SENATE SUBSTITUTE FOR

HOUSE BILL NO. 4554

A bill to amend 2014 PA 92, entitled
"State essential services assessment act,"
by amending sections 3, 5, and 7 (MCL 211.1053, 211.1055, and 211.1057).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 3. As used in this act:

(a) "Acquisition cost" means the fair market value of personal property at the time of acquisition by the ~~current~~ **FIRST** owner, including the cost of freight, sales tax, and installation, and other capitalized costs, except capitalized interest. There is a rebuttable presumption that the acquisition price paid by the ~~current~~ **FIRST** owner for personal property, and any costs of freight, sales tax, and installation, and other capitalized costs, except capitalized interest, reflect the ~~fair market value of the~~

~~personal property.~~ **ACQUISITION COST.** For property described in subdivision (e)(*i*) that would otherwise be exempt under section 7k of the general property tax act, 1893 PA 206, MCL 211.7k, **UNDER AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE ISSUED UNDER 1974 PA 198, MCL 207.551 TO 207.572, AND EFFECTIVE BEFORE JANUARY 1, 2013,** and for property described in subdivision (e)(*iii*) ~~,~~ **THAT IS EXEMPT UNDER AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE ISSUED UNDER 1974 PA 198, MCL 207.551 TO 207.572, AND EFFECTIVE BEFORE JANUARY 1, 2013,** acquisition cost means 1/2 of the fair market value of that personal property at the time of acquisition by the ~~current~~ **FIRST** owner**, INCLUDING THE COST OF FREIGHT, SALES TAX, AND INSTALLATION, AND OTHER CAPITALIZED COSTS, EXCEPT CAPITALIZED INTEREST**. The acquisition cost for personal property exempt under the **MICHIGAN** renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is $0.00 except for the 3 years immediately preceding the expiration of the exemption of that personal property under the **MICHIGAN** renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, during which period of time the acquisition cost for that personal property means the fair market value of that personal property at the time of acquisition by the ~~current~~ **FIRST** owner**, INCLUDING THE COST OF FREIGHT, SALES TAX, AND INSTALLATION, AND OTHER CAPITALIZED COSTS, EXCEPT CAPITALIZED INTEREST,** multiplied by the percentage reduction in the exemption as provided in section 9(3) of the **MICHIGAN** renaissance zone act, 1996 PA 376, MCL 125.2689. The state tax commission may provide guidelines for circumstances in which the actual acquisition price is not determinative of ~~fair market value~~ **ACQUISITION COST** and the basis of determining ~~fair market value~~ **ACQUISITION COST** in those circumstances. ~~, including when that property is idle, obsolete, or surplus.~~ **WHEN THE ACQUISITION COST, YEAR OF ACQUISITION BY THE FIRST OWNER, OR BOTH ARE UNKNOWN, THE STATE TAX COMMISSION MAY PROVIDE GUIDELINES FOR ESTIMATING THE ACQUISITION COST AND YEAR OF ACQUISITION BY THE FIRST OWNER. THE STATE TAX COMMISSION MAY ISSUE GUIDELINES THAT ALLOW FOR THE REDUCTION OF ACQUISITION COST FOR PROPERTY THAT IS IDLE, IS OBSOLETE OR HAS MATERIAL OBSOLESCENCE, OR IS SURPLUS.**

(b) "Assessment" means the state essential services assessment levied under section 5.

(c) "Assessment year" means the year in which the state essential services assessment levied under section 5 is due.

(d) "Eligible claimant" means a person that claims an exemption for eligible personal property.

(e) "Eligible personal property" means all of the following:

(*i*) Personal property exempt under section 9m or 9n of the general property tax act, 1893 PA 206, MCL 211.9m and 211.9n.

(*ii*) Personal property **THAT IS ELIGIBLE MANUFACTURING PERSONAL PROPERTY AS DEFINED IN SECTION 9M AND THAT IS** exempt under section 9f of the general property tax act, 1893 PA 206, MCL 211.9f, which exemption was approved under section 9f of the general property tax act, 1893 PA 206, MCL 211.9f, after 2013, unless both of the following conditions are satisfied:

(A) The application for the exemption was filed with the eligible local assessing district or ~~next~~ **NEXT** Michigan development corporation before August 5, 2014.

(B) The resolution approving the exemption states that the project is expected to have total new personal property of over $25,000,000.00 within 5 years of the adoption of the resolution by the eligible local assessing district or ~~next~~ **NEXT** Michigan development corporation.

