

Act No. 87
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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

Introduced by Senators Proos, Robertson, Warren, Moolenaar and Brandenburg

ENROLLED SENATE BILL No. 823

AN ACT to amend 1893 PA 206, entitled “An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts,” by amending sections 9f, 9m, and 19 (MCL 211.9f, 211.9m, and 211.19), section 9f as amended by 2012 PA 399, section 9m as amended by 2013 PA 154, and section 19 as amended by 2013 PA 153, and by adding section 27e.

The People of the State of Michigan enact:

Sec. 9f. (1) The governing body of an eligible local assessing district or, subject to subsection (4), the board of a next Michigan development corporation in which an eligible local assessing district is a constituent member may adopt a resolution to exempt from the collection of taxes under this act all new personal property owned or leased by an eligible business located in 1 or more eligible districts or distressed parcels designated in the resolution or an eligible next Michigan business as provided in this section. The clerk of the eligible local assessing district or the recording officer of a next Michigan development corporation shall notify in writing the assessor of the local tax collecting unit in which the eligible district or distressed parcel is located and the legislative body of each taxing unit that levies ad valorem property taxes in the eligible local assessing district in which the eligible district or distressed parcel is located. Before acting on the resolution, the governing body of the eligible local assessing district or a next Michigan development corporation shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing.

(2) The exemption under this section is effective on the December 31 immediately succeeding the adoption of the resolution by the governing body of the eligible local assessing district or a next Michigan development corporation and, except as otherwise provided in subsection (8), shall continue in effect for a period specified in the resolution. However, an exemption shall not be granted under this section after December 31, 2012 for an eligible business located in an eligible district identified in subsection (10)(f)(ix) or in an eligible local assessing district identified in subsection (10)(h)(ii). A copy of the resolution shall be filed with the state tax commission, the state treasurer, and the president of the Michigan strategic fund. A resolution is not effective unless approved as provided in subsection (3).

(3) Not more than 60 days after receipt of a copy of the resolution adopted by the governing body of an eligible local assessing district under subsection (1), the state tax commission shall determine if the new personal property subject to the exemption is owned or leased by an eligible business and if the eligible business is located in 1 or more eligible

districts. If the state tax commission determines that the new personal property subject to the exemption is owned or leased by an eligible business and that the eligible business is located in 1 or more eligible districts, the state treasurer, with the written concurrence of the president of the Michigan strategic fund, shall approve the resolution adopted under subsection (1) if the state treasurer and the president of the Michigan strategic fund determine that exempting new personal property of the eligible business is necessary to reduce unemployment, promote economic growth, and increase capital investment in this state. In addition, for an eligible business located in an eligible local assessing district described in subsection (10)(h)(ii), the resolution adopted under subsection (1) shall be approved if the state treasurer and the president of the Michigan strategic fund determine that granting the exemption is a net benefit to this state, that expansion, retention, or location of an eligible business will not occur in this state without this exemption, and that there is no significant negative effect on employment in other parts of this state as a result of the exemption.

(4) A next Michigan development corporation may only adopt a resolution under subsection (1) exempting new personal property from the collection of taxes under this act for new personal property located in a next Michigan development district. A next Michigan development corporation shall not adopt a resolution under subsection (1) exempting new personal property from the collection of taxes under this act without a written agreement entered into with the eligible next Michigan business subject to the exemption, which written agreement contains a remedy provision that includes, but is not limited to, all of the following:

(a) A requirement that the exemption under this section is revoked if the eligible next Michigan business is determined to be in violation of the provisions of the written agreement.

(b) A requirement that the eligible next Michigan business may be required to repay all or part of the personal property taxes exempted under this section if the eligible next Michigan business is determined to be in violation of the provisions of the written agreement.

(5) Subject to subsections (6) and (8), if an existing eligible business sells or leases new personal property exempt under this section to an acquiring eligible business, the exemption granted to the existing eligible business shall continue in effect for the period specified in the resolution adopted under subsection (1) for the new personal property purchased or leased from the existing eligible business by the acquiring eligible business and for any new personal property purchased or leased by the acquiring eligible business.

(6) After December 31, 2007, an exemption for an existing eligible business shall continue in effect for an acquiring eligible business under subsection (5) only if the continuation of the exemption is approved in a resolution adopted by the governing body of an eligible local assessing district or the board of a next Michigan development corporation in which the eligible local assessing district is a constituent member.

