

SENATE BILL No. 1584

November 5, 2008, Introduced by Senator ALLEN and referred to the Committee on Economic Development and Regulatory Reform.

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 and 7 (MCL 207.552 and 207.557), section 2 as amended by 2008 PA 170 and section 7 as amended by 2006 PA 483.

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.

3 (2) "Facility" means either a replacement facility, a new

1 facility, or, if applicable by its usage, a speculative building.

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

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

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

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

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

24 (6) "Industrial property" means land improvements, buildings,
25 structures, and other real property, and machinery, equipment,
26 furniture, and fixtures or any part or accessory whether completed
27 or in the process of construction comprising an integrated whole,

1 the primary purpose and use of which is the engaging in a high-
2 technology activity, operation of a strategic response center,
3 operation of a motorsports entertainment complex, operation of a
4 logistical optimization center, operation of qualified commercial
5 activity, operation of a major distribution and logistics facility,
6 the manufacture of goods or materials, creation or synthesis of
7 biodiesel fuel, or the processing of goods and materials by
8 physical or chemical change; property acquired, constructed,
9 altered, or installed due to the passage of proposal A in 1976; the
10 operation of a hydro-electric dam by a private company other than a
11 public utility; or agricultural processing facilities. Industrial
12 property includes facilities related to a manufacturing operation
13 under the same ownership, including, but not limited to, office,
14 engineering, research and development, warehousing, or parts
15 distribution facilities. Industrial property also includes research
16 and development laboratories of companies other than those
17 companies that manufacture the products developed from their
18 research activities and research development laboratories of a
19 manufacturing company that are unrelated to the products of the
20 company. For applications approved by the legislative body of a
21 local governmental unit between June 30, 1999 and December 31, ~~2007~~
22 **2009**, industrial property also includes an electric generating
23 plant that is not owned by a local unit of government, including,
24 but not limited to, an electric generating plant fueled by biomass.
25 Industrial property also includes convention and trade centers over
26 250,000 square feet in size. Industrial property also includes a
27 federal reserve bank operating under 12 USC 341, located in a city

1 with a population of 750,000 or more. Industrial property may be
2 owned or leased. However, in the case of leased property, the
3 lessee is liable for payment of ad valorem property taxes and shall
4 furnish proof of that liability. Industrial property does not
5 include any of the following:

6 (a) Land.

7 (b) Property of a public utility other than an electric
8 generating plant that is not owned by a local unit of government
9 and for which an application was approved by the legislative body
10 of a local governmental unit between June 30, 1999 and December 31,
11 ~~2007~~—2009.

12 (c) Inventory.

13 (7) "Obsolete industrial property" means industrial property
14 the condition of which is substantially less than an economically
15 efficient functional condition.

16 (8) "Economically efficient functional condition" means a
17 state or condition of property the desirability and usefulness of
18 which is not impaired due to changes in design, construction,
19 technology, or improved production processes, or from external
20 influencing factors that make the property less desirable and
21 valuable for continued use.

22 (9) "Research and development laboratories" means building and
23 structures, including the machinery, equipment, furniture, and
24 fixtures located in the building or structure, used or to be used
25 for research or experimental purposes that would be considered
26 qualified research as that term is used in section 41 of the
27 internal revenue code, 26 USC 41, except that qualified research

1 also includes qualified research funded by grant, contract, or
2 otherwise by another person or governmental entity.

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

10 (11) "High-technology activity" means that term as defined in
11 section 3 of the Michigan economic growth authority act, 1995 PA
12 24, MCL 207.803.

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

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

21 (b) The sorting and distribution center contains at least
22 950,000 square feet.

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

26 (d) The private passenger motor vehicle assembly center is
27 located on land conditionally transferred by a township with a

1 population of more than 25,000 under 1984 PA 425, MCL 124.21 to
2 124.30, to a city with a population of more than 100,000 that
3 levies an income tax under the city income tax act, 1964 PA 284,
4 MCL 141.501 to 141.787.

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

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

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

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

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

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

21 (15) "Motorsports entertainment complex" means a closed-course
22 motorsports facility, and its ancillary grounds and facilities,
23 that satisfies all of the following:

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

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

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

7 (d) Engages in tourism promotion.

8 (e) Has permanent exhibitions of motorsports history, events,
9 or vehicles.

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

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

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

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

16 (d) Has as its purpose the distribution of inventory and
17 materials to facilities owned by the taxpayer whose primary
18 business is the retail sale of sporting goods and related
19 inventory.

20 Sec. 7. (1) Within 60 days after receipt of an approved
21 application or an appeal of a disapproved application that was
22 submitted to the commission before October 31 of that year, the
23 commission shall determine whether the facility is a speculative
24 building or designed and acquired primarily for the purpose of
25 restoration or replacement of obsolete industrial property or the
26 construction of new industrial property, and whether the facility
27 otherwise complies with section 9 and with the other provisions of

1 this act. If the commission so finds, it shall issue an industrial
2 facilities exemption certificate. Before issuing a certificate the
3 commission shall notify the state treasurer of the application and
4 shall obtain the written concurrence of the department of labor and
5 economic growth that the application complies with the requirements
6 in section 9. Except as otherwise provided in section 7a, the
7 effective date of the certificate for a replacement facility or new
8 facility is the immediately succeeding December 31 following the
9 date the certificate is issued. For a speculative building or a
10 portion of a speculative building, except as otherwise provided in
11 section 7a, the effective date of the certificate is the
12 immediately succeeding December 31 following the date the
13 speculative building, or the portion of a speculative building, is
14 used as a manufacturing facility.

15 (2) The commission shall send an industrial facilities
16 exemption certificate, when issued, by certified mail to the
17 applicant, and a certified copy by certified mail to the assessor
18 of the assessing unit in which the facility is located or to be
19 located, and that copy shall be filed in his or her office. Notice
20 of the commission's refusal to issue a certificate shall be sent by
21 certified mail to the same persons.

22 (3) Notwithstanding any other provision of this act, if on
23 December 29, 1986 a local governmental unit passed a resolution
24 approving an exemption certificate for 10 years for real and
25 personal property but the commission did not receive the
26 application until 1992 and the application was not made complete
27 until 1995, then the commission shall issue, for that property, an

1 industrial facilities exemption certificate that begins December
2 30, 1987 and ends December 30, 1997.

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

10 (5) Notwithstanding any other provision of this act, if on or
11 before February 10, 2007 a local governmental unit passed a
12 resolution approving an amendment of an industrial facilities
13 exemption certificate for a replacement facility and that
14 certificate was revoked by the commission effective December 30,
15 2005 with the order of revocation issued by the commission on April
16 10, 2006, notwithstanding the revocation, the commission shall
17 retroactively amend the certificate and give full effect to the
18 amended certificate, which shall include the additional personal
19 property expenditures described in the resolution amending the
20 certificate, for the period of time beginning when the certificate
21 was originally approved until the certificate was revoked.

22 (6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF
23 PURSUANT TO SECTION 16A A LOCAL GOVERNMENTAL UNIT PASSED A
24 RESOLUTION APPROVING AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE
25 FOR A FACILITY ON SEPTEMBER 10, 2008 FOR A CERTIFICATE THAT EXPIRED
26 IN DECEMBER 2007, THE COMMISSION SHALL ISSUE FOR THAT PROPERTY AN
27 INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE THAT BEGINS ON DECEMBER

1 30, 2007 AND ENDS ON DECEMBER 30, 2013.