

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5545

A bill to amend 2014 PA 93, entitled
"Alternative state essential services assessment act,"
by amending sections 3, 7, and 9 (MCL 211.1073, 211.1077, and
211.1079), sections 3 and 7 as amended by 2015 PA 121.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (A) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (ii),
3 "ACQUISITION COST" MEANS THAT TERM AS DEFINED IN SUBPARAGRAPH (i),
4 AS FOLLOWS:

5 (i) ~~(a)~~—"Acquisition cost" means the fair market value of
6 personal property at the time of acquisition by the first owner,
7 including the cost of freight, sales tax, and installation, and
8 other capitalized costs, except capitalized interest. There is a
9 rebuttable presumption that the acquisition price paid by the first

1 owner for personal property, and any costs of freight, sales tax,
2 and installation, and other capitalized costs, except capitalized
3 interest, reflect the acquisition cost. For personal property
4 exempt under section 9m or 9n of the general property tax act, 1893
5 PA 206, MCL 211.9m and 211.9n, that ~~would otherwise be~~ **PRIOR TO THE**
6 **CURRENT TAX YEAR WAS** exempt under section 7k of the general
7 property tax act, 1893 PA 206, MCL 211.7k, under an industrial
8 facilities exemption certificate issued under 1974 PA 198, MCL
9 207.551 to 207.572, and effective before January 1, 2013, **WHICH**
10 **EITHER HAS BEEN EXTENDED FOR PROPERTY NOT YET EXEMPT UNDER SECTION**
11 **9M OR 9N OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M**
12 **AND 211.9N, OR HAD AN EXPIRATION DATE AFTER THE DATE THE TAX LEVIED**
13 **UNDER THIS ACT IS DUE,** and for personal property subject to an
14 extended industrial facilities exemption certificate under section
15 11a of 1974 PA 198, MCL 207.561a, that is exempt under an
16 industrial facilities exemption certificate issued under 1974 PA
17 198, MCL 207.551 to 207.572, and effective before January 1, 2013,
18 acquisition cost means 1/2 of the fair market value of that
19 personal property at the time of acquisition by the first owner,
20 including the cost of freight, sales tax, and installation, and
21 other capitalized costs, except capitalized interest. The
22 acquisition cost for personal property exempt under the Michigan
23 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is
24 \$0.00 except for the 3 years immediately preceding the expiration
25 of the exemption of that personal property under the Michigan
26 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, during
27 which period of time the acquisition cost for that personal

1 property means the fair market value of that personal property at
2 the time of acquisition by the first owner, including the cost of
3 freight, sales tax, and installation, and other capitalized costs,
4 except capitalized interest, multiplied by the percentage reduction
5 in the exemption as provided in section 9(3) of the Michigan
6 renaissance zone act, 1996 PA 376, MCL 125.2689. The ~~state tax~~
7 ~~commission~~ **DEPARTMENT** may provide guidelines for circumstances in
8 which the actual acquisition price is not determinative of
9 acquisition cost and the basis of determining acquisition cost in
10 those circumstances. When the acquisition cost, year of acquisition
11 by the first owner, or both are unknown, the ~~state tax commission~~
12 **DEPARTMENT** may provide guidelines for estimating the acquisition
13 cost and year of acquisition by the first owner. The ~~state tax~~
14 ~~commission~~ **DEPARTMENT** may issue guidelines that allow for the
15 reduction of acquisition cost for property that is idle, is
16 obsolete or has material obsolescence, or is surplus.

17 **(ii) BEGINNING WITH THE 2017 ASSESSMENT YEAR, FOR PROPERTY**
18 **THAT IS CONSTRUCTION IN PROGRESS ONLY, "ACQUISITION COST" MEANS 1/2**
19 **OF THE FAIR MARKET VALUE AT THE TIME ACQUIRED BY THE FIRST OWNER,**
20 **INCLUDING THE COST OF FREIGHT, SALES TAX, AND INSTALLATION. FOR**
21 **PROPERTY THAT IS CONSTRUCTION IN PROGRESS, "ACQUIRED BY" MEANS THE**
22 **YEAR THE PROPERTY IS FIRST REPORTED ON THE COMBINED FORM AS**
23 **PRESCRIBED IN SECTION 7(8) IN THE REPORT OF THE FAIR MARKET VALUE**
24 **AND YEAR OF ACQUISITION BY THE FIRST OWNER OF QUALIFIED NEW**
25 **PERSONAL PROPERTY OR QUALIFIED PREVIOUSLY EXISTING PERSONAL**
26 **PROPERTY.**

27 (b) "Assessment" means the alternative state essential

1 services assessment levied under section 5.

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

4 (d) "Eligible claimant" means a person that owns, leases, or
5 is in the possession of eligible personal property.