(*iii*) Personal property subject to an extended industrial facilities exemption certificate under section 11a of 1974 PA 198, MCL 207.561a.

(*iv*) Personal property subject to an extended exemption under section ~~9f(8)~~ **9F(8)(A)** of the general property tax act, 1893 PA 206, MCL 211.9f.

(f) "Fund board" means the board of directors of the Michigan strategic fund created under the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

(g) "Michigan economic development corporation" means the Michigan economic development corporation, the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999, and subsequently amended, between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund.

(h) "Michigan strategic fund" means the Michigan strategic fund created under the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

(i) "Next Michigan development corporation" means that term as defined under the ~~next~~ **NEXT** Michigan development act, 2010 PA 275, MCL 125.2951 to 125.2959.

Sec. 5. (1) Beginning January 1, 2016, the state essential services assessment is levied on all eligible personal property as provided in this section.

(2) The assessment under this section is a state specific tax on the eligible personal property owned by, leased to, or in the possession of an eligible claimant on December 31 of the year immediately preceding the assessment year and shall be calculated as follows:

(a) For eligible personal property acquired by the ~~eligible claimant~~ **FIRST OWNER** in a year 1 to 5 years before the assessment year, multiply the acquisition cost of the eligible personal property by 2.4 mills.

(b) For eligible personal property acquired by the ~~eligible claimant~~ **FIRST OWNER** in a year 6 to 10 years before the assessment year, multiply the acquisition cost of the eligible personal property by 1.25 mills.

(c) For eligible personal property acquired by the ~~eligible claimant~~ **FIRST OWNER** in a year more than 10 years before the assessment year, multiply the acquisition cost of the eligible personal property by 0.9 mills.

Sec. 7. (1) The department of treasury shall collect and administer the assessment as provided in this section.

(2) Not later than May 1 in each assessment year, the department of treasury shall make available in electronic form to each eligible claimant a statement for calculation of the

assessment as provided in section 5.

(3) Not later than ~~September~~ **AUGUST** 15 in each assessment year, each eligible claimant shall submit electronically to the department of treasury the completed statement**, IN A FORM AND MANNER PRESCRIBED BY THE DEPARTMENT OF TREASURY,** and full payment of the assessment levied under section 5 for that assessment year as calculated in section 5(2). The department of treasury may waive or delay the electronic filing requirement at its discretion. **THE DEPARTMENT OF TREASURY MAY ACCEPT A TIMELY FILED STATEMENT USING REPORTING SOFTWARE APPROVED BY THE DEPARTMENT OF TREASURY, SUBJECT TO AUDIT UNDER SUBSECTION (6).** A statement submitted by an eligible claimant shall include all of the eligible claimant's eligible personal property located in this state subject to the assessment levied under section 5**.** ~~and, beginning in 2019, specify the location of that property on December 31 of the year immediately preceding the assessment year.~~**THE COMPLETED STATEMENT REQUIRED UNDER THIS SUBSECTION SHALL NOT BE SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.**

(4) If an eligible claimant does not submit the statement and full payment of the assessment levied under section 5 by ~~September~~ **AUGUST** 15, the department of treasury shall issue a notice to the eligible claimant not later than ~~October~~ **SEPTEMBER** 15. The notice shall include a statement explaining the consequences of nonpayment as set forth in subsection (5) and instructing the eligible claimant of its potential responsibility under subsection (5)(e). An eligible claimant shall submit payment in full by ~~November 1~~ **OCTOBER 15** of the assessment year along with a penalty of 1% per

week on the unpaid balance for each week payment is not made in full up to a maximum of 5% of the total amount due and unpaid. For the eligible claimant's first assessment year, the penalty shall be waived if the eligible claimant submits the statement and full payment of the assessment levied under section 5 ~~within 7 business days of~~ **BY** September 15. **AN ELIGIBLE CLAIMANT MAY AMEND A FILED STATEMENT FOR THE CURRENT YEAR UP TO SEPTEMBER 15. PAYMENTS MADE DUE TO AN AMENDED STATEMENT ARE SUBJECT TO THE PENALTIES AS DESCRIBED IN THIS SUBSECTION. THE DEPARTMENT OF TREASURY SHALL ISSUE REFUNDS FOR OVERPAYMENTS DUE TO AN AMENDED STATEMENT. ALL REFUNDS DUE TO OVERPAYMENT SHALL BE REMITTED WITHOUT INTEREST EXCEPT AS PROVIDED BY SECTION 37 OF THE TAX TRIBUNAL ACT, 1973 PA 186, MCL 205.737.**

