

Act No. 238
Public Acts of 2022
Approved by the Governor
December 13, 2022
Filed with the Secretary of State
December 13, 2022
EFFECTIVE DATE: Sine Die

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022**

Introduced by Senators Moss, Hollier, Brinks, Horn, Chang, Polehanki, Geiss, Victory, Daley, Bayer, Alexander, Bullock, Schmidt and McCann

ENROLLED SENATE BILL No. 364

AN ACT to amend 1992 PA 147, entitled “An act to provide for the development and rehabilitation of residential housing; to provide for the creation of neighborhood enterprise zones; to provide for obtaining neighborhood enterprise zone certificates for a period of time and to prescribe the contents of the certificates; to provide for the exemption of certain taxes; to provide for the levy and collection of a specific tax on the owner of certain facilities; and to prescribe the powers and duties of certain officers of the state and local governmental units,” by amending sections 2, 3, 6, and 10 (MCL 207.772, 207.773, 207.776, and 207.780), sections 2 and 10 as amended by 2020 PA 3, section 3 as amended by 2008 PA 204, and section 6 as amended by 2008 PA 284.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

- (a) “Commission” means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.
- (b) “Condominium unit” means that portion of a structure intended for separate ownership, intended for residential use, and established under the condominium act, 1978 PA 59, MCL 559.101 to 559.276. Condominium units within a qualified historic building may be held under common ownership.
- (c) “Developer” means a person who is the owner of a new facility at the time of construction or of a rehabilitated facility at the time of rehabilitation for which a neighborhood enterprise zone certificate is applied for or issued.
- (d) “Facility” means a homestead facility, a new facility, or a rehabilitated facility.
- (e) “Homestead facility” means 1 of the following:
 - (i) An existing structure, purchased by or transferred to an owner after December 31, 1996, that has as its primary purpose residential housing consisting of 1 or 2 units, 1 of which is occupied by an owner as his or her principal residence and that is located within a subdivision platted pursuant to state law before January 1, 1968 other than an existing structure for which a certificate will or has been issued after December 31, 2006 in a city with a population of 750,000 or more, is located within a subdivision platted pursuant to state law before January 1, 1968.
 - (ii) An existing structure that has as its primary purpose residential housing consisting of 1 or 2 units, 1 of which is occupied by an owner as his or her principal residence that is located in a subdivision platted after January 1, 1999 and is located in a county with a population of more than 400,000 and less than 500,000 according to the most recent decennial census and is located in a city with a population of more than 100,000 and less than 125,000 according to the most recent decennial census.
- (f) “Local governmental unit” means a city, village, or township.

(g) “New facility” means 1 or both of the following:

(i) A new structure or a portion of a new structure that has as its primary purpose residential housing consisting of 1 or 2 units, 1 of which is or will be occupied by an owner as his or her principal residence. New facility includes a model home or a model condominium unit. New facility includes a new individual condominium unit, in a structure with 1 or more condominium units, that has as its primary purpose residential housing and that is or will be occupied by an owner as his or her principal residence. Except as provided in subparagraph (ii), new facility does not include apartments.

(ii) A new structure or a portion of a new structure that meets all of the following:

(A) Is rented or leased or is available for rent or lease.

(B) Is a mixed use building or located in a mixed use building that contains retail business space on the street level floor.

(C) Is located in a qualified downtown revitalization district.

(h) “Neighborhood enterprise zone certificate” or “certificate” means a certificate issued pursuant to sections 4, 5, and 6.

(i) “Owner” means the record title holder of, or the vendee of the original land contract pertaining to, a new facility, a homestead facility, or a rehabilitated facility for which a neighborhood enterprise zone certificate is applied for or issued.

(j) “Qualified assessing authority” means 1 of the following:

(i) For a facility other than a homestead facility, the commission.

(ii) For a homestead facility, the assessor of the local governmental unit in which the homestead facility is located.

(k) “Qualified downtown revitalization district” means an area located within 1 or more of the following:

(i) The boundaries of a downtown district as defined in section 201 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4201.

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

(iii) 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.

(l) “Qualified historic building” means a property within a neighborhood enterprise zone that has been designated a historic resource as defined under section 266 of the income tax act of 1967, 1967 PA 281, MCL 206.266.

