

**SUBSTITUTE FOR
HOUSE BILL NO. 4546**

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 section 9 (MCL 207.559), as amended by 2008 PA 516.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) The legislative body of the local governmental
2 unit, in its resolution approving an application, shall set forth a
3 finding and determination that the granting of the industrial
4 facilities exemption certificate, considered together with the
5 aggregate amount of industrial facilities exemption certificates

1 previously granted and currently in force, shall not have the
2 effect of substantially impeding the operation of the local
3 governmental unit or impairing the financial soundness of a taxing
4 unit that levies an ad valorem property tax in the local
5 governmental unit in which the facility is located or to be
6 located. If the state equalized valuation of property proposed to
7 be exempt pursuant to an application under consideration,
8 considered together with the aggregate state equalized valuation of
9 property exempt under certificates previously granted and currently
10 in force, exceeds 5% of the state equalized valuation of the local
11 governmental unit, the commission, with the approval of the state
12 treasurer, shall make a separate finding and shall include a
13 statement in the order approving the industrial facilities
14 exemption certificate that exceeding that amount shall not have the
15 effect of substantially impeding the operation of the local
16 governmental unit or impairing the financial soundness of an
17 affected taxing unit.

18 (2) Except for an application for a speculative building,
19 which is governed by subsection (4), the legislative body of the
20 local governmental unit shall not approve an application and the
21 commission shall not grant an industrial facilities exemption
22 certificate unless the applicant complies with all of the following
23 requirements:

24 (a) The commencement of the restoration, replacement, or
25 construction of the facility occurred not earlier than 12 months
26 before the filing of the application for the industrial facilities
27 exemption certificate. If the application is not filed within the

1 12-month period, the application may be filed within the succeeding
2 12-month period and the industrial facilities exemption certificate
3 shall in this case expire 1 year earlier than it would have expired
4 if the application had been timely filed. This subdivision does not
5 apply for applications filed with the local governmental unit after
6 December 31, 1983.

7 (b) For applications made after December 31, 1983, the
8 proposed facility shall be located within a plant rehabilitation
9 district or industrial development district that was duly
10 established in a local governmental unit eligible under this act to
11 establish a district and that was established upon a request filed
12 or by the local governmental unit's own initiative taken before the
13 commencement of the restoration, replacement, or construction of
14 the facility.

15 (c) For applications made after December 31, 1983, the
16 commencement of the restoration, replacement, or construction of
17 the facility occurred not earlier than 6 months before the filing
18 of the application for the industrial facilities exemption
19 certificate.

20 (d) The application relates to a construction, restoration, or
21 replacement program that when completed constitutes a new or
22 replacement facility within the meaning of this act and that shall
23 be situated within a plant rehabilitation district or industrial
24 development district duly established in a local governmental unit
25 eligible under this act to establish the district.

26 (e) Completion of the facility is calculated to, and will at
27 the time of issuance of the certificate have the reasonable

1 likelihood to create employment, retain employment, prevent a loss
2 of employment, or produce energy in the community in which the
3 facility is situated.

4 (f) Completion of the facility does not constitute merely the
5 addition of machinery and equipment for the purpose of increasing
6 productive capacity but rather is primarily for the purpose and
7 will primarily have the effect of restoration, replacement, or
8 updating the technology of obsolete industrial property. An
9 increase in productive capacity, even though significant, is not an
10 impediment to the issuance of an industrial facilities exemption
11 certificate if other criteria in this section and act are met. This
12 subdivision does not apply to a new facility.

13 (g) The provisions of subdivision (c) do not apply to a new
14 facility located in an existing industrial development district
15 owned by a person who filed an application for an industrial
16 facilities exemption certificate in April of 1992 if the
17 application was approved by the local governing body and was denied
18 by the state tax commission in April of 1993.

19 (h) The provisions of subdivisions (b) and (c) and section
20 4(3) do not apply to 1 or more of the following:

21 (i) A facility located in an industrial development district
22 owned by a person who filed an application for an industrial
23 facilities exemption certificate in October 1995 for construction
24 that was commenced in July 1992 in a district that was established
25 by the legislative body of the local governmental unit in July
26 1994. An industrial facilities exemption certificate described in
27 this subparagraph shall expire as provided in section 16(3).

