

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5525

A bill to amend 2014 PA 92, entitled
"State essential services assessment act,"
by amending sections 3, 7, 9, and 11 (MCL 211.1053, 211.1057,
211.1059, and 211.1061), sections 3 and 7 as amended by 2015 PA
120.

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

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

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

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

26 (b) "Assessment" means the state essential services assessment
27 levied under section 5.

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

3 (d) "Eligible claimant" means a person that claims an
4 exemption for eligible personal property.

5 (e) "Eligible personal property" means all of the following:

6 (i) Personal property exempt under section 9m or 9n of the
7 general property tax act, 1893 PA 206, MCL 211.9m and 211.9n.

8 (ii) Personal property that is eligible manufacturing personal
9 property as defined in section 9m **OF THE GENERAL PROPERTY TAX ACT,**
10 **1893 PA 206, MCL 211.9M,** and that is exempt under section 9f of the
11 general property tax act, 1893 PA 206, MCL 211.9f, which exemption
12 was approved under section 9f of the general property tax act, 1893
13 PA 206, MCL 211.9f, after 2013, unless both of the following
14 conditions are satisfied:

15 (A) The application for the exemption was filed with the
16 eligible local assessing district or Next Michigan development
17 corporation before August 5, 2014.

18 (B) The resolution approving the exemption states that the
19 project is expected to have total new personal property of over
20 \$25,000,000.00 within 5 years of the adoption of the resolution by
21 the eligible local assessing district or Next Michigan development
22 corporation.

23 (iii) Personal property subject to an extended industrial
24 facilities exemption certificate under section 11a of 1974 PA 198,
25 MCL 207.561a.

26 (iv) Personal property subject to an extended exemption under
27 section 9f(8)(a) of the general property tax act, 1893 PA 206, MCL

1 211.9f.

2 (f) "Fund board" means the board of directors of the Michigan
3 strategic fund created under the Michigan strategic fund act, 1984
4 PA 270, MCL 125.2001 to 125.2094.

5 (g) "Michigan economic development corporation" means the
6 Michigan economic development corporation, the public body
7 corporate created under section 28 of article VII of the state
8 constitution of 1963 and the urban cooperation act of 1967, 1967
9 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal
10 agreement effective April 5, 1999, and subsequently amended,
11 between local participating economic development corporations
12 formed under the economic development corporations act, 1974 PA
13 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund.

14 (h) "Michigan strategic fund" means the Michigan strategic
15 fund created under the Michigan strategic fund act, 1984 PA 270,
16 MCL 125.2001 to 125.2094.

17 (i) "Next Michigan development corporation" means that term as
18 defined under the Next Michigan development act, 2010 PA 275, MCL
19 125.2951 to 125.2959.

20 **(J) "DEPARTMENT" MEANS THE DEPARTMENT OF TREASURY.**

21 Sec. 7. (1) The department ~~of treasury~~ shall collect and
22 administer the assessment as provided in this section.

23 (2) Not later than May 1 in each assessment year, the
24 department ~~of treasury~~ shall make available in electronic form to
25 each eligible claimant a statement for calculation of the
26 assessment as provided in section 5. **THAT STATEMENT SHALL BE**
27 **DEVELOPED FROM THE INFORMATION SUBMITTED BY THE ELIGIBLE CLAIMANT**

1 ON THE COMBINED DOCUMENT AS REQUIRED BY SECTIONS 9M AND 9N OF THE
2 GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND 211.9N.

