

SENATE BILL No. 426

April 1, 2009, Introduced by Senator BROWN and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1974 PA 198, 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 impose and provide for the disposition of an administrative fee; 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,"

by amending sections 2 and 14 (MCL 207.552 and 207.564), section 2 as amended by 2008 PA 581 and section 14 as amended by 2008 PA 457.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (2) "Facility" means either a replacement facility, a new
4 facility, or, if applicable by its usage, a speculative building.

1 (3) "Replacement facility" means 1 of the following:

2 (a) In the case of a replacement or restoration that occurs on
3 the same or contiguous land as that which is replaced or restored,
4 industrial property that is or is to be acquired, constructed,
5 altered, or installed for the purpose of replacement or restoration
6 of obsolete industrial property together with any part of the old
7 altered property that remains for use as industrial property after
8 the replacement, restoration, or alteration.

9 (b) In the case of construction on vacant noncontiguous land,
10 property that is or will be used as industrial property that is or
11 is to be acquired, constructed, transferred, or installed for the
12 purpose of being substituted for obsolete industrial property if
13 the obsolete industrial property is situated in a plant
14 rehabilitation district in the same city, village, or township as
15 the land on which the facility is or is to be constructed and
16 includes the obsolete industrial property itself until the time as
17 the substituted facility is completed.

18 (4) "New facility" means new industrial property other than a
19 replacement facility to be built in a plant rehabilitation district
20 or industrial development district.

21 (5) "Local governmental unit" means a city, village, or
22 township located in this state.

23 (6) "Industrial property" means land improvements, buildings,
24 structures, and other real property, and machinery, equipment,
25 furniture, and fixtures or any part or accessory whether completed
26 or in the process of construction comprising an integrated whole,
27 the primary purpose and use of which is the engaging in a high-

1 technology activity, operation of a strategic response center,
2 operation of a motorsports entertainment complex, operation of a
3 logistical optimization center, operation of qualified commercial
4 activity, operation of a major distribution and logistics facility,
5 the manufacture of goods or materials, creation or synthesis of
6 biodiesel fuel, or the processing of goods and materials by
7 physical or chemical change; property acquired, constructed,
8 altered, or installed due to the passage of proposal A in 1976; the
9 operation of a hydro-electric dam by a private company other than a
10 public utility; or agricultural processing facilities. Industrial
11 property includes facilities related to a manufacturing operation
12 under the same ownership, including, but not limited to, office,
13 engineering, research and development, warehousing, or parts
14 distribution facilities. Industrial property also includes research
15 and development laboratories of companies other than those
16 companies that manufacture the products developed from their
17 research activities and research development laboratories of a
18 manufacturing company that are unrelated to the products of the
19 company. For applications approved by the legislative body of a
20 local governmental unit between June 30, 1999 and December 31,
21 2007, industrial property also includes an electric generating
22 plant that is not owned by a local unit of government, including,
23 but not limited to, an electric generating plant fueled by biomass.
24 Industrial property also includes convention and trade centers in
25 which construction begins not later than December 31, 2010 and is
26 over 250,000 square feet in size or, if located in a county with a
27 population of more than 750,000 and less than 1,100,000, is over

1 100,000 square feet in size or, if located in a county with a
2 population of more than 26,000 and less than 28,000, is over 30,000
3 square feet in size. Industrial property also includes a federal
4 reserve bank operating under 12 USC 341, located in a city with a
5 population of 750,000 or more. Industrial property may be owned or
6 leased. However, in the case of leased property, the lessee is
7 liable for payment of ad valorem property taxes and shall furnish
8 proof of that liability. Industrial property does not include any
9 of the following:

10 (a) Land.

11 (b) Property of a public utility other than an electric
12 generating plant that is not owned by a local unit of government
13 and for which an application was approved by the legislative body
14 of a local governmental unit between June 30, 1999 and December 31,
15 2007.

16 (c) Inventory.

17 (7) "Obsolete industrial property" means industrial property
18 the condition of which is substantially less than an economically
19 efficient functional condition.

20 (8) "Economically efficient functional condition" means a
21 state or condition of property the desirability and usefulness of
22 which is not impaired due to changes in design, construction,
23 technology, or improved production processes, or from external
24 influencing factors that make the property less desirable and
25 valuable for continued use.

26 (9) "Research and development laboratories" means building and
27 structures, including the machinery, equipment, furniture, and

1 fixtures located in the building or structure, used or to be used
2 for research or experimental purposes that would be considered
3 qualified research as that term is used in section 41 of the
4 internal revenue code, 26 USC 41, except that qualified research
5 also includes qualified research funded by grant, contract, or
6 otherwise by another person or governmental entity.

