

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 362

A bill to provide for the establishment of attainable housing districts in certain local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain qualified facilities; 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 certain state and local governmental officials; and to provide penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "attainable housing
2 facilities act".

3 Sec. 2. As used in this act:

1 (a) "Adjusted household income" means that term as defined in
2 R 125.101 of the Michigan Administrative Code.

3 (b) "Attainable housing district" or "district" means an area
4 in a qualified local governmental unit established as provided in
5 section 3 in which attainable housing property is or will be
6 located.

7 (c) "Attainable housing exemption certificate" or
8 "certificate" means the certificate issued under section 6.

9 (d) "Attainable housing facilities tax" or "specific tax"
10 means the specific tax levied under this act.

11 (e) "Attainable housing property" means that portion of real
12 property not occupied by an owner of that real property of not more
13 than 4 units that is classified as residential real property under
14 section 34c of the general property tax act, 1893 PA 206, MCL
15 211.34c, used for residential purposes, that is rented or leased to
16 an income-qualified household at no more than 30% of the
17 household's modified household income as determined by the
18 qualified local governmental unit. Attainable housing property also
19 includes a building or group of contiguous buildings previously
20 used for industrial or commercial purposes that will be converted
21 to a multiple-unit dwelling or a dwelling unit in a multiple-
22 purpose structure, used for residential purposes consisting of not
23 more than 4 units, that will be rented or leased to an income-
24 qualified household at no more than 30% of the household's modified
25 household income as determined by the qualified local governmental
26 unit. Attainable housing property does not include any of the
27 following:

28 (i) Land.

29 (ii) Property of a public utility.

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

3 (g) "Department" means the department of treasury.

4 (h) "Income-qualified household" means an individual, couple,
5 family, or group of unrelated individuals whose adjusted household
6 income is 120% or less of the countywide area median income as
7 posted annually by the Michigan state housing development authority
8 on its website.

9 (i) "Modified household income" means the gross annual income
10 from all sources and before taxes or withholding of all individuals
11 of a household living in a residential dwelling unit or housing
12 unit after deducting all of the following:

13 (i) Unusual or temporary income of any member of the household.

14 (ii) Six hundred and fifty dollars for each member of the
15 household.

16 (iii) Earnings of a member of a household who is under 18 years
17 of age.

18 (iv) Fifty percent of the income of a second adult wage earner
19 jointly occupying the residential dwelling unit or housing unit
20 whose individual income is less than that of the wage earner with
21 the highest income.

22 (v) The lesser of \$1,000.00 or 10% of the gross annual income.

23 (j) "New facility" means attainable housing property newly
24 constructed on or after the effective date of this act.

25 (k) "Qualified facility" means a new facility or a
26 rehabilitated facility, located in an attainable housing district.

27 (l) "Qualified local governmental unit" means a city, village,
28 or township.

29 (m) "Rehabilitated facility" means existing attainable housing

1 property that has been renovated, with a renovation investment of
2 not less than \$5,000.00 as determined by the qualified local
3 governmental unit, on or after the effective date of this act, to
4 bring the property into conformance with minimum local building
5 code standards for occupancy, as determined by the qualified local
6 governmental unit.

7 (n) "Taxable value" means the value determined under section
8 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

9 Sec. 3. (1) A qualified local governmental unit, by resolution
10 of its legislative body, may establish 1 or more attainable housing
11 districts within the qualified local governmental unit.

12 (2) The legislative body of a qualified local governmental
13 unit may establish an attainable housing district on its own
14 initiative or upon a written request filed by the owner or owners
15 of property comprising at least 50% of all taxable value of the
16 property located within a proposed district. The written request
17 must be filed with the clerk of the qualified local governmental
18 unit.

19 (3) Before adopting a resolution establishing a district, the
20 legislative body shall give written notice by certified mail to the
21 county in which the proposed district is to be located and the
22 owners of all real property within the proposed district and shall
23 afford an opportunity for a hearing on the establishment of the
24 district at which any of those owners and any other resident or
25 taxpayer of the qualified local governmental unit may appear and be
26 heard. The legislative body shall give public notice of the hearing
27 not less than 10 days or more than 30 days before the date of the
28 hearing.

29 (4) The legislative body of the qualified local governmental

1 unit, in its resolution establishing a district, shall set forth a
2 finding and determination that there is a need for attainable
3 housing within the district and shall provide a copy of the
4 resolution by certified mail to the county in which the district is
5 located.

6 Sec. 4. (1) If a district is established under section 3, the
7 owner of a qualified facility may file an application for an
8 attainable housing exemption certificate with the clerk of the
9 qualified local governmental unit that established the district.
10 The application must be filed in the manner and form prescribed by
11 the commission. The application must contain or be accompanied by a
12 general description of the qualified facility, a general
13 description of the proposed use of the qualified facility, the
14 general nature and extent of the new construction or rehabilitation
15 to be undertaken, a time schedule for undertaking and completing
16 the qualified facility, and information relating to the
17 requirements in section 8.

18 (2) Upon receipt of an application for a certificate, the
19 clerk of the qualified local governmental unit shall notify in
20 writing the assessor of the local tax collecting unit in which the
21 qualified facility is located, and the legislative body of each
22 taxing unit that levies ad valorem property taxes in the qualified
23 local governmental unit in which the qualified facility is located.
24 Before acting upon the application, the legislative body of the
25 qualified local governmental unit shall hold a public hearing on
26 the application and give public notice of the time, date, and place
27 of the hearing in the same manner required by the open meetings
28 act, 1976 PA 267, MCL 15.261 to 15.275, to the applicant, the
29 assessor, a representative of the affected taxing units, and the

1 general public. The hearing on each application must be held
2 separately from the hearing on the establishment of the district.

3 Sec. 5. The legislative body of the qualified local
4 governmental unit, not more than 60 business days after receipt of
5 the application by the clerk, shall by resolution either approve or
6 disapprove the application for a certificate in accordance with the
7 provisions of this act. The clerk shall retain the original of the
8 application and resolution. If approved, the clerk shall forward a
9 copy of the application and resolution to the commission. If
10 disapproved, the reasons must be set forth in writing in the
11 resolution, and the clerk shall send, by certified mail, a copy of
12 the resolution to the applicant and to the assessor. If the
13 legislative body fails to timely approve the application, the
14 application is considered denied. A resolution is not effective
15 unless approved by the commission as provided in section 6.

16 Sec. 6. (1) Not more than 120 days after receipt of a copy of
17 the application and resolution adopted under section 5, the
18 commission shall approve or disapprove the resolution.

19 (2) Following approval of the application by the legislative
20 body of the qualified local governmental unit and the commission,
21 the commission shall issue to the applicant a certificate in the
22 form the commission determines, which must contain all of the
23 following:

24 (a) The address of the real property on which the qualified
25 facility is located.

26 (b) A statement that unless revoked as provided in this act
27 the certificate must remain in force for the period stated in the
28 certificate.

29 (c) A statement of the taxable value of the qualified facility

1 for the tax year immediately preceding the effective date of the
2 certificate after deducting the taxable value of the land.

3 (d) A statement of the period of time authorized by the
4 legislative body of the qualified local governmental unit within
5 which the rehabilitation or construction must be completed.

6 (e) If the period of time authorized by the legislative body
7 of the qualified local governmental unit pursuant to subdivision
8 (b) is less than 12 years, the certificate must contain the
9 factors, criteria, and objectives, as determined by the resolution
10 of the qualified local governmental unit, necessary for extending
11 the period of time, if any.

12 (3) The effective date of the certificate is the December 31
13 immediately following the date of issuance of the certificate.

14 (4) The commission shall file with the clerk of the qualified
15 local governmental unit a copy of the certificate, and the
16 commission shall maintain a record of all certificates filed. The
17 commission shall also send, by certified mail, a copy of the
18 certificate to the applicant and the assessor of the local tax
19 collecting unit in which the qualified facility is located.