(5) ~~If~~ **FOR ANY ASSESSMENT YEAR IN WHICH** an eligible claimant does not submit payment in full and any penalty due under subsection (4) **OR (6)** by ~~November 1,~~ **OCTOBER 15, OR IF THE STATE TAX COMMISSION DISCOVERS THAT THE PROPERTY IS NOT ELIGIBLE UNDER SECTION 9M OR 9N OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND 211.9N,** all of the following shall apply:

(a) The state tax commission shall ~~direct the assessor to rescind~~ **ISSUE AN ORDER TO RESCIND NO LATER THAN THE FIRST MONDAY IN DECEMBER** for the assessment year any exemption described in section 9m or 9n of the general property tax act, 1893 PA 206, MCL 211.9m and 211.9n, granted for ~~the eligible personal property.~~ **ANY PARCEL FOR WHICH PAYMENT IN FULL AND ANY PENALTY DUE HAVE NOT BEEN RECEIVED OR FOR WHICH THE STATE TAX COMMISSION DISCOVERS THAT THE PROPERTY IS NOT ELIGIBLE UNDER SECTION 9M OR 9N OF THE GENERAL**

PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND 211.9N.

(b) The state tax commission shall ~~rescind~~ **ISSUE AN ORDER TO RESCIND NO LATER THAN THE FIRST MONDAY IN DECEMBER** for the assessment year any exemption under section 9f of the general property tax act, 1893 PA 206, MCL 211.9f, which exemption was approved under section 9f of the general property tax act, 1893 PA 206, MCL 211.9f, after 2013 **FOR ANY PARCEL FOR WHICH PAYMENT IN FULL AND ANY PENALTY DUE HAVE NOT BEEN RECEIVED OR FOR WHICH THE STATE TAX COMMISSION DISCOVERS THAT THE PROPERTY IS NOT ELIGIBLE UNDER SECTION 9M OR 9N OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND 211.9N**.

(c) The state tax commission shall ~~rescind~~ **ISSUE AN ORDER TO RESCIND NO LATER THAN THE FIRST MONDAY IN DECEMBER** for the assessment year any exemption for eligible personal property subject to an extended industrial facilities exemption certificate under section 11a of 1974 PA 198, MCL 207.561a**, FOR ANY PARCEL FOR WHICH PAYMENT IN FULL AND ANY PENALTY DUE HAVE NOT BEEN RECEIVED OR FOR WHICH THE STATE TAX COMMISSION DISCOVERS THAT THE PROPERTY IS NOT ELIGIBLE UNDER SECTION 9M OR 9N OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND 211.9N**.

(d) The state tax commission shall ~~rescind~~ **ISSUE AN ORDER TO RESCIND NO LATER THAN THE FIRST MONDAY IN DECEMBER** for the assessment year any extended exemption for eligible personal property under section 9f(8)(a) of the general property tax act, 1893 PA 206, MCL 211.9f**, FOR ANY PARCEL FOR WHICH PAYMENT IN FULL AND ANY PENALTY DUE HAVE NOT BEEN RECEIVED OR FOR WHICH THE STATE TAX COMMISSION DISCOVERS THAT THE PROPERTY IS NOT ELIGIBLE UNDER**

SECTION 9M OR 9N OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND 211.9N.

(e) The **ELIGIBLE** claimant shall file ~~not later than November 10~~ **WITH THE ASSESSOR OF THE TOWNSHIP OR CITY WITHIN 30 DAYS OF THE DATE OF THE STATE TAX COMMISSION ORDER TO RESCIND ISSUED UNDER SUBDIVISIONS (A) TO (D)** a statement under section 19 of the general property tax act, 1893 PA 206, MCL 211.19, for all property for which the exemption has been rescinded under this section.

