

SENATE BILL NO. 362

April 15, 2021, Introduced by Senators BRINKS, IRWIN, HOLLIER, SANTANA, HORN, VICTORY, MOSS, WOJNO, BAYER, GEISS, POLEHANKI, ALEXANDER, BULLOCK and SCHMIDT and referred to the Committee on Economic and Small Business Development.

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 shall be known and may be cited as the
2 "attainable housing and rehabilitation act".

3 Sec. 2. As used in this act:

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

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

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

26 (i) Land.

27 (ii) Property of a public utility.

28 (d) "Attainable housing rehabilitation tax" or "specific tax"
29 means the specific tax levied under this act.

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

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

4 (g) "Income-qualified household" means an individual, couple,
5 or group of adults earning a combined annual income of 120% or less
6 of the county-wide area median income as determined by the
7 qualified local governmental unit within income limits as
8 determined by the Michigan state housing development authority.

9 (h) "New facility" means attainable housing property newly
10 constructed on or after January 1, 2017.

11 (i) "Qualified local governmental unit" means a city, village,
12 or township.

13 (j) "Qualified facility" means a new facility or a
14 rehabilitated facility.

15 (k) "Rehabilitated facility" means existing attainable housing
16 property that has been renovated on or after January 1, 2017, to
17 bring the property into conformance with minimum local building
18 code standards for occupancy, as determined by the qualified local
19 governmental unit.

20 (l) "Taxable value" means the value determined under section
21 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

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

25 (2) The legislative body of a qualified local governmental
26 unit may establish an attainable housing district on its own
27 initiative or upon a written request filed by the owner or owners
28 of property comprising at least 50% of all taxable value of the
29 property located within a proposed district. The written request

1 must be filed with the clerk of the qualified local governmental
2 unit.

3 (3) Before adopting a resolution establishing a district, the
4 legislative body shall give written notice by certified mail to the
5 county in which the proposed district is to be located and the
6 owners of all real property within the proposed district and shall
7 afford an opportunity for a hearing on the establishment of the
8 district at which any of those owners and any other resident or
9 taxpayer of the qualified local governmental unit may appear and be
10 heard. The legislative body shall give public notice of the hearing
11 not less than 10 days or more than 30 days before the date of the
12 hearing.

13 (4) The legislative body of the qualified local governmental
14 unit, in its resolution establishing a district, shall set forth a
15 finding and determination that there is a need for attainable
16 housing within the district and shall provide a copy of the
17 resolution by certified mail to the county in which the district is
18 located.

19 (5) Within 28 days after receiving a copy of the resolution
20 establishing a district, the county may reject the establishment of
21 the district by 1 of the following methods:

22 (a) If the county has an elected county executive, by written
23 notification to the qualified local governmental unit.

24 (b) If the county does not have an elected county executive,
25 by a resolution of the county board of commissioners provided to
26 the qualified local governmental unit.

27 Sec. 4. (1) If a district is established under section 3, the
28 owner of a qualified facility may file an application for an
29 attainable housing exemption certificate with the clerk of the

1 qualified local governmental unit that established the district.
2 The application must be filed in the manner and form prescribed by
3 the commission. The application must contain or be accompanied by a
4 general description of the qualified facility, a general
5 description of the proposed use of the qualified facility, the
6 general nature and extent of the new construction or rehabilitation
7 to be undertaken, a time schedule for undertaking and completing
8 the qualified facility, and information relating to the
9 requirements in section 8.

10 (2) Upon receipt of an application for a certificate, the
11 clerk of the qualified local governmental unit shall notify in
12 writing the assessor of the local tax collecting unit in which the
13 qualified facility is located, and the legislative body of each
14 taxing unit that levies ad valorem property taxes in the qualified
15 local governmental unit in which the qualified facility is located.
16 Before acting upon the application, the legislative body of the
17 qualified local governmental unit shall hold a public hearing on
18 the application and give public notice to the applicant, the
19 assessor, a representative of the affected taxing units, and the
20 general public. The hearing on each application must be held
21 separately from the hearing on the establishment of the district.

22 Sec. 5. The legislative body of the qualified local
23 governmental unit, not more than 60 days after receipt of the
24 application by the clerk, shall by resolution either approve or
25 disapprove the application for a certificate in accordance with
26 section 8 and the other provisions of this act. The clerk shall
27 retain the original of the application and resolution. If approved,
28 the clerk shall forward a copy of the application and resolution to
29 the commission. If disapproved, the reasons must be set forth in

1 writing in the resolution, and the clerk shall send, by certified
2 mail, a copy of the resolution to the applicant and to the
3 assessor. A resolution is not effective unless approved by the
4 commission as provided in section 6.

5 Sec. 6. (1) Not more than 60 days after receipt of a copy of
6 the application and resolution adopted under section 5, the
7 commission shall approve or disapprove the resolution.

8 (2) Following approval of the application by the legislative
9 body of the qualified local governmental unit and the commission,
10 the commission shall issue to the applicant a certificate in the
11 form the commission determines, which must contain all of the
12 following:

13 (a) A legal description of the real property on which the
14 qualified facility is located.