(7) Notwithstanding the amendatory act that added section 2(1)(c), all of the following shall apply to an exemption under this section that was approved by the state tax commission on or before April 30, 1999, regardless of the effective date of the exemption:

(a) The exemption shall be continued for the term authorized by the resolution adopted by the governing body of the eligible local assessing district and approved by the state tax commission with respect to buildings and improvements constructed on leased real property during the term of the exemption if the value of the real property is not assessed to the owner of the buildings and improvements.

(b) The exemption shall not be impaired or restricted with respect to buildings and improvements constructed on leased real property during the term of the exemption if the value of the real property is not assessed to the owner of the buildings and improvements.

(8) Notwithstanding any other provision of this section to the contrary and subject to subsection (9), if new personal property exempt under this section on December 31, 2012 is eligible manufacturing personal property, that eligible manufacturing personal property shall remain exempt under this section until the later of the following:

(a) The date that eligible manufacturing personal property would otherwise be exempt from the collection of taxes under this act under section 9m, 9n, or 9o.

(b) The date that eligible manufacturing personal property is no longer exempt under the resolution adopted under subsection (1).

(9) If either House Bill No. 6026 of the 96th Legislature, 2012 PA 408, or Senate Bill No. 822 of the 97th Legislature is presented to the qualified electors of this state at an election to be held on the August regular election date in 2014 and the bill presented is not approved by a majority of the qualified electors of this state voting on the question, subsection (8) shall not apply after the date of that election.

(10) As used in this section:

(a) "Acquiring eligible business" means an eligible business that purchases or leases assets of an existing eligible business, including the purchase or lease of new personal property exempt under this section, and that will conduct business operations similar to those of the existing eligible business at the location of the existing eligible business within the eligible district.

(b) “Authorized business” means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(c) “Eligible manufacturing personal property” means that term as defined in section 9m.

(d) “Distressed parcel” means a parcel of real property located in a city or village that meets all of the following conditions:

(i) Is located in a qualified downtown revitalization district. As used in this subparagraph, “qualified downtown revitalization district” means an area located within 1 or more of the following:

(A) The boundaries of a downtown district as defined in section 1 of 1975 PA 197, MCL 125.1651.

(B) The boundaries of a principal shopping district or a business improvement district as defined in section 1 of 1961 PA 120, MCL 125.981.

(C) The boundaries of the local governmental unit in an area that is zoned and primarily used for business as determined by the local governmental unit.

(ii) Meets 1 of the following conditions:

(A) Has a blighted or functionally obsolete building located on the parcel. As used in this sub-subparagraph, “blighted” and “functionally obsolete” mean those terms as defined in section 2 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2652.

(B) Is a vacant parcel that had been previously occupied.

(iii) Is zoned to allow for mixed use.

(e) “Eligible business” means, effective August 7, 1998, a business engaged primarily in manufacturing, mining, research and development, wholesale trade, office operations, or the operation of a facility for which the business that owns or operates the facility is an eligible taxpayer. For purposes of a next Michigan development corporation, eligible business means only an eligible next Michigan business. Eligible business does not include a casino, retail establishment, professional sports stadium, or that portion of an eligible business used exclusively for retail sales. Professional sports stadium does not include a sports stadium in existence on June 6, 2000 that is not used by a professional sports team on the date of the resolution adopted pursuant to subsection (1). As used in this subdivision, “casino” means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226, and all property associated or affiliated with the operation of a casino, including, but not limited to, a parking lot, hotel, motel, or retail store.

(f) “Eligible district” means 1 or more of the following:

(i) An industrial development district as that term is defined in 1974 PA 198, MCL 207.551 to 207.572.

(ii) A renaissance zone as that term is defined in the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(iii) An enterprise zone as that term is defined in the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123.

(iv) A brownfield redevelopment zone as that term is designated under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(v) An empowerment zone designated under subchapter U of chapter 1 of the internal revenue code of 1986, 26 USC 1391 to 1397F.

(vi) An authority district or a development area as those terms are defined in the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(vii) An authority district as that term is defined in the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

(viii) A downtown district or a development area as those terms are defined in 1975 PA 197, MCL 125.1651 to 125.1681.

(ix) An area that contains an eligible taxpayer.

(x) A next Michigan development district.

(g) “Eligible distressed area” means 1 of the following:

(i) That term as defined in section 11 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.

(ii) An area that contains an eligible taxpayer.

(h) “Eligible local assessing district” means a city, village, or township that contains an eligible distressed area or that is a party to an intergovernmental agreement creating a next Michigan development corporation, or a city, village, or township that meets 1 or more of the following conditions and is located in a county all or a portion of which borders another state or Canada:

(i) Is currently served by not fewer than 4 of the following existing services:

(A) Water.