6 (e) "Eligible personal property" means personal property
7 exempt from the tax levied under the state essential services
8 assessment act, 2014 PA 92, MCL 211.1051 to 211.1061, and
9 determined to be subject to the alternative state essential
10 services assessment as provided in section 9 of the state essential
11 services assessment act, 2014 PA 92, MCL 211.1059.

12 **(F) "DEPARTMENT" MEANS THE DEPARTMENT OF TREASURY.**

13 Sec. 7. (1) The department ~~of treasury~~ shall collect and
14 administer the alternative state essential services assessment as
15 provided in this section.

16 (2) Not later than May 1 in each assessment year, the
17 department ~~of treasury~~ shall make available in electronic form to
18 each eligible claimant a statement for calculation of the
19 assessment as provided in section 5. **THAT STATEMENT SHALL BE**
20 **DEVELOPED FROM THE INFORMATION SUBMITTED BY THE ELIGIBLE CLAIMANT**
21 **ON THE COMBINED DOCUMENT AS REQUIRED BY SECTIONS 9M AND 9N OF THE**
22 **GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND 211.9N.**

23 (3) Not later than August 15 in each assessment year, each
24 eligible claimant shall ~~submit electronically to the department of~~
25 ~~treasury~~ **REVISE AS NECESSARY AND CERTIFY** the completed statement ~~7~~
26 ~~in a form and manner prescribed by the department of treasury,~~ and
27 **MAKE** full payment of the assessment levied under section 5 for that

1 assessment year as calculated in section 5(2). The department of
2 ~~treasury~~ may waive or delay the electronic ~~filing~~ **CERTIFICATION**
3 requirement at its discretion. The department of ~~treasury~~ may
4 accept a timely filed statement **THAT CALCULATES THE TAX UNDER THIS**
5 **ACT THAT IS TRANSMITTED AND CERTIFIED** using reporting software
6 approved by the department, ~~of treasury~~, subject to audit under
7 subsection (6). A statement ~~submitted~~ **CERTIFIED** by an eligible
8 claimant shall include all of the eligible claimant's eligible
9 personal property located in this state subject to the assessment
10 levied under section 5. The ~~completed~~ statement required under this
11 subsection shall not be subject to disclosure under the freedom of
12 information act, 1976 PA 442, MCL 15.231 to 15.246.

13 (4) If an eligible claimant does not ~~submit~~ **CERTIFY** the
14 statement and full payment of the assessment levied under section 5
15 by August 15, the department of ~~treasury~~ shall issue a notice to
16 the eligible claimant not later than September 15. The notice shall
17 include a statement explaining the consequences of nonpayment as
18 set forth in subsection (5) and instructing the eligible claimant
19 of its potential responsibility under subsection (5)(e). An
20 eligible claimant shall submit payment in full by October 15 of the
21 assessment year along with a penalty of 1% per week on the unpaid
22 balance for each week payment is not made in full up to a maximum
23 of 5% of the total amount due and unpaid. For the eligible
24 claimant's first assessment year, the penalty shall be waived if
25 the eligible claimant ~~submits~~ **CERTIFIES** the statement and **MAKES**
26 full payment of the assessment levied under section 5 by September
27 15. An eligible claimant may amend a ~~filed~~ **CERTIFIED** statement for

1 the current year up to September 15. Payments made due to an
2 amended statement are subject to the penalties as described in this
3 subsection. The department ~~of treasury~~ shall issue refunds for
4 overpayments due to an amended statement. All refunds due to
5 overpayment shall be remitted without interest except as provided
6 by section 37 of the tax tribunal act, 1973 PA 186, MCL 205.737.

7 (5) For any assessment year in which an eligible claimant does
8 not submit payment in full and any penalty due under subsection (4)
9 or (6) by October 15, or if the ~~state tax commission~~ **DEPARTMENT**
10 discovers that the property is not eligible under section 9m or 9n
11 of the general property tax act, 1893 PA 206, MCL 211.9m and
12 211.9n, all of the following shall apply:

13 (a) The ~~state tax commission~~ **DEPARTMENT** shall issue an order
14 to rescind no later than the first Monday in December for the
15 assessment year any exemption described in section 9m or 9n of the
16 general property tax act, 1893 PA 206, MCL 211.9m and 211.9n,
17 granted for any parcel for which payment in full and any penalty
18 due have not been received or for which the ~~state tax commission~~
19 **DEPARTMENT** discovers that the property is not eligible under
20 section 9m or 9n of the general property tax act, 1893 PA 206, MCL
21 211.9m and 211.9n.

