

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.