(m) “Rehabilitated facility” means, except as otherwise provided in section 2a, an existing structure or a portion of an existing structure with a current true cash value of \$120,000.00 or less per unit that has or will have as its primary purpose residential housing, consisting of 1 to 8 units, the owner of which proposes improvements that if done by a licensed contractor would cost in excess of \$10,000.00 per owner-occupied unit or 50% of the true cash value, whichever is less, or \$15,000.00 per nonowner-occupied unit or 50% of the true cash value, whichever is less, or the owner proposes improvements that would be done by the owner and not a licensed contractor and the cost of the materials would be in excess of \$3,000.00 per owner-occupied unit or \$4,500.00 per nonowner-occupied unit and will bring the structure into conformance with minimum local building code standards for occupancy or improve the livability of the units while meeting minimum local building code standards. Rehabilitated facility also includes an individual condominium unit, in a structure with 1 or more condominium units that has as its primary purpose residential housing, the owner of which proposes the above described improvements. Rehabilitated facility also includes existing or proposed condominium units in a qualified historic building with 1 or more existing or proposed condominium units. Rehabilitated facility does not include a facility rehabilitated with the proceeds of an insurance policy for property or casualty loss. A qualified historic building may contain multiple rehabilitated facilities.

Sec. 3. (1) The governing body of a local governmental unit by resolution may designate 1 or more neighborhood enterprise zones within that local governmental unit. Except as otherwise provided in this subsection, a neighborhood enterprise zone shall contain not less than 10 platted parcels of land. A neighborhood enterprise zone located in a qualified downtown revitalization district may contain less than 10 platted parcels if the platted parcels together contain 10 or more facilities. All the land within a neighborhood enterprise zone shall also be compact and contiguous. Contiguity is not broken by a road, right-of-way, or property purchased or taken under condemnation if the purchased or condemned property was a single parcel prior to the sale or condemnation.

(2) The total acreage of the neighborhood enterprise zones containing only new facilities or rehabilitated facilities or any combination of new facilities or rehabilitated facilities designated under this act shall not

exceed 15% of the total acreage contained within the boundaries of the local governmental unit. The total acreage of the neighborhood enterprise zones containing only homestead facilities designated under this act shall not exceed 10% of the total acreage contained within the boundaries of the local governmental unit or, with the approval of the board of commissioners of the county in which the neighborhood enterprise zone is located if the county does not have an elected or appointed county executive or with the approval of the board of commissioners and the county executive of the county in which the neighborhood enterprise zone is located if the county has an elected or appointed county executive, 15% of the total acreage contained within the boundaries of the local governmental unit.

(3) Not less than 60 days before the passage of a resolution designating a neighborhood enterprise zone or the repeal or amendment of a resolution under subsection (5), the clerk of the local governmental unit shall give written notice to the assessor and to the governing body of each taxing unit that levies ad valorem property taxes in the proposed neighborhood enterprise zone. Before acting upon the resolution, the governing body of the local governmental unit shall make a finding that a proposed neighborhood enterprise zone is consistent with the master plan of the local governmental unit and the neighborhood preservation and economic development goals of the local governmental unit. The governing body before acting upon the resolution shall also adopt a statement of the local governmental unit's goals, objectives, and policies relative to the maintenance, preservation, improvement, and development of housing for all persons regardless of income level living within the proposed neighborhood enterprise zone. Additionally, before acting upon the resolution, the governing body of a local governmental unit with a population greater than 20,000 shall pass a housing inspection ordinance. A local governmental unit with a population of 20,000 or less may pass a housing inspection ordinance. Before the sale of a unit in a new or rehabilitated facility for which a neighborhood enterprise zone certificate is in effect, an inspection shall be made of the unit to determine compliance with any local construction or safety codes and that a sale may not be finalized until there is compliance with those local construction or safety codes. The governing body shall hold a public hearing not later than 45 days after the date the notice is sent but before acting upon the resolution.

(4) Upon receipt of a notice under subsection (3), the assessor shall determine and furnish to the governing body of the local governmental unit the amount of the true cash value of the property located within the proposed neighborhood enterprise zone and any other information considered necessary by the governing body.

(5) A resolution designating a neighborhood enterprise zone, other than a zone designated under subsection (2), may be repealed or amended not sooner than 3 years after the date of adoption or of the most recent amendment of the resolution by the governing body of the local governmental unit. The repeal or amendment of the resolution shall take effect 6 months after adoption. However, an action taken under this subsection does not invalidate a certificate that is issued or in effect and a facility for which a certificate is issued or in effect shall continue to be included in the total acreage limitations under this section until the certificate is expired or revoked.