22 (b) ~~The~~ **UPON THE REQUEST OF THE DEPARTMENT, THE** state tax
23 commission shall issue an order to rescind no later than the first
24 Monday in December for the assessment year any exemption under
25 section 9f of the general property tax act, 1893 PA 206, MCL
26 211.9f, which exemption was approved under section 9f of the
27 general property tax act, 1893 PA 206, MCL 211.9f, after 2013 for

1 any parcel for which payment in full and any penalty due have not
2 been received or for which the state tax commission discovers that
3 the property is not eligible ~~under section 9m or 9n of the general~~
4 ~~property tax act, 1893 PA 206, MCL 211.9m and 211.9n.~~**PERSONAL**
5 **PROPERTY.**

6 (c) ~~The~~**UPON THE REQUEST OF THE DEPARTMENT, THE** state tax
7 commission shall issue an order to rescind no later than the first
8 Monday in December for the assessment year any exemption for
9 eligible personal property subject to an extended industrial
10 facilities exemption certificate under section 11a of 1974 PA 198,
11 MCL 207.561a, for any parcel for which payment in full and any
12 penalty due have not been received or for which the ~~state tax~~
13 ~~commission~~**DEPARTMENT** discovers that the property is not eligible
14 ~~under section 9m or 9n of the general property tax act, 1893 PA~~
15 ~~206, MCL 211.9m and 211.9n.~~**PERSONAL PROPERTY.**

16 (d) ~~The~~**UPON THE REQUEST OF THE DEPARTMENT, THE** state tax
17 commission shall issue an order to rescind no later than the first
18 Monday in December for the assessment year any extended exemption
19 for eligible personal property under section 9f(8)(a) of the
20 general property tax act, 1893 PA 206, MCL 211.9f, for any parcel
21 for which payment in full and any penalty due have not been
22 received or for which the ~~state tax commission~~**DEPARTMENT** discovers
23 that the property is not eligible ~~under section 9m or 9n of the~~
24 ~~general property tax act, 1893 PA 206, MCL 211.9m and~~
25 ~~211.9n.~~**PERSONAL PROPERTY.**

26 (e) The eligible claimant shall file with the assessor of the
27 township or city within 30 days of the date of the ~~state tax~~

1 ~~commission order to rescind~~ **RESCISSION** issued under subdivisions
2 (a) to (d) a statement under section 19 of the general property tax
3 act, 1893 PA 206, MCL 211.19, for all property for which the
4 exemption has been rescinded under this section.

5 (f) Within 60 days of ~~an order of rescission by the state tax~~
6 ~~commission~~ **A RESCISSION** under subdivisions (a) to (d), the
7 treasurer of the local tax collecting unit shall issue amended tax
8 bills for any taxes, including penalty and interest, that were not
9 billed under the general property tax act, 1893 PA 206, MCL 211.1
10 to 211.155, or under 1974 PA 198, MCL 207.551 to 207.572, and that
11 are owed as a result of the ~~order of rescission~~.

12 (6) An eligible claimant shall provide access to the books and
13 records, for audit purposes, relating to the location and
14 description; the date of purchase, lease, or acquisition; and the
15 purchase price, lease amount, or value of all personal property
16 owned by, leased by, or in the possession of that person or a
17 related entity if requested by the assessor of the township or
18 city, county equalization department, or department ~~of treasury~~ for
19 the year in which the statement is filed and the immediately
20 preceding 3 years. The department ~~of treasury~~ shall develop and
21 implement an audit program which includes, but is not limited to,
22 the audit of statements submitted under subsection (3) and amended
23 statements submitted under subsection (4) for the current calendar
24 year and the 3 calendar years immediately preceding the
25 commencement of an audit. An assessment as a result of an audit
26 shall be paid in full within 35 days of issuance and shall include
27 penalties and interest as described in section 154(3) of the

1 general property tax act, 1893 PA 206, MCL 211.154. Refunds as a
2 result of an audit under this subsection shall be without interest.
3 The exemption for personal property for which an assessment has
4 been issued as a result of an audit under this subsection shall be
5 subject to the rescission provisions of subsection (5) for the
6 years of the assessment if full payment is not timely made as
7 required by this subsection.

8 (7) An eligible claimant may appeal an assessment levied under
9 section 5 or a penalty or rescission under this section to the
10 ~~state tax commission~~ **MICHIGAN TAX TRIBUNAL** by filing a petition not
11 later than December 31 in that tax year. An eligible claimant may
12 appeal an assessment issued, including penalties, interest, or
13 rescission, as a result of an audit conducted under subsection (6)
14 by filing a petition with the ~~state tax commission~~ **MICHIGAN TAX**
15 **TRIBUNAL** within ~~30~~ **35** days of the date of that assessment's
16 issuance. The department of ~~treasury~~ may appeal to the ~~state tax~~
17 ~~commission~~ **MICHIGAN TAX TRIBUNAL** by filing a petition for the
18 current calendar year and 3 immediately preceding calendar years.
19 ~~The state tax commission shall decide any appeal based on the~~
20 ~~written petition and the written recommendation of state tax~~
21 ~~commission staff and any other relevant information. The department~~
22 ~~of treasury or any eligible claimant may appeal the determination~~
23 ~~of the state tax commission to the Michigan tax tribunal within 35~~
24 ~~days of the date of the determination.~~