20 Sec. 7. (1) A qualified facility for which a certificate is in
21 effect, but not the land on which the qualified facility is
22 located, for the period on and after the effective date of the
23 certificate and continuing so long as the certificate is in force,
24 is exempt from ad valorem property taxes collected under the
25 general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

26 (2) Unless earlier revoked as provided in section 12, a
27 certificate must remain in force and effect for a period to be
28 determined by the legislative body of the qualified local
29 governmental unit. The certificate may be issued for a period of at

1 least 1 year, but not to exceed 12 years. If the number of years
2 determined is less than 7, the certificate may be subject to review
3 by the legislative body of the qualified local governmental unit
4 and the certificate may be extended. The total amount of time
5 determined for the certificate including any extensions must not
6 exceed 15 years after the completion of the qualified facility. The
7 certificate must commence with its effective date and end on the
8 December 30 immediately following the last day of the number of
9 years determined. The date of issuance of a certificate of
10 occupancy, if required by appropriate authority, must be the date
11 of completion of the qualified facility.

12 (3) If the number of years determined by the legislative body
13 of the qualified local governmental unit for the period a
14 certificate remains in force is less than 7 years, the review of
15 the certificate for the purpose of determining an extension must be
16 based upon factors, criteria, and objectives that must be placed in
17 writing, determined and approved at the time the certificate is
18 approved by resolution of the legislative body of the qualified
19 local governmental unit and sent, by certified mail, to the
20 applicant, the assessor of the local tax collecting unit in which
21 the qualified facility is located, and the commission.

22 Sec. 8. (1) If the taxable value of the property proposed to
23 be exempt pursuant to an application under consideration,
24 considered together with the aggregate taxable value of property
25 exempt under certificates previously granted and currently in force
26 under this act or under 1974 PA 198, MCL 207.551 to 207.572,
27 exceeds 5% of the taxable value of the qualified local governmental
28 unit, the legislative body of the qualified local governmental unit
29 shall make a separate finding and shall include a statement in its

1 resolution approving the application that exceeding that amount
2 must not have the effect of substantially impeding the operation of
3 the qualified local governmental unit or impairing the financial
4 soundness of an affected taxing unit.

5 (2) The legislative body of the qualified local governmental
6 unit shall not approve an application for a certificate unless the
7 applicant complies with all of the following requirements:

8 (a) That the applicant provides a site plan and building floor
9 plan approved by the local planning commission or local zoning
10 administrator, whichever is applicable under the local zoning
11 ordinance, that includes the total number of residential dwelling
12 units to be available for lease or rent on the property.

13 (b) That the applicant provides a statement describing the
14 number of residential dwelling units that will be reserved for
15 income-qualified households at any given time throughout each
16 calendar year in which the specific tax is in effect.

17 (c) That the applicant agrees to provide the legislative body
18 of the qualified local governmental unit with an income
19 certification for the income-qualified household residing within
20 each residential dwelling unit designated as attainable housing
21 property each year that the income-qualified household resides in
22 that attainable housing property.

23 (3) A qualified local governmental unit may develop and
24 implement an audit program that includes, but is not limited to,
25 the audit of the information submitted under subsection (2) or may
26 contract with an independent third-party auditor to audit the
27 information submitted under subsection (2). The qualified local
28 governmental unit may require the applicant to cover the cost of
29 the independent third-party auditor. The total number of units to

1 be reserved for income-qualified households may be negotiated by
2 the qualified local governmental unit but must not be less than 30%
3 of the total number of residential dwelling units on the property
4 or 1 residential dwelling unit, whichever is greater.

5 (4) If an income-qualified household currently residing within
6 a residential dwelling unit reserved for an income-qualified
7 household has an increase in adjusted household income between the
8 time an income certification is conducted and the next income
9 certification in the following year and that household is no longer
10 an income-qualified household, then that formerly qualified
11 household may continue to reside as occupants within that
12 residential dwelling unit only for the remainder of their lease
13 agreement. However, the next available residential dwelling unit
14 located on the property shall be reserved for an income-qualified
15 household. Under no circumstances shall all residential dwelling
16 units on the property be occupied by households whose adjusted
17 household income is more than 120% of the countywide area median
18 income for greater than 12 consecutive months.