1 (ii) A facility located in an industrial development district
2 that was established in January 1994 and was owned by a person who
3 filed an application for an industrial facilities exemption
4 certificate in February 1994 if the personal property and real
5 property portions of the application were approved by the
6 legislative body of the local governmental unit and the personal
7 property portion of the application was approved by the state tax
8 commission in December 1994 and the real property portion of the
9 application was denied by the state tax commission in December
10 1994. An industrial facilities exemption certificate described in
11 this subparagraph shall expire as provided in section 16(3).

12 (iii) A facility located in an industrial development district
13 that was established in December 1995 and was owned by a person who
14 filed an application for an industrial facilities exemptions
15 certificate in November or December 1995 for construction that was
16 commenced in September 1995.

17 (iv) A facility located in an industrial development district
18 owned by a person who filed an application for an industrial
19 facilities exemption certificate in July 2001 for construction that
20 was commenced in February 2001 in a district that was established
21 by the legislative body of the local governmental unit in September
22 2001. An industrial facilities exemption certificate described in
23 this subparagraph shall expire as provided in section 16. The
24 facility described in this subparagraph shall be taxed under this
25 act as if it was granted an industrial facilities exemption
26 certificate in October 2001, and a corrected tax bill shall be
27 issued by the local tax collecting unit if the local tax collecting

1 unit has possession of the tax roll or by the county treasurer if
2 the county has possession of the tax roll. If granting the
3 industrial facilities exemption certificate under this subparagraph
4 results in an overpayment of the tax, a rebate, including any
5 interest and penalties paid, shall be made to the taxpayer by the
6 local tax collecting unit if the local tax collecting unit has
7 possession of the tax roll or by the county treasurer if the county
8 has possession of the tax roll within 30 days of the date the
9 exemption is granted. The rebate shall be without interest.

10 (v) A facility located in an industrial development district
11 owned by a person who filed an application for an industrial
12 facilities exemption certificate in December 2005 for construction
13 that was commenced in September 2005 in a district that was
14 established by the legislative body of the local governmental unit
15 in December 2005. An industrial facilities exemption certificate
16 described in this subparagraph shall expire as provided in section
17 16.

18 (vi) A facility located in an existing industrial development
19 district owned by a person who filed or amended an application for
20 an industrial facilities exemption certificate for real property in
21 July 2006 if the application was approved by the legislative body
22 of the local governmental unit in September 2006 but not submitted
23 to the state tax commission until September 2006.

24 (vii) A new facility located in an existing industrial
25 development district owned by a person who filed or amended an
26 application for an industrial facilities exemption certificate for
27 personal property in June 2006 if the application was approved by

1 the legislative body of the local governmental unit in August 2006
2 but not submitted to the state tax commission until 2007. The
3 effective date of the certificate shall be December 31, 2006.

4 (viii) A new facility located in an industrial development
5 district that was established by the legislative body of the local
6 governmental unit in September of 2007 for construction that was
7 commenced in March 2007 and for which an application for an
8 industrial facilities exemption certificate was filed in September
9 of 2007.

10 (ix) A facility located in an industrial development district
11 that was established by the legislative body of the local
12 governmental unit in August 2007 and was owned by a person who
13 filed an application for an industrial facilities exemption
14 certificate in June 2007 for equipment that was purchased in
15 January 2007.

16 (x) A facility located in an industrial development district
17 that otherwise meets the criteria of this act that has received
18 written approval from the chairperson of the Michigan economic
19 growth authority.

20 (xi) A new facility located in an industrial development
21 district that was established by the legislative body of the local
22 governmental unit in August of 2008 for construction that was
23 commenced in December 2005 and certificate of occupancy issued in
24 September 2006 for which an application for an industrial
25 facilities exemption certificate was filed in August of 2008.

26 (xii) A facility located in an industrial development district
27 owned by a person who filed an application for a certificate for

1 real and personal property in April 2005 if the application was
2 approved by the legislative body of the local governmental unit in
3 July 2005 for construction that was commenced in July 2004.

4 (xiii) A facility located in an industrial development district
5 that was established by the legislative body of the local
6 governmental unit in December 2007 for construction that was
7 commenced in September 2007 and a certificate of occupancy issued
8 in September 2008 for which an application for an industrial
9 facilities exemption certificate was approved in May of 2008.

10 (i) The provisions of subdivision (c) do not apply to any of
11 the following:

12 (i) A new facility located in an existing industrial
13 development district owned by a person who filed an application for
14 an industrial facilities exemption certificate in October 1993 if
15 the application was approved by the legislative body of the local
16 governmental unit and the real property portion of the application
17 was denied by the state tax commission in December 1993.