- (B) Sewer.
- (C) Police.
- (D) Fire.
- (E) Trash.
- (F) Recycling.

(ii) Is party to an agreement under 1984 PA 425, MCL 124.21 to 124.30, with a city, village, or township that provides not fewer than 4 of the following existing services:

- (A) Water.
- (B) Sewer.
- (C) Police.
- (D) Fire.
- (E) Trash.
- (F) Recycling.

(i) "Eligible next Michigan business" means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(j) "Eligible taxpayer" means a taxpayer that meets both of the following conditions:

(i) Is an authorized business.

(ii) Is eligible for tax credits described in section 9 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.809.

(k) "Existing eligible business" means an eligible business identified in a resolution adopted under subsection (1) for which an exemption has been granted under this section.

(l) "New personal property" means personal property that was not previously subject to tax under this act or was not previously placed in service in this state and that is placed in an eligible district after a resolution under subsection (1) is approved. As used in this subdivision, for exemptions approved by the state treasurer under subsection (3) after April 30, 1999, new personal property does not include buildings described in section 14(6) and personal property described in section 8(h), (i), and (j).

(m) "Next Michigan development corporation" and "next Michigan development district" mean those terms as defined under the next Michigan development act, 2010 PA 275, MCL 125.2951 to 125.2959.

Sec. 9m. (1) Beginning December 31, 2015 and each year thereafter, qualified new personal property for which an exemption has been properly claimed under subsection (2) is exempt from the collection of taxes under this act.

(2) A person shall claim the exemption under this section by filing an affidavit with the local tax collecting unit in which the qualified new personal property is located as provided in subsection (3). The affidavit shall be in a form prescribed by the state tax commission. An affidavit claiming an exemption under this section applies to all existing and subsequently acquired qualified new personal property. The local tax collecting unit shall transmit the affidavits filed, or the information contained in the affidavits filed, under this section and under section 9n to the department of treasury in the form and in the manner prescribed by the department of treasury.

(3) If a person claiming an exemption under this section has not filed an affidavit under this section in any prior year with the local tax collecting unit in which the qualified new personal property is located, that person shall file the affidavit described under subsection (2) with that local tax collecting unit not later than February 10 of the first year for which the person is claiming the exemption for qualified new personal property in the local tax collecting unit.

(4) Except for a person claiming an exemption under this section for personal property that was subject to section 9f or 1974 PA 198, MCL 207.551 to 207.572, in 2015, if an affidavit claiming the exemption under this section is filed as provided in subsection (3) by February 10, 2016, and the person claiming the exemption under this section complied with section 19(9) in 2015, or if the filing requirement under section 19(9) was not applicable because the qualified new personal property was acquired in 2015, the person claiming the exemption under this section is not required to file a statement under section 19 for that qualified new personal property in 2016. Except for a person claiming an exemption under this section for personal property that was subject to section 9f or 1974 PA 198, MCL 207.551 to 207.572, in 2015, if an affidavit claiming the exemption under this section is filed as provided in subsection (3), beginning in 2017, the person claiming the exemption under this section is not required to file a statement under section 19 for qualified new personal property exempt under this section. For a person claiming an exemption under this section for personal property that was subject to section 9f or 1974 PA 198, MCL 207.551 to 207.572, in 2015, if an affidavit claiming the exemption under this section is filed as provided in subsection (3) and the person claiming the exemption under this section complied with section 19(9) in 2015, the person claiming the exemption under this section is not required to file a statement under section 19 for that qualified new personal property in the first year for which that person is claiming an exemption under this section or in any subsequent year. For a person claiming an exemption under this section for

personal property that was subject to section 9f or 1974 PA 198, MCL 207.551 to 207.572, in 2015, if an affidavit claiming the exemption under this section is filed as provided in subsection (3), but the person claiming the exemption under this section did not comply with section 19(9) in 2015, the person claiming the exemption under this section shall file a statement under section 19 for that person's qualified new personal property in the first year for which that person is claiming an exemption under this section for qualified new personal property, but that person is not required to file a statement under section 19 for that qualified new personal property in any subsequent year. If the person claiming the exemption under this section has not filed an affidavit as required under subsection (2), the personal property for which the person is claiming an exemption is subject to the collection of taxes under this act and that person shall file a statement under section 19.