19 Sec. 9. The assessor of each qualified local governmental unit
20 in which there is a qualified facility with respect to which 1 or
21 more certificates have been issued and are in force shall determine
22 annually as of December 31 the taxable value of each qualified
23 facility separately, having the benefit of a certificate and upon
24 receipt of notice of the filing of an application for the issuance
25 of a certificate, shall determine and furnish to the local
26 legislative body the taxable value of the property to which the
27 application pertains.

28 Sec. 10. (1) The attainable housing facilities tax is levied
29 upon every owner of a qualified facility to which a certificate is

1 issued under this act.

2 (2) Except as otherwise provided in this section, the amount
3 of the attainable housing facilities tax on a new facility is
4 determined each year by multiplying 1/2 of the average rate of
5 taxation levied upon commercial, industrial, and utility property
6 upon which ad valorem taxes are assessed as determined for the
7 immediately preceding calendar year by the state board of assessors
8 under section 13 of 1905 PA 282, MCL 207.13, by the current taxable
9 value of the new facility after deducting the taxable value of the
10 land.

11 (3) Except as otherwise provided in this section, the amount
12 of the attainable housing facilities tax on a rehabilitated
13 facility is determined each year by multiplying 1/2 of the average
14 rate of taxation levied upon commercial, industrial, and utility
15 property upon which ad valorem taxes are assessed as determined for
16 the immediately preceding calendar year by the state board of
17 assessors under section 13 of 1905 PA 282, MCL 207.13, by the
18 current taxable value of the rehabilitated facility after deducting
19 the taxable value of the land.

20 (4) Within 60 days after the granting of an attainable housing
21 exemption certificate under section 6 for a new facility, if the
22 state treasurer does not determine that reducing the number of
23 mills levied under the state education tax act, 1993 PA 331, MCL
24 211.901 to 211.906, and used to calculate the specific tax under
25 subsection (2) is necessary to provide an adequate supply of
26 housing for income-qualified households in this state, the millage
27 rate used to calculate the specific tax under subsection (2) shall
28 be increased by 3 mills. If the state treasurer determines that
29 further reducing the millage rate used to calculate the specific

1 tax under subsection (2) is necessary to provide an adequate supply
2 of housing for income-qualified households in this state, the state
3 treasurer may exclude an additional 3 mills levied under the state
4 education tax act, 1993 PA 331, MCL 211.901 to 211.906, from the
5 millage rate used to calculate the specific tax under subsection
6 (2).

7 (5) Notwithstanding subsections (2) and (3), the specific tax
8 paid each year for that part of a qualified facility that is exempt
9 from ad valorem property taxes under section 7 and not used as
10 attainable housing property in the immediately preceding year must
11 be equal to the amount of the ad valorem property taxes that would
12 be paid on that portion of the qualified facility if the qualified
13 facility were not exempt from ad valorem property taxes under
14 section 7. The owner of the qualified facility must allocate the
15 benefits of any tax exemption granted under this act exclusively to
16 attainable housing property.

17 (6) The specific tax is an annual tax, payable at the same
18 times, in the same installments, and to the same officer or
19 officers as taxes imposed under the general property tax act, 1893
20 PA 206, MCL 211.1 to 211.155, are payable. Except as otherwise
21 provided in this section, the officer or officers shall disburse
22 the specific tax payments received by the officer or officers each
23 year to and among this state, cities, school districts, counties,
24 and authorities, at the same times and in the same proportions as
25 required by law for the disbursement of taxes collected under the
26 general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

27 (7) For intermediate school districts receiving state aid
28 under sections 56 and 62 of the state school aid act of 1979, 1979
29 PA 94, MCL 388.1656 and 388.1662, of the amount of the specific tax

1 that would otherwise be disbursed to an intermediate school
2 district, all or a portion, to be determined on the basis of the
3 tax rates being utilized to compute the amount of state aid, must
4 be paid to the state treasury to the credit of the state school aid
5 fund established by section 11 of article IX of the state
6 constitution of 1963.