25 (8) ~~For any year before 2023, the~~ **THE** department of ~~treasury~~
26 may require eligible claimants to **ANNUALLY** file by February 20 of
27 ~~the~~ **EACH** year a combined document that includes the affidavit **FORM**

1 TO CLAIM THE EXEMPTION under sections 9f(9), 9m, and 9n of the
2 general property tax act, 1893 PA 206, MCL 211.9f, 211.9m, and
3 211.9n, ~~the affidavit~~ AND under section 11a of 1974 PA 198, MCL
4 207.561a, A REPORT OF THE FAIR MARKET VALUE AND YEAR OF ACQUISITION
5 BY THE FIRST OWNER OF ELIGIBLE PERSONAL PROPERTY, AND FOR ANY YEAR
6 BEFORE 2023, a statement under section 19 of the general property
7 tax act, 1893 PA 206, MCL 211.19. ~~and a report of the acquisition~~
8 ~~cost and year of acquisition by the first owner of eligible~~
9 ~~personal property.~~ ALL OF THE FOLLOWING APPLY TO THE FILING OF A
10 COMBINED DOCUMENT UNDER THIS SUBSECTION:

11 (A) The combined document shall be in a form prescribed by the
12 ~~state tax commission.~~ DEPARTMENT.

13 (B) AS PROVIDED IN SECTIONS 9M AND 9N OF THE GENERAL PROPERTY
14 TAX ACT, 1893 PA 206, MCL 211.9M AND 211.9N, LEASING COMPANIES ARE
15 NOT ELIGIBLE TO RECEIVE THE EXEMPTION FOR QUALIFIED NEW PERSONAL
16 PROPERTY AND QUALIFIED PREVIOUSLY EXISTING PERSONAL PROPERTY AND
17 MAY NOT USE THE COMBINED DOCUMENT PRESCRIBED IN THIS SECTION. WITH
18 RESPECT TO PERSONAL PROPERTY THAT IS THE SUBJECT OF A LEASE
19 AGREEMENT, REGARDLESS OF WHETHER THE AGREEMENT CONSTITUTES A LEASE
20 FOR FINANCIAL OR TAX PURPOSES, ALL OF THE FOLLOWING APPLY:

21 (i) IF THE PERSONAL PROPERTY IS ELIGIBLE MANUFACTURING
22 PERSONAL PROPERTY, THE LESSEE AND LESSOR MAY ELECT THAT THE LESSEE
23 REPORT THE LEASED PERSONAL PROPERTY ON THE COMBINED DOCUMENT.

24 (ii) AN ELECTION MADE BY THE LESSOR AND THE LESSEE UNDER THIS
25 SUBDIVISION SHALL BE MADE IN A FORM AND MANNER APPROVED BY THE
26 DEPARTMENT.

27 (iii) ABSENT AN ELECTION, THE PERSONAL PROPERTY SHALL BE

1 REPORTED BY THE LESSOR ON THE PERSONAL PROPERTY STATEMENT UNLESS
2 THE EXEMPTION FOR ELIGIBLE MANUFACTURING PERSONAL PROPERTY IS
3 CLAIMED BY THE LESSEE ON THE COMBINED DOCUMENT.

4 (C) FOR ELIGIBLE PERSONAL PROPERTY EXEMPT UNDER THE MICHIGAN
5 RENAISSANCE ZONE ACT, 1996 PA 376, MCL 125.2681 TO 125.2696, AN
6 ELIGIBLE CLAIMANT SHALL REPORT THE FAIR MARKET VALUE OF THAT
7 PERSONAL PROPERTY AT THE TIME OF ACQUISITION BY THE FIRST OWNER,
8 INCLUDING THE COST OF FREIGHT, SALES TAX, INSTALLATION, AND OTHER
9 CAPITALIZED COSTS, EXCEPT CAPITALIZED INTEREST.

10 (D) The combined document shall be filed with the assessor of
11 the township or city in which the eligible personal property is
12 located.

13 (E) The assessor shall transmit the information contained in
14 the combined document filed under this subsection, and other parcel
15 information required by the department, ~~of treasury,~~ to the
16 department ~~of treasury~~ in the form and in the manner prescribed by
17 the department ~~of treasury~~ no later than April 1.

18 Sec. 9. (1) Proceeds of the assessment collected under section
19 7 shall be credited to the general fund.

20 (2) Beginning in fiscal year 2014-2015 and each fiscal year
21 thereafter, the legislature shall appropriate funds in an amount
22 equal to the necessary expenses incurred by the department ~~of~~
23 ~~treasury~~ in implementing this act.