means that term as defined in  
12 section 2 of the obsolete property rehabilitation act, 2000 PA 146,  
13 MCL 125.2782.

14 (14) "Qualified commercial activity" means commercial property  
15 that meets all of the following:

16 (a) An application for an exemption certificate approved by  
17 the local governmental unit is filed for approval by the state tax  
18 commission not later than April 30, 2006.

19 (b) At least 90% of the property, excluding the surrounding  
20 green space, is used for warehousing, distribution, and logistics  
21 purposes that provide food for institutional, restaurant, hospital,  
22 or hotel customers.

23 (c) Is located within a village and is within 15 miles of a  
24 Michigan state border.

25 (d) Occupies 1 or more buildings or structures that together  
26 are greater than 300,000 square feet in size.

27 (15) "Motorsports entertainment complex" means a closed-course

1 motorsports facility, and its ancillary grounds and facilities,  
2 that satisfies all of the following:

3 (a) Has at least 70,000 fixed seats for race patrons.

4 (b) Has at least 6 scheduled days of motorsports events each  
5 calendar year, at least 2 of which shall be comparable to nascar  
6 nextel cup events held in 2007 or their successor events.

7 (c) Serves food and beverages at the facility during  
8 sanctioned events each calendar year through concession outlets, a  
9 majority of which are staffed by individuals who represent or are  
10 members of 1 or more nonprofit civic or charitable organizations  
11 that directly financially benefit from the concession outlets'  
12 sales.

13 (d) Engages in tourism promotion.

14 (e) Has permanent exhibitions of motorsports history, events,  
15 or vehicles.

16 (16) "Major distribution and logistics facility" means a  
17 proposed distribution center that meets all of the following:

18 (a) Contains at least 250,000 square feet.

19 (b) Has or will have an assessed value of \$5,000,000.00 or  
20 more for the real property.

21 (c) Is located within 35 miles of the border of this state.

22 (d) Has as its purpose the distribution of inventory and  
23 materials to facilities owned by the taxpayer whose primary  
24 business is the retail sale of sporting goods and related  
25 inventory.

26 Sec. 7. (1) Within 60 days after receipt of an approved  
27 application or an appeal of a disapproved application that was

1 submitted to the commission before October 31 of that year, the  
2 commission shall determine whether the facility is a speculative  
3 building or designed and acquired primarily for the purpose of  
4 restoration or replacement of obsolete industrial property or the  
5 construction of new industrial property, and whether the facility  
6 otherwise complies with section 9 and with the other provisions of  
7 this act. If the commission so finds, it shall issue an industrial  
8 facilities exemption certificate. Before issuing a certificate the  
9 commission shall notify the state treasurer of the application and  
10 shall obtain the written concurrence of the department of **ENERGY,**  
11 labor, and economic growth that the application complies with the  
12 requirements in section 9. Except as otherwise provided in section  
13 7a, the effective date of the certificate for a replacement  
14 facility or new facility is the immediately succeeding December 31  
15 following the date the certificate is issued. For a speculative  
16 building or a portion of a speculative building, except as  
17 otherwise provided in section 7a, the effective date of the  
18 certificate is the immediately succeeding December 31 following the  
19 date the speculative building, or the portion of a speculative  
20 building, is used as a manufacturing facility.

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

1           (3) Notwithstanding any other provision of this act, if on  
2 December 29, 1986 a local governmental unit passed a resolution  
3 approving an exemption certificate for 10 years for real and  
4 personal property but the commission did not receive the  
5 application until 1992 and the application was not made complete  
6 until 1995, then the commission shall issue, for that property, an  
7 industrial facilities exemption certificate that begins December  
8 30, 1987 and ends December 30, 1997.

9           (4) Notwithstanding any other provision of this act, if  
10 pursuant to section 16a a local governmental unit passed a  
11 resolution approving an industrial facilities exemption certificate  
12 for a new facility on October 14, 2003 for a certificate that  
13 expired in December 2002, the commission shall issue for that  
14 property an industrial facilities exemption certificate that begins  
15 on December 30, 2002 and ends December 30, 2009.

16           (5) Notwithstanding any other provision of this act, if on or  
17 before February 10, 2007 a local governmental unit passed a  
18 resolution approving an amendment of an industrial facilities  
19 exemption certificate for a replacement facility and that  
20 certificate was revoked by the commission effective December 30,  
21 2005 with the order of revocation issued by the commission on April  
22 10, 2006, notwithstanding the revocation, the commission shall  
23 retroactively amend the certificate and give full effect to the  
24 amended certificate, which shall include the additional personal  
25 property expenditures described in the resolution amending the  
26 certificate, for the period of time beginning when the certificate  
27 was originally approved until the certificate was revoked.

