

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 422

A bill to provide for the establishment of residential housing districts in certain local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain qualified residential 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 certain state and local governmental officials; and to provide penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "residential housing
2 facilities act".

3 Sec. 2. As used in this act:

1 (a) "Adjusted household income" means that term as defined in
2 R 125.101 of the Michigan Administrative Code.

3 (b) "Commission" means the state tax commission created by
4 1927 PA 360, MCL 209.101 to 209.107.

5 (c) "Department" means the department of treasury.

6 (d) "Income-qualified household" means an individual, couple,
7 family, or group of unrelated individuals whose adjusted household
8 income is 120% or less of the countywide area median income as
9 posted annually by the Michigan state housing development authority
10 on its website.

11 (e) "Modified household income" means the gross annual income
12 from all sources and before taxes or withholding of all individuals
13 of a household living in a residential dwelling unit or housing
14 unit after deducting all of the following:

15 (i) Unusual or temporary income of any member of the household.

16 (ii) Six hundred and fifty dollars for each member of the
17 household.

18 (iii) Earnings of a member of a household who is under 18 years
19 of age.

20 (iv) Fifty percent of the income of a second adult wage earner
21 jointly occupying the residential dwelling unit or housing unit
22 whose individual income is less than that of the wage earner with
23 the highest income.

24 (v) The lesser of \$1,000.00 or 10% of the gross annual income.

25 (f) "New residential facility" means residential housing
26 property newly constructed on or after the effective date of this
27 act.

28 (g) "Qualified local governmental unit" means a city, village,
29 or township.

1 (h) "Qualified residential facility" means a new residential
2 facility or a rehabilitated residential facility, located in a
3 residential housing district.

4 (i) "Rehabilitated residential facility" means existing
5 residential housing property that has been renovated, with a
6 renovation investment of not less than \$50,000.00 as determined by
7 the qualified local governmental unit, on or after the effective
8 date of this act, to bring the property into conformance with
9 minimum local building code standards for occupancy, as determined
10 by the qualified local governmental unit.

11 (j) "Residential housing district" or "district" means an area
12 not less than 1 acre in size of a qualified local governmental unit
13 established as provided in section 3.

14 (k) "Residential housing exemption certificate" or
15 "certificate" means the certificate issued under section 6.

16 (l) "Residential housing facility tax" or "specific tax" means
17 the specific tax levied under this act.

18 (m) "Residential housing property" means that portion of real
19 property not occupied by an owner of that real property, that is
20 used for residential purposes, is rented or leased to an income-
21 qualified household at no more than 30% of the household's modified
22 household income as determined by the qualified local governmental
23 unit, and is either a multiple-unit dwelling of more than 4 units
24 or a dwelling unit in a multiple-purpose structure of more than 4
25 dwelling units. Residential housing property does not include any
26 of the following:

27 (i) Land.

28 (ii) Property of a public utility.

29 (n) "Taxable value" means the value determined under section

1 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

2 Sec. 3. (1) A qualified local governmental unit, by resolution
3 of its legislative body, may establish 1 or more residential
4 housing districts.

5 (2) The legislative body of a qualified local governmental
6 unit may establish a residential housing district on its own
7 initiative or upon a written request filed by the owner or owners
8 of property comprising at least 50% of all taxable value of the
9 property located within a proposed district. The written request
10 must be filed with the clerk of the qualified local governmental
11 unit.

12 (3) Before adopting a resolution establishing a district, the
13 legislative body shall give written notice by certified mail to the
14 county in which the proposed district is to be located and the
15 owners of all real property within the proposed district and shall
16 afford an opportunity for a hearing on the establishment of the
17 district at which any of those owners and any other resident or
18 taxpayer of the qualified local governmental unit may appear and be
19 heard. The legislative body shall give public notice of the hearing
20 not less than 10 days or more than 30 days before the date of the
21 hearing.

22 (4) The legislative body of the qualified local governmental
23 unit, in its resolution establishing a district, shall set forth a
24 finding and determination that there is a need for residential
25 housing within the district and shall provide a copy of the
26 resolution by certified mail to the county in which the district is
27 located.

28 Sec. 4. (1) If a district is established under section 3, the
29 owner of a qualified residential facility may file an application

1 for a residential housing exemption certificate with the clerk of
2 the qualified local governmental unit that established the
3 district. The application shall be filed in the manner and form
4 prescribed by the commission. The application must contain or be
5 accompanied by a general description of the qualified residential
6 facility, a general description of the proposed use of the
7 qualified residential facility, the general nature and extent of
8 the new construction or rehabilitation to be undertaken, a time
9 schedule for undertaking and completing the qualified residential
10 facility, and information relating to the requirements in section
11 8.

12 (2) Upon receipt of an application for a residential housing
13 exemption certificate, the clerk of the qualified local
14 governmental unit shall notify in writing the assessor of the local
15 tax collecting unit in which the qualified residential facility is
16 located, and the legislative body of each taxing unit that levies
17 ad valorem property taxes in the qualified residential local
18 governmental unit in which the qualified residential facility is
19 located. Before acting upon the application, the legislative body
20 of the qualified local governmental unit shall hold a public
21 hearing on the application and give public notice of the time,
22 date, and place of the hearing in the same manner required by the
23 open meetings act, 1976 PA 267, MCL 15.261 to 15.275, to the
24 applicant, the assessor, a representative of the affected taxing
25 units, and the general public. The hearing on each application must
26 be held separately from the hearing on the establishment of the
27 district.

28 Sec. 5. The legislative body of the qualified local
29 governmental unit, not more than 60 business days after receipt of

1 the application by the clerk, shall by resolution either approve or
2 disapprove the application for a certificate in accordance with the
3 provisions of this act. The clerk shall retain the original of the
4 application and resolution. If approved, the clerk shall forward a
5 copy of the application and resolution to the commission. If
6 disapproved, the reasons shall be set forth in writing in the
7 resolution, and the clerk shall send, by certified mail, a copy of
8 the resolution to the applicant and to the assessor. If the
9 legislative body fails to timely approve the application, the
10 application is considered denied. A resolution is not effective
11 unless approved by the commission as provided in section 6.

12 Sec. 6. (1) Not more than 120 days after receipt of a copy of
13 the application and resolution adopted under section 5, the
14 commission shall approve or disapprove the resolution.

15 (2) Following approval of the application by the legislative
16 body of the qualified local governmental unit and the commission,
17 the commission shall issue to the applicant a certificate in the
18 form the commission determines, which must contain all of the
19 following:

20 (a) The address of the real property on which the qualified
21 residential facility is located.

22 (b) A statement that unless revoked as provided in this act
23 the certificate shall remain in force for the period stated in the
24 certificate.

25 (c) A statement of the taxable value of the qualified
26 residential facility for the tax year immediately preceding the
27 effective date of the certificate after deducting the taxable value
28 of the land.

29 (d) A statement of the period of time authorized by the

1 legislative body of the qualified local governmental unit within
2 which the rehabilitation or construction shall be completed.

3 (e) If the period of time authorized by the legislative body
4 of the qualified local governmental unit pursuant to subdivision
5 (b) is less than 12 years, the exemption certificate shall contain
6 the factors, criteria, and objectives, as determined by the
7 resolution of the qualified local governmental unit, necessary for
8 extending the period of time, if any.

9 (3) Except as otherwise provided in section 7(2), the
10 effective date of the certificate is the December 31 immediately
11 following the date of issuance of the certificate.

12 (4) The commission shall file with the clerk of the qualified
13 local governmental unit a copy of the certificate, and the
14 commission shall maintain a record of all certificates filed. The
15 commission shall also send, by certified mail, a copy of the
16 certificate to the applicant and the assessor of the local tax
17 collecting unit in which the qualified residential facility is
18 located.