3 (3) Not later than August 15 in each assessment year, each
4 eligible claimant shall ~~submit electronically to the department of~~
5 ~~treasury~~ **REVISE AS NECESSARY AND CERTIFY** the completed statement ~~7~~
6 ~~in a form and manner prescribed by the department of treasury, and~~
7 **MAKE** full payment of the assessment levied under section 5 for that
8 assessment year as calculated in section 5(2). The department ~~of~~
9 ~~treasury~~ may waive or delay the electronic filing **CERTIFICATION**
10 requirement at its discretion. The department ~~of treasury~~ may
11 accept a timely filed statement **THAT CALCULATES THE TAX UNDER THIS**
12 **ACT THAT IS TRANSMITTED AND CERTIFIED** using reporting software
13 approved by the department, ~~of treasury~~, subject to audit under
14 subsection (6). A statement ~~submitted~~ **CERTIFIED** by an eligible
15 claimant shall include all of the eligible claimant's eligible
16 personal property located in this state subject to the assessment
17 levied under section 5. The ~~completed~~ statement required under this
18 subsection shall not be subject to disclosure under the freedom of
19 information act, 1976 PA 442, MCL 15.231 to 15.246.

20 (4) If an eligible claimant does not ~~submit~~ **CERTIFY** the
21 statement and full payment of the assessment levied under section 5
22 by August 15, the department ~~of treasury~~ shall issue a notice to
23 the eligible claimant not later than September 15. The notice shall
24 include a statement explaining the consequences of nonpayment as
25 set forth in subsection (5) and instructing the eligible claimant
26 of its potential responsibility under subsection (5)(e). An
27 eligible claimant shall submit payment in full by October 15 of the

1 assessment year along with a penalty of 1% per week on the unpaid
2 balance for each week payment is not made in full up to a maximum
3 of 5% of the total amount due and unpaid. For the eligible
4 claimant's first assessment year, the penalty shall be waived if
5 the eligible claimant ~~submits~~**CERTIFIES** the statement and **MAKES**
6 full payment of the assessment levied under section 5 by September
7 15. An eligible claimant may amend a ~~filed~~**CERTIFIED** statement for
8 the current year up to September 15. Payments made due to an
9 amended statement are subject to the penalties as described in this
10 subsection. The department ~~of treasury~~ shall issue refunds for
11 overpayments due to an amended statement. All refunds due to
12 overpayment shall be remitted without interest except as provided
13 by section 37 of the tax tribunal act, 1973 PA 186, MCL 205.737.

14 (5) For any assessment year in which an eligible claimant does
15 not submit payment in full and any penalty due under subsection (4)
16 or (6) by October 15, or if the ~~state tax commission~~**DEPARTMENT**
17 discovers that the property is not eligible under section 9m or 9n
18 of the general property tax act, 1893 PA 206, MCL 211.9m and
19 211.9n, all of the following shall apply:

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

1 211.9m and 211.9n.

2 (b) ~~The~~ **UPON REQUEST OF THE DEPARTMENT, THE** state tax
 3 commission shall issue an order to rescind no later than the first
 4 Monday in December for the assessment year any exemption under
 5 section 9f of the general property tax act, 1893 PA 206, MCL
 6 211.9f, which exemption was approved under section 9f of the
 7 general property tax act, 1893 PA 206, MCL 211.9f, after 2013 for
 8 any parcel for which payment in full and any penalty due have not
 9 been received or for which the state tax commission discovers that
 10 the property is not eligible ~~under section 9m or 9n of the general~~
 11 ~~property tax act, 1893 PA 206, MCL 211.9m and 211.9n.~~ **PERSONAL**
 12 **PROPERTY.**

13 (c) ~~The~~ **UPON REQUEST OF THE DEPARTMENT, THE** state tax
 14 commission shall issue an order to rescind no later than the first
 15 Monday in December for the assessment year any exemption for
 16 eligible personal property subject to an extended industrial
 17 facilities exemption certificate under section 11a of 1974 PA 198,
 18 MCL 207.561a, for any parcel for which payment in full and any
 19 penalty due have not been received or for which the ~~state tax~~
 20 ~~commission~~ **DEPARTMENT** discovers that the property is not eligible
 21 ~~under section 9m or 9n of the general property tax act, 1893 PA~~
 22 ~~206, MCL 211.9m and 211.9n.~~ **PERSONAL PROPERTY.**

