

HOUSE BILL No. 4546

March 10, 2009, Introduced by Rep. Robert Jones and referred to the Committee on Commerce.

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

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

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

26 (a) The commencement of the restoration, replacement, or
27 construction of the facility occurred not earlier than 12 months

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

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

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

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

1 (e) Completion of the facility is calculated to, and will at
2 the time of issuance of the certificate have the reasonable
3 likelihood to create employment, retain employment, prevent a loss
4 of employment, or produce energy in the community in which the
5 facility is situated.

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

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

21 (h) The provisions of subdivisions (b) and (c) and section
22 4(3) do not apply to 1 or more of the following:

23 (i) A facility located in an industrial development district
24 owned by a person who filed an application for an industrial
25 facilities exemption certificate in October 1995 for construction
26 that was commenced in July 1992 in a district that was established
27 by the legislative body of the local governmental unit in July

1 1994. An industrial facilities exemption certificate described in
2 this subparagraph shall expire as provided in section 16(3).

3 (ii) A facility located in an industrial development district
4 that was established in January 1994 and was owned by a person who
5 filed an application for an industrial facilities exemption
6 certificate in February 1994 if the personal property and real
7 property portions of the application were approved by the
8 legislative body of the local governmental unit and the personal
9 property portion of the application was approved by the state tax
10 commission in December 1994 and the real property portion of the
11 application was denied by the state tax commission in December
12 1994. An industrial facilities exemption certificate described in
13 this subparagraph shall expire as provided in section 16(3).

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

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

1 certificate in October 2001, and a corrected tax bill shall be
2 issued by the local tax collecting unit if the local tax collecting
3 unit has possession of the tax roll or by the county treasurer if
4 the county has possession of the tax roll. If granting the
5 industrial facilities exemption certificate under this subparagraph
6 results in an overpayment of the tax, a rebate, including any
7 interest and penalties paid, shall be made to the taxpayer by the
8 local tax collecting unit if the local tax collecting unit has
9 possession of the tax roll or by the county treasurer if the county
10 has possession of the tax roll within 30 days of the date the
11 exemption is granted. The rebate shall be without interest.

12 (v) A facility located in an industrial development district
13 owned by a person who filed an application for an industrial
14 facilities exemption certificate in December 2005 for construction
15 that was commenced in September 2005 in a district that was
16 established by the legislative body of the local governmental unit
17 in December 2005. An industrial facilities exemption certificate
18 described in this subparagraph shall expire as provided in section
19 16.

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

26 (vii) A new facility located in an existing industrial
27 development district owned by a person who filed or amended an

1 application for an industrial facilities exemption certificate for
2 personal property in June 2006 if the application was approved by
3 the legislative body of the local governmental unit in August 2006
4 but not submitted to the state tax commission until 2007. The
5 effective date of the certificate shall be December 31, 2006.

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

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

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

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

1 (xii) A facility located in an industrial development district
2 owned by a person who filed an application for a certificate for
3 real and personal property in April 2005 if the application was
4 approved by the legislative body of the local governmental unit in
5 July 2005 for construction that was commenced in July 2004.

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

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

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

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

1 governmental unit in September 1994.

2 (iii) A facility located in an existing industrial development
3 district owned by a person who filed an application for an
4 industrial facilities exemption certificate in August 1993 if the
5 application was approved by the local governmental unit in
6 September 1993 and the application was denied by the state tax
7 commission in December 1993.

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

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

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

1 MCL 125.2690.

2 (3) If the replacement facility when completed will not be
3 located on the same premises or contiguous premises as the obsolete
4 industrial property, then the applicant shall make provision for
5 the obsolete industrial property by demolition, sale, or transfer
6 to another person with the effect that the obsolete industrial
7 property shall within a reasonable time again be subject to
8 assessment and taxation under the general property tax act, 1893 PA
9 206, MCL 211.1 to ~~211.157~~ **211.155**, or be used in a manner
10 consistent with the general purposes of this act, subject to
11 approval of the commission.

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

26 (5) Not later than September 1, 1989, the commission shall
27 provide to all local assessing units the name, address, and

1 telephone number of the person on the commission staff responsible
2 for providing procedural information concerning this act. After
3 October 1, 1989, a local unit of government shall notify each
4 prospective applicant of this information in writing.

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

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

26 (8) Property owned or operated by a casino is not industrial
27 property or otherwise eligible for an abatement or reduction of ad

1 valorem property taxes under this act. As used in this subsection,
2 "casino" means a casino or a parking lot, hotel, motel, convention
3 and trade center, or retail store owned or operated by a casino, an
4 affiliate, or an affiliated company, regulated by this state
5 pursuant to the Michigan gaming control and revenue act, 1996 IL 1,
6 MCL 432.201 to 432.226.

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

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

1 certificate effective on December 31, 1998.

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

11 (12) Notwithstanding any other provision of this act, if in
12 August 2008 a local governmental unit passed a resolution approving
13 an exemption certificate for 12 years for real and personal
14 property but the commission did not receive the application until
15 2008, then the commission shall issue, for that property, an
16 industrial facilities exemption certificate that begins December
17 31, 2006 and ends December 30, 2018. The facility described in this
18 subsection shall be taxed under this act as if it had been granted
19 an industrial facilities exemption certificate on December 31,
20 2006.

21 **(13) BEGINNING JANUARY 1, 2010, THE OWNER OR LESSEE OF A**
22 **FACILITY WHO FAILS TO COMPLY WITH SECTION 3 OF THE MICHIGAN**
23 **CORPORATE RESPONSIBILITY ACT OR FAILS TO DISCLOSE A CIVIL OR**
24 **CRIMINAL OFFENSE AS REQUIRED BY SECTION 3 OF THE MICHIGAN CORPORATE**
25 **RESPONSIBILITY ACT IS NOT ELIGIBLE FOR AN INDUSTRIAL FACILITIES**
26 **EXEMPTION CERTIFICATE UNDER THIS ACT.**

27 **(14) BEGINNING WITH INDUSTRIAL FACILITIES EXEMPTION**

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