7 (10) "Manufacture of goods or materials" or "processing of
8 goods or materials" means any type of operation that would be
9 conducted by an entity included in the classifications provided by
10 sector 31-33 – manufacturing, of the North American industry
11 classification system, United States, 1997, published by the office
12 of management and budget, regardless of whether the entity
13 conducting that operation is included in that manual.

14 (11) "High-technology activity" means that term as defined in
15 section 3 of the Michigan economic growth authority act, 1995 PA
16 24, MCL 207.803.

17 (12) "Logistical optimization center" means a sorting and
18 distribution center that supports a private passenger motor vehicle
19 assembly center and its manufacturing process for the purpose of
20 optimizing transportation, just-in-time inventory management, and
21 material handling, and to which all of the following apply:

22 (a) The sorting and distribution center is within 2 miles of a
23 private passenger motor vehicle assembly center that, together with
24 supporting facilities, contains at least 800,000 square feet.

25 (b) The sorting and distribution center contains at least
26 950,000 square feet.

27 (c) The sorting and distribution center has applied for an

1 industrial facilities exemption certificate after June 30, 2005 and
2 before January 1, 2006.

3 (d) The private passenger motor vehicle assembly center is
4 located on land conditionally transferred by a township with a
5 population of more than 25,000 under 1984 PA 425, MCL 124.21 to
6 124.30, to a city with a population of more than 100,000 that
7 levies an income tax under the city income tax act, 1964 PA 284,
8 MCL 141.501 to 141.787.

9 (13) "Commercial property" means that term as defined in
10 section 2 of the obsolete property rehabilitation act, 2000 PA 146,
11 MCL 125.2782.

12 (14) "Qualified commercial activity" means commercial property
13 that meets all of the following:

14 (a) At least 90% of the property, excluding the surrounding
15 green space, is used for warehousing, distribution, or logistic
16 purposes and is located in a county that borders another state or
17 Canada or for a communications center.

18 (b) Occupies a building or structure that is greater than
19 100,000 square feet in size.

20 (15) "Motorsports entertainment complex" means a closed-course
21 motorsports facility, and its ancillary grounds and facilities,
22 that satisfies all of the following:

23 (a) Has at least 70,000 fixed seats for race patrons.

24 (b) Has at least 6 scheduled days of motorsports events each
25 calendar year, at least 2 of which shall be comparable to nascar
26 nextel cup events held in 2007 or their successor events.

27 (c) Serves food and beverages at the facility during

1 sanctioned events each calendar year through concession outlets, a
2 majority of which are staffed by individuals who represent or are
3 members of 1 or more nonprofit civic or charitable organizations
4 that directly financially benefit from the concession outlets'
5 sales.

6 (d) Engages in tourism promotion.

7 (e) Has permanent exhibitions of motorsports history, events,
8 or vehicles.

9 (16) "Major distribution and logistics facility" means a
10 proposed distribution center that meets all of the following:

11 (a) Contains at least 250,000 square feet.

12 (b) Has or will have an assessed value of \$5,000,000.00 or
13 more for the real property.

14 (c) Is located within 35 miles of the border of this state.

15 (d) Has as its purpose the distribution of inventory and
16 materials to facilities owned by the taxpayer whose primary
17 business is the retail sale of sporting goods and related
18 inventory.

19 **(17) "QUALIFIED MODULAR HOUSING MANUFACTURER" MEANS A**
20 **MANUFACTURER OF PREMANUFACTURED MODULAR BUILDING UNITS OR**
21 **MANUFACTURED HOMES THAT HAS A MANUFACTURING FACILITY LOCATED IN**
22 **THIS STATE.**

23 **(18) "PREMANUFACTURED MODULAR BUILDING UNIT" MEANS A BUILDING**
24 **DESIGNED AND CONSTRUCTED PURSUANT TO THE STILLE-DEROSSETT-HALE**
25 **SINGLE STATE CONSTRUCTION CODE ACT, 1972 PA 230, MCL 125.1501 TO**
26 **125.1531, THAT IS MANUFACTURED IN 1 OR MORE SECTIONS IN A FACTORY**
27 **FOR INSTALLATION ON A PERMANENT FOUNDATION AT ITS FINAL LOCATION.**

1 PREMANUFACTURED MODULAR BUILDING UNIT DOES NOT INCLUDE A MOBILE
2 HOME OR A MANUFACTURED HOME THAT IS CONSTRUCTED ON A PERMANENT
3 CHASSIS IN COMPLIANCE WITH THE NATIONAL MANUFACTURED HOUSING
4 CONSTRUCTION AND SAFETY STANDARDS ACT OF 1974, 42 USC 5401 TO 5426.

5 (19) "MANUFACTURED HOME" MEANS THAT TERM AS DEFINED IN SECTION
6 9102(1)(AAA) OF THE UNIFORM COMMERCIAL CODE, 1962 PA 174, MCL
7 440.9102.