(5) If the assessor of the local tax collecting unit believes that personal property for which an affidavit claiming an exemption is filed under subsection (2) is not qualified new personal property, the assessor may deny that claim for exemption by notifying the person that filed the affidavit in writing of the reason for the denial and advising the person that the denial may be appealed to the board of review under section 30 or 53b. The assessor may deny a claim for exemption under this subsection for the current year only. If the assessor denies a claim for exemption, the assessor shall remove the exemption of that personal property and amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes.

(6) A person claiming an exemption for qualified new personal property exempt under this section shall maintain books and records and shall provide access to those books and records as provided in section 22.

(7) If a person fraudulently claims an exemption for personal property under this section, that person is subject to the penalties provided for in section 21(2).

(8) As used in this section:

(a) "Affiliated person" means a sole proprietorship, partnership, limited liability company, corporation, association, flow-through entity, member of a unitary business group, or other entity related to a person claiming an exemption under this section.

(b) "Direct integrated support" means any of the following:

(i) Research and development related to goods produced in industrial processing and conducted in furtherance of that industrial processing.

(ii) Testing and quality control functions related to goods produced in industrial processing and conducted in furtherance of that industrial processing.

(iii) Engineering related to goods produced in industrial processing and conducted in furtherance of that industrial processing.

(iv) Receiving or storing equipment, materials, supplies, parts, or components for industrial processing, or scrap materials or waste resulting from industrial processing, at the industrial processing site or at another site owned or leased by the owner or lessee of the industrial processing site.

(v) Storing of finished goods inventory if the inventory was produced by a business engaged primarily in industrial processing and if the inventory is stored either at the site where it was produced or at another site owned or leased by the business that produced the inventory.

(vi) Sorting, distributing, or sequencing functions that optimize transportation and just-in-time inventory management and material handling for inputs to industrial processing.

(c) "Eligible manufacturing personal property" means all personal property located on occupied real property if that personal property is predominantly used in industrial processing or direct integrated support. Personal property located on occupied real property is predominantly used in industrial processing or direct integrated support if the result of the following calculation is more than 50%:

(i) Multiply the original cost of all personal property located on that occupied real property by its percentage of use in industrial processing or in direct integrated support. Personal property is used in industrial processing if it is not used to generate, transmit, or distribute electricity for sale, if it is not utility personal property as described in section 34c(3)(e), and if its purchase or use by the person claiming the exemption would be eligible for exemption under section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use tax act, 1937 PA 94, MCL 205.94o. For an item of personal property that is used in industrial processing, its percentage of use in industrial processing shall equal the percentage of the exemption the property would be eligible for under section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use tax act, 1937 PA 94, MCL 205.94o. Utility personal property as described in section 34c(3)(e) is not used in direct integrated support.

(ii) Divide the result of the calculation under subparagraph (i) by the total original cost of all personal property located on that occupied real property.

(d) "Industrial processing" means that term as defined in section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use tax act, 1937 PA 94, MCL 205.94o. Industrial processing does not include the generation, transmission, or distribution of electricity for sale.

(e) “New personal property” means property that was initially placed in service in this state or outside of this state after December 31, 2012.

(f) “Occupied real property” means all of the following:

(i) A parcel of real property that is entirely owned, leased, or otherwise occupied by a person claiming an exemption under this section.

(ii) Contiguous parcels of real property that are entirely owned, leased, or otherwise occupied by a person claiming an exemption under this section and that host a single, integrated business operation engaged primarily in industrial processing, direct integrated support, or both. A business operation is not engaged primarily in industrial processing, direct integrated support, or both if it engages in significant business activities that are not directly related to industrial processing or direct integrated support.

(iii) The portion of a parcel of real property that is owned, leased, or otherwise occupied by a person claiming the exemption or by an affiliated person.

(g) “Original cost” means the fair market value of eligible manufacturing personal property at the time of acquisition by the current owner. There is a rebuttable presumption that the acquisition price paid by the current owner for eligible manufacturing personal property reflects the fair market value of that eligible manufacturing personal property. The department may provide guidelines for circumstances in which the actual acquisition cost of eligible manufacturing personal property is not determinative of the fair market value of that eligible manufacturing personal property and for the basis of determining fair market value of eligible manufacturing personal property in those circumstances.

(h) “Qualified new personal property” means property that meets all of the following conditions:

(i) Is eligible manufacturing personal property.

(ii) Is new personal property.

Sec. 19. (1) A supervisor or other assessing officer, as soon as possible after entering upon the duties of his or her office or as required under the provisions of any charter that makes special provisions for the assessment of property, shall ascertain the taxable property in his or her assessing district, the person to whom it should be assessed, and that person's residence.

