

Act No. 339  
Public Acts of 2005  
Approved by the Governor  
January 3, 2006  
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January 3, 2006  
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**STATE OF MICHIGAN  
93RD LEGISLATURE  
REGULAR SESSION OF 2005**

Introduced by Senator Thomas

# **ENROLLED SENATE BILL No. 530**

AN ACT to amend 1992 PA 147, entitled "An act to provide for the development and rehabilitation of residential housing; to provide for the creation of neighborhood enterprise zones; to provide for obtaining neighborhood enterprise zone certificates for a period of time and to prescribe the contents of the certificates; to provide for the exemption of certain taxes; to provide for the levy and collection of a specific tax on the owner of certain facilities; and to prescribe the powers and duties of certain officers of the state and local governmental units," by amending sections 2, 3, 4, 8, 10, 11, 12, and 13 (MCL 207.772, 207.773, 207.774, 207.778, 207.780, 207.781, 207.782, and 207.783), sections 2, 3, and 12 as amended by 2004 PA 396, section 4 as amended by 2004 PA 566, and sections 10 and 11 as amended by 2001 PA 217.

*The People of the State of Michigan enact:*

Sec. 2. As used in this act:

- (a) "Commission" means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.
- (b) "Condominium unit" means that portion of a structure intended for separate ownership, intended for residential use, and established pursuant to the condominium act, 1978 PA 59, MCL 559.101 to 559.276. Condominium units within a qualified historic building may be held under common ownership.
- (c) "Developer" means a person who is the owner of a new facility at the time of construction or of a rehabilitated facility at the time of rehabilitation for which a neighborhood enterprise zone certificate is applied for or issued.
- (d) "Facility" means a homestead facility, a new facility, or a rehabilitated facility.
- (e) "Homestead facility" means an existing structure, purchased by or transferred to an owner after December 31, 1997, that has as its primary purpose residential housing consisting of 1 or 2 units, 1 of which is occupied by an owner as his or her principal residence and that is located within a subdivision platted pursuant to state law before January 1, 1968.
- (f) "Local governmental unit" means a qualified local governmental unit as that term is defined under section 2 of the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2782, or a county seat.
- (g) "New facility" means a new structure or a portion of a new structure that has as its primary purpose residential housing consisting of 1 or 2 units, 1 of which is or will be occupied by an owner as his or her principal residence. New facility includes a model home or a model condominium unit. New facility includes a new individual condominium unit, in a structure with 1 or more condominium units, that has as its primary purpose residential housing and that is or will be occupied by an owner as his or her principal residence. New facility does not include apartments.
- (h) "Neighborhood enterprise zone certificate" or "certificate" means a certificate issued pursuant to sections 4, 5, and 6.
- (i) "Owner" means the record title holder of, or the vendee of the original land contract pertaining to, a new facility, a homestead facility, or a rehabilitated facility for which a neighborhood enterprise zone certificate is applied for or issued.

(j) "Qualified historic building" means a property within a neighborhood enterprise zone that has been designated a historic resource as defined under section 266 of the income tax act of 1967, 1967 PA 281, MCL 206.266.

(k) "Rehabilitated facility" means an existing structure or a portion of an existing structure with a current true cash value of \$80,000.00 or less per unit that has or will have as its primary purpose residential housing, consisting of 1 to 8 units, the owner of which proposes improvements that if done by a licensed contractor would cost in excess of \$5,000.00 per owner-occupied unit or 50% of the true cash value, whichever is less, or \$7,500.00 per nonowner-occupied unit or 50% of the true cash value, whichever is less, or the owner proposes improvements that would be done by the owner and not a licensed contractor and the cost of the materials would be in excess of \$3,000.00 per owner-occupied unit or \$4,500.00 per nonowner-occupied unit and will bring the structure into conformance with minimum local building code standards for occupancy or improve the livability of the units while meeting minimum local building code standards. Rehabilitated facility also includes an individual condominium unit, in a structure with 1 or more condominium units that has as its primary purpose residential housing, the owner of which proposes the above described improvements. Rehabilitated facility also includes existing or proposed condominium units in a qualified historic building with 1 or more existing or proposed condominium units. Rehabilitated facility does not include a facility rehabilitated with the proceeds of an insurance policy for property or casualty loss. A qualified historic building may contain multiple rehabilitated facilities.

Sec. 3. (1) The governing body of a local governmental unit by resolution may designate 1 or more neighborhood enterprise zones within that local governmental unit. A neighborhood enterprise zone shall contain not less than 10 platted parcels of land. All the land within a neighborhood enterprise zone shall also be compact and contiguous. Contiguity is not broken by a road, right-of-way, or property purchased or taken under condemnation if the purchased or condemned property was a single parcel prior to the sale or condemnation.