19 Sec. 7. (1) A qualified residential facility for which a
20 certificate is in effect, but not the land on which the qualified
21 residential facility is located, for the period on and after the
22 effective date of the certificate and continuing so long as the
23 certificate is in force, is exempt from ad valorem property taxes
24 collected under the general property tax act, 1893 PA 206, MCL
25 211.1 to 211.155.

26 (2) Unless earlier revoked as provided in section 12, a
27 certificate shall remain in force and effect for a period to be
28 determined by the legislative body of the qualified local
29 governmental unit. The beginning date for the period that the

1 certificate is in force and effect may be delayed for a period of
2 up to 5 years from the date of approval of the application as
3 determined by the legislative body of the qualified local
4 governmental unit. The certificate may be issued for a period of at
5 least 1 year, but not to exceed 12 years. If the number of years
6 determined is less than 12, the certificate may be subject to
7 review by the legislative body of the qualified local governmental
8 unit and the certificate may be extended. The total amount of time
9 determined for the certificate including any extensions shall not
10 exceed 12 years after the completion of the qualified residential
11 facility. The certificate shall commence with its effective date
12 and end on the December 30 immediately following the last day of
13 the number of years determined. The date of issuance of a
14 certificate of occupancy, if required by appropriate authority,
15 shall be the date of completion of the qualified residential
16 facility.

17 (3) If the number of years determined by the legislative body
18 of the qualified local governmental unit for the period a
19 certificate remains in force is less than 12 years, the review of
20 the certificate for the purpose of determining an extension shall
21 be based upon factors, criteria, and objectives that shall be
22 placed in writing, determined and approved at the time the
23 certificate is approved by resolution of the legislative body of
24 the qualified local governmental unit and sent, by certified mail,
25 to the applicant, the assessor of the local tax collecting unit in
26 which the qualified residential facility is located, and the
27 commission.

28 Sec. 8. (1) If the taxable value of the property proposed to
29 be exempt pursuant to an application under consideration,

1 considered together with the aggregate taxable value of property
2 exempt under certificates previously granted and currently in force
3 under this act or under 1974 PA 198, MCL 207.551 to 207.572,
4 exceeds 5% of the taxable value of the qualified local governmental
5 unit, the legislative body of the qualified local governmental unit
6 shall make a separate finding and shall include a statement in its
7 resolution approving the application that exceeding that amount
8 must not have the effect of substantially impeding the operation of
9 the qualified local governmental unit or impairing the financial
10 soundness of an affected taxing unit.

11 (2) The legislative body of the qualified local governmental
12 unit shall not approve an application for a certificate unless the
13 applicant agrees to provide the legislative body of the qualified
14 local governmental unit with an income certification for the
15 income-qualified household residing within each residential
16 dwelling unit of the qualified residential facility each year that
17 the income-qualified household resides in that residential dwelling
18 unit.

19 (3) A qualified local governmental unit may develop and
20 implement an audit program that includes, but is not limited to,
21 the audit of the information submitted under subsection (2) or may
22 contract with an independent third-party auditor to audit the
23 information submitted under subsection (2). The qualified local
24 governmental unit may require the applicant to cover the cost of
25 the independent third-party auditor. The total number of
26 residential dwelling units to be reserved for income-qualified
27 households may be negotiated by the qualified local governmental
28 unit but must not be less than 30% of the total number of
29 residential dwelling units on the property or 1 residential

1 dwelling unit, whichever is greater.

2 (4) If an income-qualified household currently residing within
3 a residential dwelling unit reserved for an income-qualified
4 household has an increase in adjusted household income between the
5 time an income certification is conducted and the next income
6 certification in the following year and that household is no longer
7 an income-qualified household, then that formerly qualified
8 household may continue to reside as occupants within that
9 residential dwelling unit only for the remainder of their lease
10 agreement. However, the next available residential dwelling unit on
11 the property shall be reserved for an income-qualified household.
12 Under no circumstances shall all residential dwelling units on the
13 property be occupied by households whose adjusted household income
14 is more than 120% of the countywide area median income for greater
15 than 12 consecutive months.