(2) Except as otherwise provided in section 9m, 9n, or 9o, the supervisor or other assessing officer shall require any person whom he or she believes has personal property in their possession to make a statement of all the personal property of that person whether owned by that person or held for the use of another to be completed and delivered to the supervisor or assessor on or before February 20 of each year. A notice the supervisor or other assessing officer provides regarding that statement shall also do all of the following:

(a) Notify the person to whom such notice is given of the exemptions available under sections 9m, 9n, and 9o.

(b) Explain where information about those exemptions, the forms and requirements for claiming those exemptions, and the forms for the statement otherwise required under this section are available.

(c) Be sent or delivered by not later than January 10 of each year.

(3) If a supervisor, an assessing officer, a county tax or equalization department provided for in section 34, or the state tax commission considers it necessary to require from any person a statement of real property assessable to that person, it shall notify the person, and that person shall submit the statement.

(4) A local tax collecting unit may provide for the electronic filing of the statement required under subsection (2) or (3).

(5) A statement under subsection (2) or (3) shall be in a form prescribed by the state tax commission. If a local tax collecting unit has provided for electronic filing of the statement under subsection (4), the filing format shall be prescribed by the state tax commission. The state tax commission shall not prescribe more than 1 format for electronically filing a statement under subsection (2) or more than 1 format for electronically filing a statement under subsection (3).

(6) A statement under subsection (2) or (3) shall be signed manually, by facsimile, or electronically. A supervisor or assessor shall not require that a statement required under subsection (2) or (3) be filed before February 20 of each year.

(7) A supervisor or assessor shall not accept a statement under subsection (2) or (3) as final or sufficient if that statement is not in the proper form or does not contain a manual, facsimile, or electronic signature. A supervisor or assessor shall preserve a statement that is not in the proper form or is not signed as in other cases, and that statement may be used to make the assessment and as evidence in any proceeding regarding the assessment of the person furnishing that statement.

(8) An electronic or facsimile signature shall be accepted by a local tax collecting unit using a procedure prescribed by the state tax commission.

(9) A statement under subsection (2) for 2015 shall include a schedule of when any personal property included in the statement will become eligible for exemption under section 9m or 9n. For 2015 statements under subsection (2) that identify property eligible for exemption under section 9m or 9n, a supervisor or assessor shall provide to the department

of treasury by June 1, 2015 a copy of the statement, or the information on the statement, as prescribed by the department of treasury. The department of treasury's use of a statement, or information on a statement, provided under this subsection is subject to section 28(1)(f) of 1941 PA 122, MCL 205.28.

Sec. 27e. (1) Not later than June 5, 2014, the assessor for each city and township shall report to the county equalization director all of the following:

(a) The 2013 taxable value of commercial personal property and industrial personal property for each municipality in the city or township.

(b) The 2014 taxable value of commercial personal property and industrial personal property for each municipality in the city or township.

(c) The small taxpayer exemption loss for each municipality in the city or township.

(2) Not later than June 20, 2014, the equalization director for each county shall report to the department the information described in subsection (1) for each municipality in the county. For each municipality levying a millage in more than 1 county, the county equalization director responsible for compiling the municipality's taxable value under section 34d shall compile the municipality's information described in subsection (1).

(3) Not later than August 15, 2014, each municipality shall report to the department the millage rate levied or to be levied that year for a millage described in the definition of debt loss or school debt loss. For 2014, the rate of that millage shall be calculated using the sum of the municipality's taxable value and the municipality's small taxpayer exemption loss. For 2014, the department shall calculate each municipality's debt loss or school debt loss by multiplying the municipality's millage rate reported under this subsection by the municipality's small taxpayer exemption loss.

(4) The assessor for each city and township shall transmit to the department as prescribed by the department information from the affidavits filed under sections 9m and 9n.

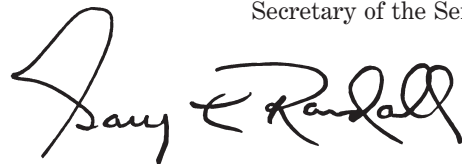
(5) As used in this section, "commercial personal property", "debt loss", "industrial personal property", "municipality", "school debt loss", "small taxpayer exemption loss", and "taxable value" mean those terms as defined in the local community stabilization authority act.

Enacting section 1. The exclusion of generation, transmission, or distribution of electricity for sale from the definition of "industrial processing" under this amendatory act is not intended to affect any other provision of Michigan law or impact the decision in Detroit Edison Company v Department of Treasury, court of appeals docket no. 309732.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor