

# HOUSE BILL No. 6106

September 26, 1990, Introduced by Rep. Law and referred to the Committee on Economic Development and Energy.

A bill to amend sections 6, 7, 14, and 15 of Act No. 198 of the Public Acts of 1974, 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 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,"

sections 7, 14, and 15 as amended by Act No. 417 of the Public Acts of 1982, being sections 207.556, 207.557, 207.564, and 207.565 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 6, 7, 14, and 15 of Act No. 198 of the  
2 Public Acts of 1974, sections 7, 14, and 15 as amended by Act  
3 No. 417 of the Public Acts of 1982, being sections 207.556,

1 207:557, 207.564, and 207.565 of the Michigan Compiled Laws, are  
2 amended to read as follows:

3       Sec. 6. (1) The legislative body of the local governmental  
4 unit, not more than 60 days after receipt by its clerk of the  
5 application, shall by resolution either approve, CONDITIONALLY  
6 APPROVE AS PROVIDED IN SUBSECTION (2), or disapprove the applica-  
7 tion for an industrial facilities exemption certificate in  
8 accordance with section 9 and the other provisions of this act.  
9 If disapproved, the reasons shall be set forth in writing in the  
10 resolution. If approved OR CONDITIONALLY APPROVED, the clerk  
11 shall forward the application to the commission. If disapproved,  
12 the clerk shall return the application to the applicant. The  
13 applicant may appeal the disapproval to the commission within 10  
14 days after the date of the disapproval.

15       (2) IF THE APPLICATION IS FOR AN INDUSTRIAL FACILITIES  
16 EXEMPTION CERTIFICATE TO BE IN FORCE AND EFFECT FOR MORE THAN 1  
17 YEAR, THE LEGISLATIVE BODY OF THE LOCAL GOVERNMENTAL UNIT, IN ITS  
18 RESOLUTION APPROVING THE APPLICATION, MAY CONDITION THE CONTINUA-  
19 TION OF THE CERTIFICATE BEYOND 1 YEAR AND THE AMOUNT OF THE SPE-  
20 CIFIC TAX BEYOND 1 YEAR UPON AN ANNUAL REVIEW BY AND APPROVAL OF  
21 THE LEGISLATIVE BODY OF THE LOCAL GOVERNMENTAL UNIT. A CERTIFI-  
22 CATE, THE APPLICATION FOR WHICH IS CONDITIONALLY APPROVED UNDER  
23 THIS SUBSECTION, IS SUBJECT TO MODIFICATION OR DISCONTINUATION BY  
24 THE LEGISLATIVE BODY OF THE LOCAL GOVERNMENTAL UNIT AS PROVIDED  
25 IN SECTION 15.

26       Sec. 7. (1) Within 60 days after receipt of an approved  
27 application, A CONDITIONALLY APPROVED APPLICATION, or an appeal

1 of a disapproved application, the commission shall determine  
2 whether the facility is a speculative building or designed and  
3 acquired primarily for the purpose of restoration or replacement  
4 of obsolete industrial property or the construction of new indus-  
5 trial property, and whether the facility otherwise complies with  
6 section 9 and with the other provisions of this act. If the com-  
7 mission so finds, it shall issue an industrial facilities exemp-  
8 tion certificate. FOR A CONDITIONALLY APPROVED APPLICATION, THE  
9 COMMISSION SHALL ISSUE THE INDUSTRIAL FACILITIES EXEMPTION CER-  
10 TIFICATE SUBJECT TO MODIFICATION OR DISCONTINUATION BY THE LEGIS-  
11 LATIVE BODY OF THE LOCAL GOVERNMENTAL UNIT AS PROVIDED IN SECTION  
12 15. Before issuing a certificate, the commission shall notify the  
13 state treasurer of the application and shall obtain the written  
14 concurrence of the department of commerce that the application  
15 complies with the requirements in section 9. The effective date  
16 of the certificate for a replacement facility or new facility  
17 ~~shall be~~ IS the December 31 next following the date of issuance  
18 of the certificate. For a speculative building or a portion  
19 ~~thereof~~ OF A SPECULATIVE BUILDING, the effective date of the  
20 certificate ~~shall be~~ IS the December 31 next following the date  
21 the speculative building ~~or~~ or the portion ~~thereof,~~ is being  
22 used as a manufacturing facility.

23 (2) The commission shall send an industrial facilities  
24 exemption certificate, when issued, by certified mail to the  
25 applicant ~~and~~ and a certified copy by certified mail to the  
26 assessor of the assessing unit in which the facility is located  
27 or to be located, which copy shall be filed of record in his or

1 her office. Notice of the commission's refusal to issue a  
2 certificate shall be sent by certified mail to the same persons.