16 Sec. 9. The assessor of each qualified local governmental unit
17 in which there is a qualified residential facility with respect to
18 which 1 or more certificates have been issued and are in force
19 shall determine annually as of December 31 the taxable value of
20 each qualified residential facility separately, having the benefit
21 of a certificate and upon receipt of notice of the filing of an
22 application for the issuance of a certificate, shall determine and
23 furnish to the local legislative body the taxable value of the
24 property to which the application pertains.

25 Sec. 10. (1) The residential housing facility tax is levied
26 upon every owner of a qualified residential facility to which a
27 certificate is issued under this act.

28 (2) Except as otherwise provided in this section, the amount
29 of the residential housing facility tax on a new residential

1 facility is determined each year by multiplying 1/2 of the average
2 rate of taxation levied upon commercial, industrial, and utility
3 property upon which ad valorem taxes are assessed as determined for
4 the immediately preceding calendar year by the state board of
5 assessors under section 13 of 1905 PA 282, MCL 207.13, by the
6 current taxable value of the new residential facility after
7 deducting the taxable value of the land.

8 (3) Except as otherwise provided in this section, the amount
9 of the residential housing facility tax on a rehabilitated
10 residential facility is determined each year by multiplying 1/2 of
11 the average rate of taxation levied upon commercial, industrial,
12 and utility property upon which ad valorem taxes are assessed as
13 determined for the immediately preceding calendar year by the state
14 board of assessors under section 13 of 1905 PA 282, MCL 207.13, by
15 the current taxable value of the rehabilitated residential facility
16 after deducting the taxable value of the land.

17 (4) Within 60 days after the granting of a residential housing
18 exemption certificate under section 6 for a new residential
19 facility, if the state treasurer does not determine that reducing
20 the number of mills levied under the state education tax act, 1993
21 PA 331, MCL 211.901 to 211.906, and used to calculate the specific
22 tax under subsection (2) is necessary to provide an adequate supply
23 of residential housing for income-qualified households in this
24 state, the millage rate used to calculate the specific tax under
25 subsection (2) shall be increased by 3 mills. If the state
26 treasurer determines that further reducing the millage rate used to
27 calculate the specific tax under subsection (2) is necessary to
28 provide an adequate supply of residential housing for income-
29 qualified households in this state, the state treasurer may exclude

1 an additional 3 mills levied under the state education tax act,
2 1993 PA 331, MCL 211.901 to 211.906, from the millage rate used to
3 calculate the specific tax under subsection (2).

4 (5) Notwithstanding subsections (2) and (3), the specific tax
5 paid each year for that part of a qualified residential facility
6 that is exempt from ad valorem property taxes under section 7 and
7 not used as residential housing property in the immediately
8 preceding year must be equal to the amount of the ad valorem
9 property taxes that would be paid on that portion of the qualified
10 residential facility if the qualified residential facility were not
11 exempt from ad valorem property taxes under section 7. The owner of
12 the qualified residential facility must allocate the benefits of
13 any tax exemption granted under this act exclusively to residential
14 housing property.

15 (6) The specific tax is an annual tax, payable at the same
16 times, in the same installments, and to the same officer or
17 officers as taxes imposed under the general property tax act, 1893
18 PA 206, MCL 211.1 to 211.155, are payable. Except as otherwise
19 provided in this section, the officer or officers shall disburse
20 the specific tax payments received by the officer or officers each
21 year to and among this state, cities, school districts, counties,
22 and authorities, at the same times and in the same proportions as
23 required by law for the disbursement of taxes collected under the
24 general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

25 (7) For intermediate school districts receiving state aid
26 under sections 56 and 62 of the state school aid act of 1979, 1979
27 PA 94, MCL 388.1656 and 388.1662, of the amount of specific tax
28 that would otherwise be disbursed to an intermediate school
29 district, all or a portion, to be determined on the basis of the

1 tax rates being utilized to compute the amount of state aid, shall
2 be paid to the state treasury to the credit of the state school aid
3 fund established by section 11 of article IX of the state
4 constitution of 1963.