1           Sec. 14. (1) The amount of the industrial facility tax, in  
2 each year for a replacement facility, shall be determined by  
3 multiplying the total mills levied as ad valorem taxes for that  
4 year by all taxing units within which the facility is situated by  
5 the taxable value of the real and personal property of the obsolete  
6 industrial property for the tax year immediately preceding the  
7 effective date of the industrial facilities exemption certificate  
8 after deducting the taxable value of the land and of the inventory  
9 as specified in section 19.

10           (2) The amount of the industrial facility tax, in each year  
11 for a new facility or a speculative building for which an  
12 industrial facilities exemption certificate became effective before  
13 January 1, 1994, shall be determined by multiplying the taxable  
14 value of the facility excluding the land and the inventory personal  
15 property by the sum of 1/2 of the total mills levied as ad valorem  
16 taxes for that year by all taxing units within which the facility  
17 is located other than mills levied for school operating purposes by  
18 a local school district within which the facility is located or  
19 mills levied under the state education tax act, 1993 PA 331, MCL  
20 211.901 to 211.906, plus 1/2 of the number of mills levied for  
21 local school district operating purposes in 1993.

22           (3) Except as provided in subsection (4), the amount of the  
23 industrial facility tax in each year for a new facility or a  
24 speculative building for which an industrial facilities exemption  
25 certificate becomes effective after December 31, 1993, shall be  
26 determined by multiplying the taxable value of the facility  
27 excluding the land and the inventory personal property by the sum

1 of 1/2 of the total mills levied as ad valorem taxes for that year  
2 by all taxing units within which the facility is located other than  
3 mills levied under the state education tax act, 1993 PA 331, MCL  
4 211.901 to 211.906, plus, subject to section 14a, the number of  
5 mills levied under the state education tax act, 1993 PA 331, MCL  
6 211.901 to 211.906.

7 (4) For taxes levied after December 31, 2007, for the personal  
8 property tax component of an industrial facilities exemption  
9 certificate for a new facility or a speculative building that is  
10 sited on real property classified as industrial real property under  
11 section 34c of the general property tax act, 1893 PA 206, MCL  
12 211.34c, the amount of the industrial facility tax in each year for  
13 a new facility or a speculative building shall be determined by  
14 multiplying the taxable value of the facility excluding the land  
15 and the inventory personal property by the sum of 1/2 of the total  
16 mills levied as ad valorem taxes for that year by all taxing units  
17 within which the facility is located other than mills levied under  
18 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,  
19 and the number of mills from which the property is exempt under  
20 section 1211(1) of the revised school code, 1976 PA 451, MCL  
21 380.1211. **FOR TAXES LEVIED AFTER DECEMBER 31, 2007, FOR THE**  
22 **PERSONAL PROPERTY TAX COMPONENT OF AN INDUSTRIAL FACILITIES**  
23 **EXEMPTION CERTIFICATE FOR A NEW FACILITY OR A SPECULATIVE BUILDING**  
24 **THAT IS SITED ON REAL PROPERTY CLASSIFIED AS COMMERCIAL REAL**  
25 **PROPERTY UNDER SECTION 34C OF THE GENERAL PROPERTY TAX ACT, 1893 PA**  
26 **206, MCL 211.34C, THE AMOUNT OF THE INDUSTRIAL FACILITY TAX IN EACH**  
27 **YEAR FOR A NEW FACILITY OR A SPECULATIVE BUILDING SHALL BE**

1 DETERMINED BY MULTIPLYING THE TAXABLE VALUE OF THE FACILITY  
2 EXCLUDING THE LAND AND THE INVENTORY PERSONAL PROPERTY BY THE SUM  
3 OF 1/2 OF THE TOTAL MILLS LEVIED AS AD VALOREM TAXES FOR THAT YEAR  
4 BY ALL TAXING UNITS WITHIN WHICH THE FACILITY IS LOCATED OTHER THAN  
5 THE NUMBER OF MILLS FROM WHICH THE PROPERTY IS EXEMPT UNDER SECTION  
6 1211(1) OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211.

7 (5) For a termination or revocation of only the real property  
8 component, or only the personal property component, of an  
9 industrial facilities exemption certificate as provided in this  
10 act, the valuation and the tax determined using that valuation  
11 shall be reduced proportionately to reflect the exclusion of the  
12 component with respect to which the termination or revocation has  
13 occurred.