23 (d) ~~The~~ **UPON REQUEST OF THE DEPARTMENT, THE** state tax
 24 commission shall issue an order to rescind no later than the first
 25 Monday in December for the assessment year any extended exemption
 26 for eligible personal property under section 9f(8)(a) of the
 27 general property tax act, 1893 PA 206, MCL 211.9f, for any parcel

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

6 (e) The eligible claimant shall file with the assessor of the
 7 township or city within 30 days of the date of the ~~state tax~~
 8 ~~commission order to rescind~~ **RESCISSION** issued under subdivisions
 9 (a) to (d) a statement under section 19 of the general property tax
 10 act, 1893 PA 206, MCL 211.19, for all property for which the
 11 exemption has been rescinded under this section.

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

19 (6) An eligible claimant shall provide access to the books and
 20 records, for audit purposes, relating to the location and
 21 description; the date of purchase, lease, or acquisition; and the
 22 purchase price, lease amount, or value of all personal property
 23 owned by, leased by, or in the possession of that person or a
 24 related entity if requested by the assessor of the township or
 25 city, county equalization department, or department ~~of treasury~~ for
 26 the year in which the statement is filed and the immediately
 27 preceding 3 years. The department ~~of treasury~~ shall develop and

1 implement an audit program which includes, but is not limited to,
2 the audit of statements submitted under subsection (3) and amended
3 statements submitted under subsection (4) for the current calendar
4 year and the 3 calendar years immediately preceding the
5 commencement of an audit. An assessment as a result of an audit
6 shall be paid in full within 35 days of issuance and shall include
7 penalties and interest as described in section 154(3) of the
8 general property tax act, 1893 PA 206, MCL 211.154. Refunds as a
9 result of an audit under this subsection shall be without interest.
10 The exemption for personal property for which an assessment has
11 been issued as a result of an audit under this subsection shall be
12 subject to the rescission provisions of subsection (5) for the
13 years of the assessment if full payment is not timely made as
14 required by this subsection.

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

~~commission staff and any other relevant information. The department of treasury or any eligible claimant may appeal the determination of the state tax commission to the Michigan tax tribunal within 35 days of the date of the determination.~~

(8) ~~For any year before 2023, the~~ **THE** department of treasury may require eligible claimants to **ANNUALLY** file by February 20 of ~~the~~ **EACH** year a combined document that includes the affidavit ~~FORM TO CLAIM THE EXEMPTION~~ under sections 9f(9), 9m, and 9n of the general property tax act, 1893 PA 206, MCL 211.9f, 211.9m, and 211.9n, ~~the affidavit~~ **AND** under section 11a of 1974 PA 198, MCL 207.561a, **A REPORT OF THE FAIR MARKET VALUE AND YEAR OF ACQUISITION BY THE FIRST OWNER OF ELIGIBLE PERSONAL PROPERTY, AND FOR ANY YEAR BEFORE 2023**, a statement under section 19 of the general property tax act, 1893 PA 206, MCL 211.19. ~~, and a report of the acquisition cost and year of acquisition by the first owner of eligible personal property.~~ **ALL OF THE FOLLOWING APPLY TO THE FILING OF A COMBINED DOCUMENT UNDER THIS SUBSECTION:**

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

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

1 (i) IF THE PERSONAL PROPERTY IS ELIGIBLE MANUFACTURING
2 PERSONAL PROPERTY, THE LESSEE AND LESSOR MAY ELECT THAT THE LESSEE
3 REPORT THE LEASED PERSONAL PROPERTY ON THE COMBINED DOCUMENT.

4 (ii) AN ELECTION MADE BY THE LESSOR AND THE LESSEE UNDER THIS
5 SUBDIVISION SHALL BE MADE IN A FORM AND MANNER APPROVED BY THE
6 DEPARTMENT.

7 (iii) ABSENT AN ELECTION, THE PERSONAL PROPERTY SHALL BE
8 REPORTED BY THE LESSOR ON THE PERSONAL PROPERTY STATEMENT UNLESS
9 THE EXEMPTION FOR ELIGIBLE MANUFACTURING PERSONAL PROPERTY IS
10 CLAIMED BY THE LESSEE ON THE COMBINED DOCUMENT.

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

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

20 (E) The assessor shall transmit the information contained in
21 the combined document filed under this subsection, and other parcel
22 information required by the department, ~~of treasury,~~ to the
23 department ~~of treasury~~ in the form and in the manner prescribed by
24 the department ~~of treasury~~ no later than April 1.

25 Sec. 9. (1) The fund board may adopt a resolution to exempt
26 from the assessment under this act eligible personal property
27 designated in the resolution as provided in this section and

1 described in subsection (3)(c) that is owned by, leased to, or in
2 the possession of an eligible claimant. In the resolution, the fund
3 board may determine that the eligible personal property designated
4 in the resolution shall be subject to the alternative state
5 essential services assessment under the alternative state essential
6 services assessment act. The resolution shall not be approved if
7 the state treasurer, or his or her designee to the fund board,
8 votes against the resolution.

9 (2) An exemption under this section is effective in the
10 assessment year immediately succeeding the year in which the fund
11 board adopts the resolution under subsection (1) and shall continue
12 in effect for a period specified in the resolution. A copy of the
13 resolution shall be filed with the ~~state tax commission~~. **DEPARTMENT.**

14 (3) The fund board shall provide for a detailed application,
15 approval, and compliance process published and available on the
16 fund's website. The detailed application, approval, and compliance
17 process shall, at a minimum, contain the following:

18 (a) An eligible claimant, or a next Michigan development
19 corporation on behalf of an eligible claimant, may apply for an
20 exemption to the assessment in a form and manner determined by the
21 fund board.

22 (b) After receipt of an application, the fund may enter into
23 an agreement with an eligible claimant if the eligible claimant
24 agrees to make certain investments of eligible personal property in
25 this state.

26 (c) An eligible claimant shall present a business plan or
27 demonstrate that a minimum of \$25,000,000.00 will be invested in

1 additional eligible personal property in this state during the
2 duration of the written agreement.

3 (d) The written agreement shall provide in a clear and concise
4 manner all of the conditions imposed, including specific time
5 frames, on the eligible claimant, to receive the exemption to the
6 assessment under this section.

7 (e) The written agreement shall provide that the exemption
8 under this section is revoked if the eligible claimant fails to
9 comply with the provisions of the written agreement.

10 (f) The written agreement shall provide for a repayment
11 provision on the exemption to the assessment if the eligible
12 claimant fails to comply with the provisions of the written
13 agreement.

14 (g) The written agreement shall provide for an audit provision
15 that requires the fund to verify that the specific time frames for
16 the investment have been met.

17 (4) The fund board shall consider the following criteria to
18 the extent reasonably applicable to the type of investment proposed
19 when approving an exemption to the assessment:

20 (a) Out-of-state competition.

21 (b) Net-positive return to this state.

22 (c) Level of investment made by the eligible claimant.

23 (d) Business diversification.

24 (e) Reuse of existing facilities.

25 (f) Near-term job creation or significant job retention as a
26 result of the investment made in eligible personal property.

27 (g) Strong links to Michigan suppliers.

1 (h) Whether the project is in a local unit of government that
2 contains an eligible distressed area as that term is defined in
3 section 11 of the state housing development authority act of 1966,
4 1966 PA 346, MCL 125.1411.

5 (5) The fund board, or the Michigan economic development
6 corporation, may charge actual and reasonable fees for costs
7 associated with administering the activities authorized under this
8 section.

9 Sec. 11. (1) Proceeds of the assessment collected under
10 section 7 shall be credited to the general fund.

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