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Senate Bill 459 (as enacted)  
Sponsor: Senator Jeremy Moss  
Senate Committee: Economic and Small Business Development  
House Committee: Commerce and Tourism

**PUBLIC ACT 70 of 2021**

Date Completed: 1-5-22

**RATIONALE**

The Neighborhood Enterprise Zone Act allows eligible local governmental units to designate neighborhood enterprise zones (NEZs) within which the owner or developer of property may receive a NEZ certificate. A certificate grants the owner or developer a tax incentive on the facility to be rehabilitated or developed, allowing the owner or developer to use those tax incentives for that rehabilitation or development. Generally, the Act requires an application for a certificate to be filed before a building permit is issued for the development or rehabilitation of the facility. If, after a building permit is issued, an NEZ certificate expires as prescribed by the Act, then the requirement that an application be filed before a building permit's issuance would have to be waived for an owner or developer to reapply. The Act waives the requirement for some circumstances. Some people believe that the Act does not take into consideration the delay in development or rehabilitation due to certain circumstances beyond the control of an owner or developer. Accordingly, it was suggested that the requirement that an application for an NEZ certificate be filed after a building permit is issued be waived for applications that meet certain requirements.

**CONTENT**

**The bill amended the Neighborhood Enterprise Zone Act to specify that an application for the construction of a new facility or a rehabilitated facility may be filed after a building permit is issued if the area in which the new facility or rehabilitated facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in January 2016 and if the building permit was issued for that facility in August 2016 or August 2019.**

Generally, the Act allows a governing body of a local governmental unit to designate one or more neighborhood enterprise zones within that local governmental unit. Developers and owners of residential housing can use the tax incentives in a neighborhood enterprise zone to rehabilitate or develop property within the zone after applying for and receiving a NEZ certificate. Except as otherwise provided by the Act or by a local governmental unit's resolution if the application is filed no later than six months following the date the building permit is issued, the application for a neighborhood enterprise zone certificate must be filed before a building permit is issued for the new construction or rehabilitation of a facility. The Act provides certain circumstances under which an application may be filed after a building permit is issued.

Under the bill, an application for the construction of a new facility or a rehabilitated facility may be filed after a building permit is issued if the area in which the new facility or rehabilitated facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in January 2016 and if the building permit was issued for that facility in August 2016 or August 2019.

The bill took effect July 29, 2021.

MCL 207.774

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

The Act specifies that an NEZ certificate expires if the owner does not meet the filing requirements with the local assessor for the completion of rehabilitation or development within two or three years, depending on the certificate's date of issuance. The Act allows a certificate holder to request an extension of the certificate for one year or 180 days, also depending on the certificate's date of issuance. However, once a certificate expired, an owner could not reapply without an exception provided by the Act because a building permit has already been issued and the Act requires an application for a NEZ certificate to be filed before a building permit is issued for the new construction or rehabilitation of a facility.

Although the Act's timeline was adequate for some projects, this expiration process did not take into consideration project delays because of circumstances beyond an owner's control. For example, the coronavirus disease 2019 (COVID-19) pandemic brought about significant delays for some rehabilitation and development projects in the form of labor and construction material shortages. According to testimony before the Senate Committee on Economic and Small Business Development, these delays prevented some projects from being completed before the expiration of their certificates. Rehabilitation or development projects in NEZs that do not come to fruition result in fewer habitable places in zones targeted for redevelopment, fewer commercial and residential developments in the area, and a loss of potential economic development. Modifying the Act's requirements as described above will benefit certain NEZs by allowing projects delayed on account of the pandemic to be finished.

Legislative Analyst: Tyler VanHuysse

## **FISCAL IMPACT**

The bill, by allowing additional exemptions in neighborhood enterprise zones, may result in a loss of State and local property taxes. The potential loss will depend on the specific characteristics of the property eligible under the bill. The potential revenue loss will affect local property taxes where the neighborhood enterprise zones are located as well as State property taxes via the State Education Tax. Since school operating mills also will be reduced, costs to the School Aid Fund will increase if the foundation allowance was maintained.

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.