15 (b) A statement that unless revoked as provided in this act
16 the certificate must remain in force for the period stated in the
17 certificate.

18 (c) A statement of the taxable value of the qualified
19 facility, separately stated for real and personal property, for the
20 tax year immediately preceding the effective date of the
21 certificate after deducting the taxable value of the land and
22 personal property other than personal property assessed pursuant to
23 sections 8(d) and 14(6) of the general property tax act, 1893 PA
24 206, MCL 211.8 and 211.14.

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

28 (e) If the period of time authorized by the legislative body
29 of the qualified local governmental unit pursuant to subdivision

1 (b) is less than 12 years, the certificate must contain the
2 factors, criteria, and objectives, as determined by the resolution
3 of the qualified local governmental unit, necessary for extending
4 the period of time, if any.

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

7 (4) The commission shall file with the clerk of the qualified
8 local governmental unit a copy of the certificate, and the
9 commission shall maintain a record of all certificates filed. The
10 commission shall also send, by certified mail, a copy of the
11 certificate to the applicant and the assessor of the local tax
12 collecting unit in which the qualified facility is located.

13 Sec. 7. (1) A qualified facility for which a certificate is in
14 effect, but not the land on which the qualified facility is
15 located, or personal property other than personal property assessed
16 pursuant to sections 8(d) and 14(6) of the general property tax
17 act, 1893 PA 206, MCL 211.8 and 211.14, for the period on and after
18 the effective date of the certificate and continuing so long as the
19 certificate is in force, is exempt from ad valorem property taxes
20 collected under the general property tax act, 1893 PA 206, MCL
21 211.1 to 211.155.

22 (2) Unless earlier revoked as provided in section 12, a
23 certificate must remain in force and effect for a period to be
24 determined by the legislative body of the qualified local
25 governmental unit. The certificate may be issued for a period of at
26 least 1 year, but not to exceed 12 years. If the number of years
27 determined is less than 7, the certificate may be subject to review
28 by the legislative body of the qualified local governmental unit
29 and the certificate may be extended. The total amount of time

determined for the certificate including any extensions must not exceed 15 years after the completion of the qualified facility. The certificate must commence with its effective date and end on the December 31 immediately following the last day of the number of years determined. The date of issuance of a certificate of occupancy, if required by appropriate authority, must be the date of completion of the qualified facility.

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

Sec. 8. (1) If the taxable value of the property proposed to be exempt pursuant to an application under consideration, considered together with the aggregate taxable value of property exempt under certificates previously granted and currently in force under this act or under 1974 PA 198, MCL 207.551 to 207.572, exceeds 5% of the taxable value of the qualified local governmental unit, the legislative body of the qualified local governmental unit shall make a separate finding and shall include a statement in its resolution approving the application that exceeding that amount must not have the effect of substantially impeding the operation of the qualified local governmental unit or impairing the financial soundness of an affected taxing unit.

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

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

9 (b) That the applicant provides a statement describing the
10 number of residential units that will be reserved for income-
11 qualified residents at any given time throughout each calendar year
12 in which the specific tax is in effect.

13 (c) That the applicant agrees to conduct an income
14 certification for each resident residing within each residential
15 unit designated as attainable housing property and for each year in
16 which the resident remains a resident of that property.

17 (3) The total number of units to be reserved for income-
18 qualified households may be negotiated by the qualified local
19 governmental unit but must not be less than 30% of the total number
20 of residential units on the property or 1 residential unit,
21 whichever is greater.

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

1 and the taxable value of the property to which the application
2 pertains.

3 Sec. 10. (1) The attainable housing rehabilitation tax is
4 levied upon every owner of a qualified facility to which a
5 certificate is issued under this act.

6 (2) The amount of the attainable housing rehabilitation tax,
7 in each year, must be determined by multiplying 1/2 of the total
8 mills levied as ad valorem taxes for that year by all taxing units
9 within which the qualified facility is located by the current
10 taxable value of the real and personal property of the qualified
11 facility after deducting the taxable value of the land and of
12 personal property other than personal property assessed pursuant to
13 sections 8(d) and 14(6) of the general property tax act, 1893 PA
14 206, MCL 211.8 and 211.14.

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

26 (4) For intermediate school districts receiving state aid
27 under sections 56, 62, and 81 of the state school aid act of 1979,
28 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, of the amount of
29 the specific tax that would otherwise be disbursed to an

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

6 (5) The amount of specific tax described in subsection (2)
7 that would otherwise be disbursed to a local school district for
8 school operating purposes must be paid instead to the state
9 treasury and credited to the state school aid fund established by
10 section 11 of article IX of the state constitution of 1963.

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

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

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

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

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

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

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

1 and if the qualified facility continues to qualify under this act,
2 the commission may reinstate a revoked certificate for the holder
3 or a subsequent owner that has applied for the transfer.

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

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

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

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

24 Sec. 16. A new exemption must not be granted under this act
25 after December 31, 2031, but an exemption then in effect must
26 continue until the expiration of the certificate.