8 Sec. 14. (1) The amount of the industrial facility tax, in
9 each year for a replacement facility, shall be determined by
10 multiplying the total mills levied as ad valorem taxes for that
11 year by all taxing units within which the facility is situated by
12 the taxable value of the real and personal property of the obsolete
13 industrial property for the tax year immediately preceding the
14 effective date of the industrial facilities exemption certificate
15 after deducting the taxable value of the land and of the inventory
16 as specified in section 19.

17 (2) The amount of the industrial facility tax, in each year
18 for a new facility or a speculative building for which an
19 industrial facilities exemption certificate became effective before
20 January 1, 1994, shall be determined by multiplying the taxable
21 value of the facility excluding the land and the inventory personal
22 property by the sum of 1/2 of the total mills levied as ad valorem
23 taxes for that year by all taxing units within which the facility
24 is located other than mills levied for school operating purposes by
25 a local school district within which the facility is located or
26 mills levied under the state education tax act, 1993 PA 331, MCL
27 211.901 to 211.906, plus 1/2 of the number of mills levied for

1 local school district operating purposes in 1993.

2 (3) Except as provided in ~~subsection~~**SUBSECTIONS (4) AND (6)**,
3 the amount of the industrial facility tax in each year for a new
4 facility or a speculative building for which an industrial
5 facilities exemption certificate becomes effective after December
6 31, 1993, shall be determined by multiplying the taxable value of
7 the facility excluding the land and the inventory personal property
8 by the sum of 1/2 of the total mills levied as ad valorem taxes for
9 that year by all taxing units within which the facility is located
10 other than mills levied under the state education tax act, 1993 PA
11 331, MCL 211.901 to 211.906, plus, subject to section 14a, the
12 number of mills levied under the state education tax act, 1993 PA
13 331, MCL 211.901 to 211.906.

14 (4) For taxes levied after December 31, 2007, for the personal
15 property tax component of an industrial facilities exemption
16 certificate for a new facility or a speculative building that is
17 sited on real property classified as industrial real property under
18 section 34c of the general property tax act, 1893 PA 206, MCL
19 211.34c, the amount of the industrial facility tax in each year for
20 a new facility or a speculative building shall be determined by
21 multiplying the taxable value of the facility excluding the land
22 and the inventory personal property by the sum of 1/2 of the total
23 mills levied as ad valorem taxes for that year by all taxing units
24 within which the facility is located other than mills levied under
25 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,
26 and the number of mills from which the property is exempt under
27 section 1211(1) of the revised school code, 1976 PA 451, MCL

1 380.1211. For taxes levied after December 31, 2007, for the
2 personal property tax component of an industrial facilities
3 exemption certificate for a new facility or a speculative building
4 that is sited on real property classified as commercial real
5 property under section 34c of the general property tax act, 1893 PA
6 206, MCL 211.34c, the amount of the industrial facility tax in each
7 year for a new facility or a speculative building shall be
8 determined by multiplying the taxable value of the facility
9 excluding the land and the inventory personal property by the sum
10 of 1/2 of the total mills levied as ad valorem taxes for that year
11 by all taxing units within which the facility is located other than
12 the number of mills from which the property is exempt under section
13 1211(1) of the revised school code, 1976 PA 451, MCL 380.1211.

14 (5) For a termination or revocation of only the real property
15 component, or only the personal property component, of an
16 industrial facilities exemption certificate as provided in this
17 act, the valuation and the tax determined using that valuation
18 shall be reduced proportionately to reflect the exclusion of the
19 component with respect to which the termination or revocation has
20 occurred.

21 (6) BEGINNING FOR THE 2009 TAX YEAR, THE AMOUNT OF THE
22 INDUSTRIAL FACILITY TAX IN EACH YEAR FOR A NEW FACILITY OR A
23 SPECULATIVE BUILDING THAT IS OWNED OR OPERATED BY A QUALIFIED
24 MODULAR HOUSING MANUFACTURER SHALL BE DETERMINED BY MULTIPLYING THE
25 TAXABLE VALUE OF THE FACILITY EXCLUDING THE LAND AND THE INVENTORY
26 PERSONAL PROPERTY BY THE SUM OF 1/10 OF THE TOTAL MILLS LEVIED AS
27 AD VALOREM TAXES FOR THAT YEAR BY ALL TAXING UNITS WITHIN WHICH THE

1 FACILITY IS LOCATED OTHER THAN MILLS LEVIED UNDER THE STATE
2 EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906, PLUS,
3 SUBJECT TO SECTION 14A, THE NUMBER OF MILLS LEVIED UNDER THE STATE
4 EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906.