3       Sec. 14. (1) The amount of the industrial facility tax, in  
4 each year in the case of a replacement facility, shall be deter-  
5 mined by multiplying the total mills levied as ad valorem taxes  
6 for that year by all taxing units within which the facility is  
7 situated by the state equalized valuation of the real and per-  
8 sonal property of the obsolete industrial property for the tax  
9 year immediately preceding the effective date of the industrial  
10 facilities exemption certificate after deducting the state equal-  
11 ized valuation of the land and of the inventory as specified in  
12 section 19.

13       (2) The amount of the industrial facility tax, in each year  
14 in the case of a new facility or a speculative building, shall be  
15 determined by THE LEGISLATIVE BODY OF THE LOCAL GOVERNMENTAL UNIT  
16 BY multiplying ~~1/2~~ NOT LESS THAN 50% OR MORE THAN 99% of the  
17 total mills levied as ad valorem taxes for that year by all  
18 taxing units within which the facility is situated by the state  
19 equalized valuation of the facility excluding the land and the  
20 inventory personal property.

21       (3) In the event of a termination or revocation of only the  
22 real property component, or only the personal property component,  
23 of an industrial facilities exemption certificate as  
24 ~~hereinafter~~ provided IN THIS ACT, the valuation and the tax  
25 determined ~~thereby~~ BY THAT VALUATION shall be reduced propor-  
26 tionately to reflect the exclusion of the component with respect  
27 to which the termination or revocation has occurred.

1       Sec. 15. (1) Upon receipt of a request by certified mail  
2 to the commission by the holder of an industrial facilities  
3 exemption certificate requesting revocation of the certificate,  
4 the commission shall by order revoke the certificate in whole or  
5 revoke the certificate with respect to its real property compo-  
6 nent ~~—~~ or its personal property component, whichever ~~shall be~~  
7 IS requested.

8       (2) The legislative body of a local governmental unit may by  
9 resolution request the commission to revoke the industrial facil-  
10 ities exemption certificate of a facility upon the grounds that  
11 completion of the replacement facility or new facility has not  
12 occurred within 2 years after the effective date of the certifi-  
13 cate, unless a greater time has been authorized by the commission  
14 for good cause; that completion of the speculative building has  
15 not occurred within 2 years after the date the certificate was  
16 issued, unless a greater time has been authorized by the commis-  
17 sion for good cause; that a speculative building for which a cer-  
18 tificate has been issued but is not yet effective has been used  
19 as other than a manufacturing facility; that the certificate  
20 issued for a speculative building has not become effective within  
21 2 years after the December 31 following the date the certificate  
22 was issued; or that the purposes for which the certificate was  
23 issued NO LONGER EXIST OR are not being fulfilled as a result of  
24 a failure of the holder to proceed in good faith with the  
25 replacement, restoration, or construction and operation of the  
26 replacement facility or new facility or with the use of the  
27 speculative building as a manufacturing facility in a manner

1 consistent with the purposes of this act and in the absence of  
2 circumstances that are beyond the control of the holder.

3       (3) Upon receipt of the resolution, the commission shall  
4 give notice in writing by certified mail to the holder of the  
5 certificate, to the local legislative body, to the assessor of  
6 the assessing unit, and to the legislative body of each local  
7 taxing unit ~~which~~ THAT levies taxes upon property in the local  
8 governmental unit in which the facility is located. The commis-  
9 sion shall afford to the holder of the certificate, the local  
10 legislative body, the assessor, and a representative of the leg-  
11 islative body of each taxing unit an opportunity for a hearing.  
12 The commission shall ~~by order~~ revoke the certificate BY ORDER  
13 if the commission finds that completion of the replacement facil-  
14 ity or new facility has not occurred within 2 years after the  
15 effective date of the certificate or a greater time as authorized  
16 by the commission for good cause; that completion of the specula-  
17 tive building has not occurred within 2 years after the date the  
18 certificate was issued, unless a greater time has been authorized  
19 by the commission for good cause; that a speculative building for  
20 which a certificate has been issued but is not yet effective has  
21 been used as other than a manufacturing facility; that the cer-  
22 tificate issued for a speculative building has not become effec-  
23 tive within 2 years after the December 31 following the date the  
24 certificate was issued; ~~or~~ that the holder of the certificate  
25 has not proceeded in good faith with the replacement, restora-  
26 tion, or construction and operation of the facility or with the  
27 use of the speculative building as a manufacturing facility in

1 good faith in a manner consistent with the purposes of this act  
2 and in the absence of circumstances that are beyond the control  
3 of the holder; OR THAT THE PURPOSES FOR WHICH THE CERTIFICATE WAS  
4 ISSUED NO LONGER EXIST.