7 (8) The amount of specific tax described in this section that
8 would otherwise be disbursed to a local school district for school
9 operating purposes must be paid instead to the state treasury and
10 credited to the state school aid fund established by section 11 of
11 article IX of the state constitution of 1963.

12 (9) The officer or officers shall send a copy of the amount of
13 disbursement made to each unit under this section to the department
14 on a form provided by the department.

15 (10) A qualified facility located in a renaissance zone under
16 the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
17 125.2696, is exempt from the specific tax levied under this act to
18 the extent and for the duration provided pursuant to the Michigan
19 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except
20 for that portion of the specific tax attributable to a special
21 assessment or a tax described in section 7ff(2) of the general
22 property tax act, 1893 PA 206, MCL 211.7ff. The specific tax
23 calculated under this subsection must be disbursed proportionately
24 to the taxing unit or units that levied the special assessment or
25 the tax described in section 7ff(2) of the general property tax
26 act, 1893 PA 206, MCL 211.7ff.

27 Sec. 11. The amount of the specific tax, until paid, is a lien
28 upon the real property to which the certificate is applicable.
29 Proceedings upon the lien as provided by law for the foreclosure in

1 the circuit court of mortgage liens upon real property may commence
2 only upon the filing by the appropriate collecting officer of a
3 certificate of nonpayment of the specific tax, together with an
4 affidavit of proof of service of the certificate of nonpayment upon
5 the owner of the qualified facility by certified mail, with the
6 register of deeds of the county in which the qualified facility is
7 situated.

8 Sec. 12. (1) The legislative body of the qualified local
9 governmental unit may, by resolution, revoke the certificate of a
10 qualified facility if it finds that the completion of the qualified
11 facility has not occurred within the time authorized by the
12 legislative body in the certificate or a duly authorized extension
13 of that time, or that the holder of the certificate has not
14 proceeded in good faith with the operation of the qualified
15 facility in a manner consistent with the purposes of this act and
16 in the absence of circumstances that are beyond the control of the
17 holder of the certificate.

18 (2) Upon receipt of a request by certified mail to the
19 legislative body of the qualified local governmental unit by the
20 holder of a certificate requesting revocation of the certificate,
21 the legislative body of the qualified local governmental unit may,
22 by resolution, revoke the certificate.

23 (3) Upon the written request of the holder of a revoked
24 certificate to the legislative body of the qualified local
25 governmental unit and the commission or upon the application of a
26 subsequent owner to the legislative body of the qualified local
27 governmental unit to transfer the revoked certificate to a
28 subsequent owner, and the submission to the commission of a
29 resolution of concurrence by the legislative body of the qualified

1 local governmental unit in which the qualified facility is located,
2 and if the qualified facility continues to qualify under this act,
3 the commission may reinstate a revoked certificate for the holder
4 or a subsequent owner that has applied for the transfer.

5 Sec. 13. A certificate may be transferred and assigned by the
6 holder of the certificate to a new owner of the qualified facility
7 if the qualified local governmental unit approves the transfer
8 after application by the new owner.

9 Sec. 14. Not later than June 15 each year, each qualified
10 local governmental unit granting a certificate shall report to the
11 commission on the status of each exemption. The report must include
12 the current taxable value of the property to which the exemption
13 pertains.

14 Sec. 15. (1) The department shall annually prepare and submit
15 to the committees of the house of representatives and senate
16 responsible for tax policy and economic development issues a report
17 on the utilization of attainable housing districts, based on the
18 information filed with the commission.

19 (2) After this act has been in effect for 3 years, the
20 department shall prepare and submit to the committees of the house
21 of representatives and senate responsible for tax policy and
22 economic development issues an economic analysis of the costs and
23 benefits of this act in the 3 qualified local governmental units in
24 which it has been most heavily utilized.

25 Sec. 16. A new exemption must not be granted under this act
26 after December 31, 2027, but an exemption then in effect must
27 continue until the expiration of the certificate.