18 (ii) A new facility located in an existing industrial
19 development district owned by a person who filed an application for
20 an industrial facilities exemption certificate in September 1993 if
21 the personal property portion of the application was approved by
22 the legislative body of the local governmental unit and the real
23 property portion of the application was denied by the legislative
24 body of the local governmental unit in October 1993 and
25 subsequently approved by the legislative body of the local
26 governmental unit in September 1994.

27 (iii) A facility located in an existing industrial development

1 district owned by a person who filed an application for an
2 industrial facilities exemption certificate in August 1993 if the
3 application was approved by the local governmental unit in
4 September 1993 and the application was denied by the state tax
5 commission in December 1993.

6 (iv) A facility located in an existing industrial development
7 district occupied by a person who filed an application for an
8 industrial facilities exemption certificate in June of 1995 if the
9 application was approved by the legislative body of the local
10 governmental unit in October of 1995 for construction that was
11 commenced in November or December of 1994.

12 (v) A facility located in an existing industrial development
13 district owned by a person who filed an application for an
14 industrial facilities exemption certificate in June of 1995 if the
15 application was approved by the legislative body of the local
16 governmental unit in July of 1995 and the personal property portion
17 of the application was approved by the state tax commission in
18 November of 1995.

19 (j) If the facility is locating in a plant rehabilitation
20 district or an industrial development district from another
21 location in this state, the owner of the facility is not delinquent
22 in any of the taxes described in section 10(1)(a) of the Michigan
23 renaissance zone act, 1996 PA 376, MCL 125.2690, or substantially
24 delinquent in any of the taxes described in and as provided under
25 section 10(1)(b) of the Michigan renaissance zone act, 1996 PA 376,
26 MCL 125.2690.

27 (3) If the replacement facility when completed will not be

1 located on the same premises or contiguous premises as the obsolete
2 industrial property, then the applicant shall make provision for
3 the obsolete industrial property by demolition, sale, or transfer
4 to another person with the effect that the obsolete industrial
5 property shall within a reasonable time again be subject to
6 assessment and taxation under the general property tax act, 1893 PA
7 206, MCL 211.1 to ~~211.157~~ 211.155, or be used in a manner
8 consistent with the general purposes of this act, subject to
9 approval of the commission.

10 (4) The legislative body of the local governmental unit shall
11 not approve an application and the commission shall not grant an
12 industrial facilities exemption certificate that applies to a
13 speculative building unless the speculative building is or is to be
14 located in a plant rehabilitation district or industrial
15 development district duly established by a local governmental unit
16 eligible under this act to establish a district; the speculative
17 building was constructed less than 9 years before the filing of the
18 application for the industrial facilities exemption certificate;
19 the speculative building has not been occupied since completion of
20 construction; and the speculative building otherwise qualifies
21 under subsection (2)(e) for an industrial facilities exemption
22 certificate. An industrial facilities exemption certificate granted
23 under this subsection shall expire as provided in section 16(3).

24 (5) Not later than September 1, 1989, the commission shall
25 provide to all local assessing units the name, address, and
26 telephone number of the person on the commission staff responsible
27 for providing procedural information concerning this act. After

1 October 1, 1989, a local unit of government shall notify each
2 prospective applicant of this information in writing.

3 (6) Notwithstanding any other provision of this act, if on
4 December 29, 1986 a local governmental unit passed a resolution
5 approving an exemption certificate for 10 years for real and
6 personal property but the commission did not receive the
7 application until 1992 and the application was not made complete
8 until 1995, then the commission shall issue, for that property, an
9 industrial facilities exemption certificate that begins December
10 30, 1987 and ends December 30, 1997. The facility described in this
11 subsection shall be taxed under this act as if it was granted an
12 industrial facilities exemption certificate on December 30, 1987.

13 (7) Notwithstanding any other provision of this act, if a
14 local governmental unit passed a resolution approving an industrial
15 facilities exemption certificate for a new facility on July 8, 1991
16 but rescinded that resolution and passed a resolution approving an
17 industrial facilities exemption certificate for that same facility
18 as a replacement facility on October 21, 1996, the commission shall
19 issue for that property an industrial facilities exemption
20 certificate that begins December 30, 1991 and ends December 2003.
21 The replacement facility described in this subsection shall be
22 taxed under this act as if it was granted an industrial facilities
23 exemption certificate on December 30, 1991.

