March 6, 2014, Introduced by Senator JOHNSON and referred to the Committee on Economic Development.

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 2012 PA 490.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- Sec. 9. (1) The legislative body of the local governmental
- 2 unit, in its resolution approving an application, shall set forth a
- 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

04921'14 JLB

**SENATE BILL No. 852** 

- 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
- 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 211.155, or be used in a manner consistent with
- 8 the general purposes of this act, subject to approval of the
- 9 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) Notwithstanding any other provision of this act, if in
- 20 September 2011 or October 2011 a local governmental unit passed a
- 21 resolution approving an exemption certificate for 12 years for
- 22 personal property but the commission did not receive the
- 23 application until November 2011 and the commission approved the
- 24 applications in May 2012, then the commission shall issue, for that
- 25 property, an industrial facilities exemption certificate that
- 26 begins December 31, 2011 and ends December 30, 2023. The facility
- 27 described in this subsection shall be taxed under this act as if it

- 1 had been granted an industrial facilities exemption certificate on
- 2 December 31, 2011.
- 3 (14) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF ON
- 4 AUGUST 23, 2011 A LOCAL GOVERNMENTAL UNIT PASSED A RESOLUTION
- 5 APPROVING AN EXEMPTION CERTIFICATE FOR 12 YEARS FOR REAL PROPERTY
- 6 AND THE EMERGENCY MANAGER SUBSEQUENTLY APPOINTED FOR THAT LOCAL
- 7 COMMUNITY ISSUED AN ORDER APPROVING THE EXEMPTION CERTIFICATE ON
- 8 NOVEMBER 8, 2013 BUT THE COMMISSION DID NOT RECEIVE THE APPLICATION
- 9 UNTIL NOVEMBER 27, 2013, THEN THE COMMISSION SHALL ISSUE, FOR THAT
- 10 PROPERTY, AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE THAT
- 11 BEGINS DECEMBER 31, 2011 AND ENDS DECEMBER 30, 2023. THE REAL
- 12 PROPERTY COMPONENT OF THE FACILITY DESCRIBED IN THIS SUBSECTION
- 13 SHALL BE TAXED UNDER THIS ACT AS IF IT HAD BEEN GRANTED AN
- 14 INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE ON DECEMBER 31, 2011.

04921'14 Final Page JLB