5 (4) The order of the commission revoking the certificate  
6 ~~shall be~~ IS effective on the December 31 next following the  
7 date of the order, and the commission shall send by certified  
8 mail copies of its order of revocation to the holder of the cer-  
9 tificate, to the local legislative body, to the assessor of the  
10 assessing unit in which the facility is located, and to the leg-  
11 islative body of each taxing unit ~~which~~ THAT levies taxes upon  
12 property in the local governmental unit in which the facility is  
13 located.

14 (5) A revocation of a certificate issued for a speculative  
15 building shall specify and apply only to that portion of the  
16 speculative building for which the grounds for revocation  
17 relate.

18 (6) AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE, THE  
19 APPLICATION FOR WHICH IS CONDITIONALLY APPROVED BY THE LEGISLA-  
20 TIVE BODY OF THE LOCAL GOVERNMENTAL UNIT AS PROVIDED IN SECTION  
21 6, IS SUBJECT TO MODIFICATION OR DISCONTINUATION AS PROVIDED FOR  
22 IN THIS SUBSECTION AND SUBSECTION (7). THE LEGISLATIVE BODY OF  
23 THE LOCAL GOVERNMENTAL UNIT IN CONDUCTING AN ANNUAL REVIEW TO  
24 DETERMINE WHETHER THE CERTIFICATE IS TO BE MODIFIED OR DISCONTIN-  
25 UED SHALL AFFORD THE HOLDER OF THE CERTIFICATE, THE ASSESSOR, AND  
26 A REPRESENTATIVE OF EACH AFFECTED TAXING UNIT AN OPPORTUNITY FOR

1 A HEARING. UPON COMPLETION OF THE ANNUAL REVIEW, THE LEGISLATIVE  
2 BODY OF THE LOCAL GOVERNMENTAL UNIT SHALL DO 1 OF THE FOLLOWING:

3 (A) CONTINUE THE CERTIFICATE IN FORCE AND EFFECT WITHOUT  
4 MODIFICATION.

5 (B) MODIFY THE CERTIFICATE BY INCREASING OR DECREASING,  
6 WITHIN THE LIMITATIONS OF SECTION 14, THE SPECIFIC TAX.

7 (C) DISCONTINUE THE CERTIFICATE, IF IT IS SHOWN THAT THE  
8 HOLDER OF THE CERTIFICATE HAS NOT PROCEEDED IN GOOD FAITH WITH  
9 THE REPLACEMENT, RESTORATION, OR CONSTRUCTION AND OPERATION OF  
10 THE FACILITY OR WITH THE USE OF THE SPECULATIVE BUILDING AS A  
11 MANUFACTURING FACILITY IN A MANNER CONSISTENT WITH THE PURPOSES  
12 OF THIS ACT AND IN THE ABSENCE OF CIRCUMSTANCES BEYOND THE CON-  
13 TROL OF THE HOLDER OF THE CERTIFICATE, OR THAT THE PURPOSES FOR  
14 WHICH THE CERTIFICATE WAS CONDITIONALLY ISSUED NO LONGER EXIST.

15 (7) A DETERMINATION BY THE LEGISLATIVE BODY OF A LOCAL GOV-  
16 ERNMENTAL UNIT UNDER SUBSECTION (6) IS EFFECTIVE ON THE DECEMBER  
17 31 NEXT FOLLOWING THE DATE OF THE DETERMINATION. THE LEGISLATIVE  
18 BODY OF THE LOCAL GOVERNMENTAL UNIT SHALL SEND BY CERTIFIED MAIL  
19 COPIES OF ITS DETERMINATION TO CONTINUE WITHOUT MODIFICATION, TO  
20 MODIFY, OR TO DISCONTINUE THE CERTIFICATE TO THE HOLDER OF THE  
21 CERTIFICATE, TO THE ASSESSOR OF THE ASSESSING UNIT IN WHICH THE  
22 FACILITY IS LOCATED, TO THE LEGISLATIVE BODY OF EACH TAXING UNIT  
23 THAT LEVIES TAXES UPON PROPERTY IN THE LOCAL GOVERNMENTAL UNIT IN  
24 WHICH THE FACILITY IS LOCATED, AND TO THE COMMISSION.