24 (8) Property owned or operated by a casino is not industrial
25 property or otherwise eligible for an abatement or reduction of ad
26 valorem property taxes under this act. As used in this subsection,
27 "casino" means a casino or a parking lot, hotel, motel, convention

1 and trade center, or retail store owned or operated by a casino, an
2 affiliate, or an affiliated company, regulated by this state
3 pursuant to the Michigan gaming control and revenue act, 1996 IL 1,
4 MCL 432.201 to 432.226.

5 (9) Notwithstanding section 16a and any other provision of
6 this act, if a local governmental unit passed a resolution
7 approving an industrial facilities exemption certificate for a new
8 facility on October 28, 1996 for a certificate that expired in
9 December 2003 and the local governmental unit passes a resolution
10 approving the extension of the certificate after December 2003 and
11 before March 1, 2006, the commission shall issue for that property
12 an industrial facilities exemption certificate that begins on
13 December 30, 2005 and ends December 30, 2010 as long as the
14 property continues to qualify under this act.

15 (10) Notwithstanding any other provision of this act, if the
16 commission issued an industrial facilities exemption certificate
17 for a new facility on December 8, 1998 but revoked that industrial
18 facilities exemption certificate for that same facility effective
19 December 30, 2006 and that new facility is purchased by a buyer on
20 or before November 1, 2007, the commission shall issue for that
21 property an industrial facilities exemption certificate that begins
22 December 31, 1998 and ends December 30, 2010 and shall transfer
23 that industrial facilities exemption certificate to the buyer. The
24 new facility described in this subsection shall be taxed under this
25 act as if it was granted an industrial facilities exemption
26 certificate effective on December 31, 1998.

27 (11) Notwithstanding any other provision of this act, if the

1 commission issued industrial facilities exemption certificates for
2 new facilities on October 30, 2002, September 9, 2003, and November
3 30, 2005 but revoked the industrial facilities exemption
4 certificates for the same facilities effective December 30, 2007
5 and the new facilities continue to qualify under this act, the
6 commission shall issue for the properties industrial facilities
7 exemption certificates which end respectively on December 30, 2008,
8 December 30, 2009, and December 30, 2011.

9 (12) Notwithstanding any other provision of this act, if in
10 August 2008 a local governmental unit passed a resolution approving
11 an exemption certificate for 12 years for real and personal
12 property but the commission did not receive the application until
13 2008, then the commission shall issue, for that property, an
14 industrial facilities exemption certificate that begins December
15 31, 2006 and ends December 30, 2018. The facility described in this
16 subsection shall be taxed under this act as if it had been granted
17 an industrial facilities exemption certificate on December 31,
18 2006.

19 (13) BEGINNING APRIL 1, 2010, THE LOCAL GOVERNMENTAL UNIT
20 SHALL NOT APPROVE AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE IF
21 THE OWNER OR LESSEE OF A FACILITY FAILS TO COMPLY WITH SECTION 3 OF
22 THE MICHIGAN CORPORATE RESPONSIBILITY ACT OR FAILS TO DISCLOSE A
23 CIVIL OR CRIMINAL OFFENSE AS REQUIRED BY SECTION 3 OF THE MICHIGAN
24 CORPORATE RESPONSIBILITY ACT.

25 (14) BEGINNING WITH INDUSTRIAL FACILITIES EXEMPTION
26 CERTIFICATES THAT TAKE EFFECT ON OR AFTER APRIL 1, 2010, IF THE
27 OWNER OF THE FACILITY TO WHOM THE CERTIFICATE IS ISSUED FAILS TO

1 COMPLY WITH SECTION 3 OF THE MICHIGAN CORPORATE RESPONSIBILITY ACT
2 OR FAILS TO DISCLOSE A CIVIL OR CRIMINAL OFFENSE AS REQUIRED BY
3 SECTION 3 OF THE MICHIGAN CORPORATE RESPONSIBILITY ACT ON OR AFTER
4 APRIL 1, 2010, THEN THAT PERSON IS RESPONSIBLE FOR THE PAYMENT OF A
5 PENALTY DESCRIBED IN THIS SUBSECTION. THE PENALTY IS EQUAL TO THE
6 DIFFERENCE BETWEEN THE INDUSTRIAL FACILITY TAX AND THE GENERAL AD
7 VALOREM TAXES THAT WOULD HAVE BEEN LEVIED IF THE CERTIFICATE HAD
8 NOT BEEN GRANTED FOR EACH YEAR THE CERTIFICATE WAS IN EFFECT. THE
9 ATTORNEY GENERAL OF THIS STATE IS RESPONSIBLE FOR THE ENFORCEMENT
10 NECESSARY TO ENSURE COMPLIANCE WITH THIS SUBSECTION.