(f) ~~All taxes due as a result of a rescission by the department of treasury or~~ **WITHIN 60 DAYS OF AN ORDER OF RESCISSION** by the state tax commission under subdivisions (a) to (d)**, THE TREASURER OF THE LOCAL TAX COLLECTING UNIT SHALL ISSUE AMENDED TAX BILLS FOR ANY TAXES, INCLUDING PENALTY AND INTEREST,** that were not billed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, or under 1974 PA 198, MCL 207.551 to 207.572, ~~on the summer bill shall be billed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, or under 1974 PA 198, MCL 207.551 to 207.572, on the winter tax bill.~~ **AND THAT ARE OWED AS A RESULT OF THE ORDER OF RESCISSION.**

(6) ~~(g) A person who files a statement under section 7~~ **AN ELIGIBLE CLAIMANT** shall provide access to the books and records**, FOR AUDIT PURPOSES,** relating to the **LOCATION AND** description; the date of purchase, lease, or acquisition; and the purchase price, lease amount, or value of all ~~industrial personal property and commercial~~ personal property owned by, leased by, or in the possession of that person or a related entity if requested by the assessor of the ~~local tax collecting unit,~~ **TOWNSHIP OR CITY,** county equalization department, or department of treasury for the year in which the statement is filed and the immediately preceding 3 years. **THE DEPARTMENT OF TREASURY SHALL DEVELOP AND IMPLEMENT AN AUDIT PROGRAM WHICH INCLUDES, BUT IS NOT LIMITED TO, THE AUDIT OF STATEMENTS SUBMITTED UNDER SUBSECTION (3) AND AMENDED STATEMENTS SUBMITTED UNDER SUBSECTION (4) FOR THE CURRENT CALENDAR YEAR AND THE 3 CALENDAR YEARS IMMEDIATELY PRECEDING THE COMMENCEMENT OF AN AUDIT. AN ASSESSMENT AS A RESULT OF AN AUDIT SHALL BE PAID IN FULL WITHIN 35 DAYS OF ISSUANCE AND SHALL INCLUDE PENALTIES AND INTEREST AS DESCRIBED IN SECTION 154(3) OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.154. REFUNDS AS A RESULT OF AN AUDIT UNDER THIS SUBSECTION SHALL BE WITHOUT INTEREST. THE EXEMPTION FOR PERSONAL PROPERTY FOR WHICH AN ASSESSMENT HAS BEEN ISSUED AS A RESULT OF AN AUDIT UNDER THIS SUBSECTION SHALL BE SUBJECT TO THE RESCISSION PROVISIONS OF SUBSECTION (5) FOR THE YEARS OF THE ASSESSMENT IF FULL PAYMENT IS NOT TIMELY MADE AS REQUIRED BY THIS SUBSECTION.**

(7) ~~(6)~~ An eligible claimant may appeal an assessment levied under section 5 or a penalty or rescission under this section to the state tax commission by filing a petition not later than December 31 in that tax year. **AN ELIGIBLE CLAIMANT MAY APPEAL AN ASSESSMENT ISSUED, INCLUDING PENALTIES, INTEREST, OR RESCISSION, AS A RESULT OF AN AUDIT CONDUCTED UNDER SUBSECTION (6) BY FILING A PETITION WITH THE STATE TAX COMMISSION WITHIN 30 DAYS OF THE DATE OF THAT ASSESSMENT'S ISSUANCE.** The department of treasury may appeal to the state tax commission by filing a petition for the current calendar year and 3 immediately preceding calendar years.

The state tax commission shall decide any appeal based on the written petition and the written recommendation of state tax commission staff and any other relevant information. The department of treasury or any eligible claimant may appeal the ~~decision~~ **DETERMINATION** of the state tax commission to the Michigan tax tribunal **WITHIN 35 DAYS OF THE DATE OF THE DETERMINATION**.

(8) FOR ANY YEAR BEFORE 2023, THE DEPARTMENT OF TREASURY MAY REQUIRE ELIGIBLE CLAIMANTS TO FILE BY FEBRUARY 20 OF THE YEAR A COMBINED DOCUMENT THAT INCLUDES THE AFFIDAVIT UNDER SECTIONS 9M AND 9N OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND 211.9N, A STATEMENT UNDER SECTION 19 OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.19, AND A REPORT OF THE INFORMATION REQUIRED BY SUBSECTION (3). THE COMBINED DOCUMENT SHALL BE IN A FORM PRESCRIBED BY THE STATE TAX COMMISSION. THE COMBINED DOCUMENT SHALL BE FILED WITH THE ASSESSOR OF THE TOWNSHIP OR CITY IN WHICH THE ELIGIBLE PERSONAL PROPERTY IS LOCATED. THE ASSESSOR SHALL TRANSMIT THE INFORMATION CONTAINED IN THE COMBINED DOCUMENT FILED UNDER THIS SUBSECTION, AND OTHER PARCEL INFORMATION REQUIRED BY THE DEPARTMENT OF TREASURY, TO THE DEPARTMENT OF TREASURY IN THE FORM AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT OF TREASURY NO LATER THAN APRIL 1.