5 (8) The amount of specific tax described in this section that
6 would otherwise be disbursed to a local school district for school
7 operating purposes must be paid instead to the state treasury and
8 credited to the state school aid fund established by section 11 of
9 article IX of the state constitution of 1963.

10 (9) The officer or officers shall send a copy of the amount of
11 disbursement made to each unit under this section to the department
12 on a form provided by the department.

13 (10) A qualified residential facility located in a renaissance
14 zone under the Michigan renaissance zone act, 1996 PA 376, MCL
15 125.2681 to 125.2696, is exempt from the specific tax levied under
16 this act to the extent and for the duration provided pursuant to
17 the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
18 125.2696, except for that portion of the specific tax attributable
19 to a special assessment or a tax described in section 7ff(2) of the
20 general property tax act, 1893 PA 206, MCL 211.7ff. The specific
21 tax calculated under this subsection must be disbursed
22 proportionately to the taxing unit or units that levied the special
23 assessment or the tax described in section 7ff(2) of the general
24 property tax act, 1893 PA 206, MCL 211.7ff.

25 Sec. 11. The amount of the specific tax, until paid, is a lien
26 upon the real property to which the certificate is applicable.
27 Proceedings upon the lien as provided by law for the foreclosure in
28 the circuit court of mortgage liens upon real property may commence
29 only upon the filing by the appropriate collecting officer of a

1 certificate of nonpayment of the specific tax, together with an
2 affidavit of proof of service of the certificate of nonpayment upon
3 the owner of the qualified residential facility by certified mail,
4 with the register of deeds of the county in which the qualified
5 residential facility is situated.

6 Sec. 12. (1) The legislative body of the qualified local
7 governmental unit may, by resolution, revoke the certificate of a
8 qualified residential facility if it finds that the completion of
9 the qualified residential facility has not occurred within the time
10 authorized by the legislative body in the certificate or a duly
11 authorized extension of that time, or that the holder of the
12 certificate has not proceeded in good faith with the operation of
13 the qualified residential facility in a manner consistent with the
14 purposes of this act and in the absence of circumstances that are
15 beyond the control of the holder of the certificate.

16 (2) Upon receipt of a request by certified mail to the
17 legislative body of the qualified local governmental unit by the
18 holder of a certificate requesting revocation of the certificate,
19 the legislative body of the qualified local governmental unit may,
20 by resolution, revoke the certificate.

21 (3) Upon the written request of the holder of a revoked
22 certificate to the legislative body of the qualified local
23 governmental unit and the commission or upon the application of a
24 subsequent owner to the legislative body of the qualified local
25 governmental unit to transfer the revoked certificate to a
26 subsequent owner, and the submission to the commission of a
27 resolution of concurrence by the legislative body of the qualified
28 local governmental unit in which the qualified residential facility
29 is located, and if the qualified residential facility continues to

1 qualify under this act, the commission may reinstate a revoked
2 certificate for the holder or a subsequent owner that has applied
3 for the transfer.

4 Sec. 13. A certificate may be transferred and assigned by the
5 holder of the certificate to a new owner of the qualified
6 residential facility if the qualified local governmental unit
7 approves the transfer after application by the new owner.

8 Sec. 14. Not later than June 15 each year, each qualified
9 local governmental unit granting a certificate shall report to the
10 commission on the status of each exemption. The report must include
11 the current taxable value of the property to which the exemption
12 pertains.

13 Sec. 15. (1) The department shall annually prepare and submit
14 to the committees of the house of representatives and senate
15 responsible for tax policy and economic development issues a report
16 on the utilization of residential housing districts, based on the
17 information filed with the commission.

18 (2) After this act has been in effect for 3 years, the
19 department shall prepare and submit to the committees of the house
20 of representatives and senate responsible for tax policy and
21 economic development issues an economic analysis of the costs and
22 benefits of this act in the 3 qualified local governmental units in
23 which it has been most heavily utilized.

24 Sec. 16. A new exemption must not be granted under this act
25 after December 31, 2027, but an exemption then in effect must
26 continue until the expiration of the certificate.