(6) A resolution designating a neighborhood enterprise zone in an obsolete property rehabilitation district that was created by a local unit of government on June 6, 2003, and for which the state tax commission issued obsolete property rehabilitation certificates on August 26, 2003, and September 24, 2003 will cause any previous certificate to expire on the December 30 immediately preceding the December 31 on which the first neighborhood enterprise zone certificate is effective. The taxable value of the parcel shall be calculated using the value of the parcel before the building permit was issued. This subdivision authorizes an amended obsolete property rehabilitation certificate approved by the state tax commission for the portion of the parcel contained in the original certificate for which an application for a neighborhood enterprise zone certificate was not submitted.

(7) Beginning June 1, 2023, in addition to all other requirements under this act, both of the following apply in a city, township, or village that became a local governmental unit pursuant to the amendatory act that added this subsection:

(a) A local governmental unit may designate a neighborhood enterprise zone only if the local governmental unit determines that both of the following are met:

(i) The designation encourages compact development and the neighborhood enterprise zone contains 5 or more existing residential units per acre at the time of designation.

(ii) The neighborhood enterprise zone is adjacent to existing development, can utilize existing infrastructure, and has access to municipal water and sewer services on at least 1 frontage.

(b) Notwithstanding section 9, for that part of a facility that in the prior year was occupied by an individual, couple, family, or group of unrelated individuals with a combined adjusted household income in excess of 120% of the countywide area median income as posted by the Michigan state housing development authority on its website, the specific tax paid in lieu of taxes for the year must be equal to the full amount of the taxes that would be paid on that portion of the facility if the facility were not tax exempt.

(8) As used in this section, "adjusted household income" means that term as defined in R 125.101 of the Michigan Administrative Code.

Sec. 6. Not later than 60 days after receipt of an approved application for a homestead facility or a rehabilitated facility, and not later than 30 days, or if an approved application is received after June 15, not later than 45 days after receipt of an approved application for a new facility, the qualified assessing authority shall determine whether the homestead facility, new facility, or rehabilitated facility complies with the requirements of this act. If the qualified assessing authority finds compliance, the qualified assessing authority shall issue a neighborhood enterprise zone certificate to the applicant and send a certified copy of the certificate to each affected taxing unit. The assessor shall keep the certificate filed on record in his or her office. The qualified assessing authority shall maintain a record of all certificates filed. Notice of the qualified assessing authority's refusal to issue a certificate shall be sent by certified mail to the same persons.

Sec. 10. (1) Except as provided in subsections (2) and (3), the effective date of the neighborhood enterprise zone certificate is December 31 in the year in which the new facility or rehabilitated facility is substantially completed and, for a new facility, occupied by an owner as a principal residence, as evidenced by the owner filing with the assessor of the local assessing unit all of the following:

(a) For a new facility, a certificate of occupancy.

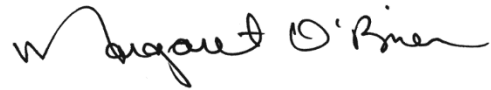
(b) For a rehabilitated facility, a certificate that the improvements meet minimum local building code standards issued by the local building inspector or other authorized officer or a certificate of occupancy if required by local building permits or building codes.

(c) For a rehabilitated facility, documentation proving the cost requirements of section 2(m) are met.

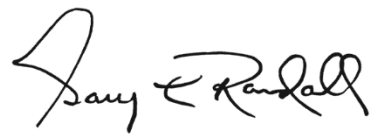
(d) For a homestead facility or a new facility, except for a new facility described in section 2(g)(ii), an affidavit executed by an owner affirming that the homestead facility or new facility is occupied by an owner as a principal residence.

(2) If a new facility is substantially completed in a year but is not occupied by an owner as a principal residence until the following year, upon the request of the owner, the effective date of the neighborhood enterprise zone certificate shall be December 31 in the year immediately preceding the date of occupancy by the owner as a principal residence.

(3) Upon the request of the owner, the effective date of the neighborhood enterprise zone certificate for a rehabilitated facility shall be December 31 in the year immediately preceding the date on which the rehabilitated facility is substantially completed.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor