

# SENATE BILL No. 1082

January 21, 2010, Introduced by Senators JANSEN, ALLEN, HUNTER, PAPPAGEORGE, CLARKE and HARDIMAN and referred to the Committee on Commerce and Tourism.

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 sections 2 and 22 (MCL 207.552 and 207.572), section 2 as amended by 2008 PA 581 and section 22 as amended by 1994 PA 266.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2. (1) "Commission" means the state tax commission  
2 created by 1927 PA 360, MCL 209.101 to 209.107.

3           (2) "Facility" means either a replacement facility, a new  
4 facility, or, if applicable by its usage, a speculative building.

1           (3) "NEXT MICHIGAN DEVELOPMENT CORPORATION" MEANS THAT TERM AS  
2 DEFINED IN SECTION 3 OF THE NEXT MICHIGAN DEVELOPMENT ACT.

3           (4) ~~(3)~~—"Replacement facility" means 1 of the following:

4           (a) In the case of a replacement or restoration that occurs on  
5 the same or contiguous land as that which is replaced or restored,  
6 industrial property that is or is to be acquired, constructed,  
7 altered, or installed for the purpose of replacement or restoration  
8 of obsolete industrial property together with any part of the old  
9 altered property that remains for use as industrial property after  
10 the replacement, restoration, or alteration.

11           (b) In the case of construction on vacant noncontiguous land,  
12 property that is or will be used as industrial property that is or  
13 is to be acquired, constructed, transferred, or installed for the  
14 purpose of being substituted for obsolete industrial property if  
15 the obsolete industrial property is situated in a plant  
16 rehabilitation district in the same city, village, or township as  
17 the land on which the facility is or is to be constructed and  
18 includes the obsolete industrial property itself until the time as  
19 the substituted facility is completed.

20           (5) ~~(4)~~—"New facility" means new industrial property other  
21 than a replacement facility to be built in a plant rehabilitation  
22 district or industrial development district.

23           (6) ~~(5)~~—"Local governmental unit" means a city, village, ~~or~~  
24 township, **OR NEXT MICHIGAN DEVELOPMENT CORPORATION** located in this  
25 state. **FOR PURPOSES OF THIS ACT, IF A NEXT MICHIGAN DEVELOPMENT**  
26 **CORPORATION ESTABLISHES A PLANT REHABILITATION DISTRICT OR AN**  
27 **INDUSTRIAL DEVELOPMENT DISTRICT, THE NEXT MICHIGAN DEVELOPMENT**

1 CORPORATION SHALL ACT AS THE LOCAL GOVERNMENTAL UNIT IN  
2 ESTABLISHING AND OPERATING THE PLANT REHABILITATION DISTRICT OR THE  
3 INDUSTRIAL DEVELOPMENT DISTRICT.

4 (7) ~~(6)~~—"Industrial property" means land improvements,  
5 buildings, structures, and other real property, and machinery,  
6 equipment, furniture, and fixtures or any part or accessory whether  
7 completed or in the process of construction comprising an  
8 integrated whole, the primary purpose and use of which is the  
9 engaging in a high-technology activity, operation of a strategic  
10 response center, operation of a motorsports entertainment complex,  
11 operation of a logistical optimization center, operation of  
12 qualified commercial activity, operation of a major distribution  
13 and logistics facility, the manufacture of goods or materials,  
14 creation or synthesis of biodiesel fuel, or the processing of goods  
15 and materials by physical or chemical change; property acquired,  
16 constructed, altered, or installed due to the passage of proposal A  
17 in 1976; the operation of a hydro-electric dam by a private company  
18 other than a public utility; or agricultural processing facilities.  
19 Industrial property includes facilities related to a manufacturing  
20 operation under the same ownership, including, but not limited to,  
21 office, engineering, research and development, warehousing, or  
22 parts distribution facilities. Industrial property also includes  
23 research and development laboratories of companies other than those  
24 companies that manufacture the products developed from their  
25 research activities and research development laboratories of a  
26 manufacturing company that are unrelated to the products of the  
27 company. For applications approved by the legislative body of a

1 local governmental unit between June 30, 1999 and December 31,  
2 2007, industrial property also includes an electric generating  
3 plant that is not owned by a local unit of government, including,  
4 but not limited to, an electric generating plant fueled by biomass.  
5 Industrial property also includes convention and trade centers in  
6 which construction begins not later than December 31, 2010 and is  
7 over 250,000 square feet in size or, if located in a county with a  
8 population of more than 750,000 and less than 1,100,000, is over  
9 100,000 square feet in size or, if located in a county with a  
10 population of more than 26,000 and less than 28,000, is over 30,000  
11 square feet in size. Industrial property also includes a federal  
12 reserve bank operating under 12 USC 341, located in a city with a  
13 population of 750,000 or more. Industrial property may be owned or  
14 leased. However, in the case of leased property, the lessee is  
15 liable for payment of ad valorem property taxes and shall furnish  
16 proof of that liability. **FOR PURPOSES OF A LOCAL GOVERNMENTAL UNIT**  
17 **THAT IS A NEXT MICHIGAN DEVELOPMENT CORPORATION, INDUSTRIAL**  
18 **PROPERTY INCLUDES ONLY PROPERTY USED IN THE OPERATION OF AN**  
19 **ELIGIBLE NEXT MICHIGAN BUSINESS, AS THAT TERM IS DEFINED IN SECTION**  
20 **3 OF THE MICHIGAN ECONOMIC GROWTH AUTHORITY ACT, 1995 PA 24, MCL**  
21 **207.803.** Industrial property does not include any of the following:  
22 (a) Land.  
23 (b) Property of a public utility other than an electric  
24 generating plant that is not owned by a local unit of government  
25 and for which an application was approved by the legislative body  
26 of a local governmental unit between June 30, 1999 and December 31,  
27 2007.

1 (c) Inventory.

2 (8) ~~(7)~~—"Obsolete industrial property" means industrial  
3 property the condition of which is substantially less than an  
4 economically efficient functional condition.

5 (9) ~~(8)~~—"Economically efficient functional condition" means a  
6 state or condition of property the desirability and usefulness of  
7 which is not impaired due to changes in design, construction,  
8 technology, or improved production processes, or from external  
9 influencing factors that make the property less desirable and  
10 valuable for continued use.

11 (10) ~~(9)~~—"Research and development laboratories" means  
12 building and structures, including the machinery, equipment,  
13 furniture, and fixtures located in the building or structure, used  
14 or to be used for research or experimental purposes that would be  
15 considered qualified research as that term is used in section 41 of  
16 the internal revenue code, 26 USC 41, except that qualified  
17 research also includes qualified research funded by grant,  
18 contract, or otherwise by another person or governmental entity.

19 (11) ~~(10)~~—"Manufacture of goods or materials" or "processing  
20 of goods or materials" means any type of operation that would be  
21 conducted by an entity included in the classifications provided by  
22 sector 31-33 – manufacturing, of the North American industry  
23 classification system, United States, 1997, published by the office  
24 of management and budget, regardless of whether the entity  
25 conducting that operation is included in that manual.

26 (12) ~~(11)~~—"High-technology activity" means that term as  
27 defined in section 3 of the Michigan economic growth authority act,

1 1995 PA 24, MCL 207.803.

2 (13) ~~(12)~~—"Logistical optimization center" means a sorting and  
 3 distribution center that ~~supports a private passenger motor vehicle~~  
 4 ~~assembly center and its manufacturing process for the purpose of~~  
 5 ~~optimizing~~ **OPTIMIZES** transportation ~~, AND USES~~ just-in-time  
 6 inventory management ~~, and material handling. , and to which all of~~  
 7 ~~the following apply:~~

8 ~~—— (a) The sorting and distribution center is within 2 miles of a~~  
 9 ~~private passenger motor vehicle assembly center that, together with~~  
 10 ~~supporting facilities, contains at least 800,000 square feet.~~

11 ~~—— (b) The sorting and distribution center contains at least~~  
 12 ~~950,000 square feet.~~

13 ~~—— (c) The sorting and distribution center has applied for an~~  
 14 ~~industrial facilities exemption certificate after June 30, 2005 and~~  
 15 ~~before January 1, 2006.~~

16 ~~—— (d) The private passenger motor vehicle assembly center is~~  
 17 ~~located on land conditionally transferred by a township with a~~  
 18 ~~population of more than 25,000 under 1984 PA 425, MCL 124.21 to~~  
 19 ~~124.30, to a city with a population of more than 100,000 that~~  
 20 ~~levies an income tax under the city income tax act, 1964 PA 284,~~  
 21 ~~MCL 141.501 to 141.787.~~

22 (14) ~~(13)~~—"Commercial property" means that term as defined in  
 23 section 2 of the obsolete property rehabilitation act, 2000 PA 146,  
 24 MCL 125.2782.

25 (15) ~~(14)~~—"Qualified commercial activity" means commercial  
 26 property that meets all of the following:

27 (a) At least 90% of the property, excluding the surrounding

1 green space, is used for warehousing, distribution, or logistic  
2 purposes and is located in a county that borders another state or  
3 Canada or for a communications center.

4 (b) Occupies a building or structure that is greater than  
5 100,000 square feet in size.

6 (16) ~~(15)~~—"Motorsports entertainment complex" means a closed-  
7 course motorsports facility, and its ancillary grounds and  
8 facilities, that satisfies all of the following:

9 (a) Has at least 70,000 fixed seats for race patrons.

10 (b) Has at least 6 scheduled days of motorsports events each  
11 calendar year, at least 2 of which shall be comparable to nascar  
12 nextel cup events held in 2007 or their successor events.

13 (c) Serves food and beverages at the facility during  
14 sanctioned events each calendar year through concession outlets, a  
15 majority of which are staffed by individuals who represent or are  
16 members of 1 or more nonprofit civic or charitable organizations  
17 that directly financially benefit from the concession outlets'  
18 sales.

19 (d) Engages in tourism promotion.

20 (e) Has permanent exhibitions of motorsports history, events,  
21 or vehicles.

22 (17) ~~(16)~~—"Major distribution and logistics facility" means a  
23 proposed distribution center that meets all of the following:

24 (a) Contains at least 250,000 square feet.

25 (b) Has or will have an assessed value of \$5,000,000.00 or  
26 more for the real property.

27 (c) Is located within 35 miles of the border of this state.

1 (d) Has as its purpose the distribution of inventory and  
2 materials to facilities owned by the taxpayer whose primary  
3 business is the retail sale of sporting goods and related  
4 inventory.

5 Sec. 22. (1) A new industrial facilities exemption certificate  
6 shall not be approved and issued under this act after April 1,  
7 1994, unless a written agreement is entered into between the local  
8 governmental unit and the person to whom the certificate is to be  
9 issued, and filed with the department of treasury.

10 (2) A NEXT MICHIGAN DEVELOPMENT CORPORATION SHALL NOT APPROVE  
11 AN APPLICATION FOR AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE  
12 FOR AN ELIGIBLE NEXT MICHIGAN BUSINESS WITHOUT A WRITTEN AGREEMENT  
13 ENTERED INTO WITH THE ELIGIBLE NEXT MICHIGAN BUSINESS CONTAINING A  
14 REMEDY PROVISION THAT INCLUDES, BUT IS NOT LIMITED TO, ALL OF THE  
15 FOLLOWING:

16 (A) A REQUIREMENT THAT THE INDUSTRIAL FACILITIES EXEMPTION  
17 CERTIFICATE IS REVOKED IF THE ELIGIBLE NEXT MICHIGAN BUSINESS IS  
18 DETERMINED TO BE IN VIOLATION OF THE PROVISIONS OF THE WRITTEN  
19 AGREEMENT.

20 (B) A REQUIREMENT THAT THE ELIGIBLE NEXT MICHIGAN BUSINESS MAY  
21 BE REQUIRED TO REPAY ALL OR PART OF THE BENEFITS RECEIVED UNDER  
22 THIS ACT IF THE ELIGIBLE NEXT MICHIGAN BUSINESS IS DETERMINED TO BE  
23 IN VIOLATION OF THE PROVISIONS OF THE WRITTEN AGREEMENT.