(2) The total acreage of the neighborhood enterprise zones containing only new facilities or rehabilitated facilities or any combination of new facilities or rehabilitated facilities designated under this act shall not exceed 15% of the total acreage contained within the boundaries of the local governmental unit. The total acreage of the neighborhood enterprise zones containing only homestead facilities designated under this act shall not exceed 10% of the total acreage contained within the boundaries of the local governmental unit or, with the approval of the board of commissioners of the county in which the neighborhood enterprise zone is located if the county does not have an elected or appointed county executive or with the approval of the board of commissioners and the county executive of the county in which the neighborhood enterprise zone is located if the county has an elected or appointed county executive, 15% of the total acreage contained within the boundaries of the local governmental unit.

(3) Not less than 60 days before the passage of a resolution designating a neighborhood enterprise zone or the repeal or amendment of a resolution under subsection (5), the clerk of the local governmental unit shall give written notice to the assessor and to the governing body of each taxing unit that levies ad valorem property taxes in the proposed neighborhood enterprise zone. Before acting upon the resolution, the governing body of the local governmental unit shall make a finding that a proposed neighborhood enterprise zone is consistent with the master plan of the local governmental unit and the neighborhood preservation and economic development goals of the local governmental unit. The governing body before acting upon the resolution shall also adopt a statement of the local governmental unit's goals, objectives, and policies relative to the maintenance, preservation, improvement, and development of housing for all persons regardless of income level living within the proposed neighborhood enterprise zone. Additionally, before acting upon the resolution, the governing body of a local governmental unit with a population greater than 20,000 shall pass a housing inspection ordinance. A local governmental unit with a population of 20,000 or less may pass a housing inspection ordinance. Before the sale of a unit in a new or rehabilitated facility for which a neighborhood enterprise zone certificate is in effect, an inspection shall be made of the unit to determine compliance with any local construction or safety codes and that a sale may not be finalized until there is compliance with those local construction or safety codes. The governing body shall hold a public hearing not later than 45 days after the date the notice is sent but before acting upon the resolution.

(4) Upon receipt of a notice under subsection (3), the assessor shall determine and furnish to the governing body of the local governmental unit the amount of the true cash value of the property located within the proposed neighborhood enterprise zone and any other information considered necessary by the governing body.

(5) A resolution designating a neighborhood enterprise zone, other than a zone designated under subsection (2), may be repealed or amended not sooner than 3 years after the date of adoption or of the most recent amendment of the resolution by the governing body of the local governmental unit. The repeal or amendment of the resolution shall take effect 6 months after adoption. However, an action taken under this subsection does not invalidate a certificate that is issued or in effect and a facility for which a certificate is issued or in effect shall continue to be included in the total acreage limitations under this section until the certificate is expired or revoked.

(6) Upon passage, amendment, or repeal of a resolution under this section, the clerk of the local governmental unit shall notify the commission of the action taken.

Sec. 4. (1) The owner of a homestead facility or owner or developer or prospective owner or developer of a proposed new facility or an owner or developer or prospective developer proposing to rehabilitate property located in a neighborhood enterprise zone may file an application for a neighborhood enterprise zone certificate with the clerk of the

local governmental unit. The application shall be filed in the manner and form prescribed by the commission. The clerk of the local governmental unit shall provide a copy of each homestead facility application to the assessor for the local governmental unit. Except as provided in subsection (2), the application shall be filed before a building permit is issued for the new construction or rehabilitation of the facility.

(2) An application may be filed after a building permit is issued only if 1 or more of the following apply:

(a) For the rehabilitation of a facility if the area in which the facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in the calendar year 1992 and if the building permit is issued for the rehabilitation before December 31, 1994 and after the date on which the area in which the facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit.

(b) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in calendar year 1992 or 1993 and if the building permit is issued for that new facility before December 31, 1995 and after January 1, 1993.

(c) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1997 and if the building permit is issued for that new facility on February 3, 1998.

(d) For a new facility or a rehabilitated facility if the area in which the new facility or rehabilitated facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1996 and if the building permit was issued for that facility on or before July 3, 2001.

(e) For a new facility or a rehabilitated facility if the area in which the new facility or rehabilitated facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in October 1994 and if the building permit was issued for that facility on or before April 25, 1997.

(f) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in September 2001 and if the building permit is issued for that new facility on March 3, 2003.

(g) For a rehabilitated facility if all or a portion of the rehabilitated facility is a qualified historic building.

(h) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1993 and the new facility was a model home.

(i) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in August 2004 and if building permits were issued for that facility beginning November 5, 2002 through December 23, 2003.

(j) For a homestead facility.

(3) The application shall contain or be accompanied by all of the following:

(a) A general description of the homestead facility, new facility, or proposed rehabilitated facility.

(b) The dimensions of the parcel on which the homestead facility, new facility, or proposed rehabilitated facility is or is to be located.

(c) The general nature and extent of the construction to be undertaken.

(d) A time schedule for undertaking and completing the rehabilitation of property or the construction of the new facility.

(e) A statement by the owner of a homestead facility that the owner is committed to investing a minimum of \$500.00 in the first 3 years that the certificate for a homestead facility is in effect and committed to documenting the minimum investment if required to do so by the assessor of the local governmental unit.

(f) Any other information required by the local governmental unit.

(4) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (2)(c), the effective date of the certificate shall be the first day of the tax year following the year the certificate is approved by the commission.

(5) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (2)(d) or the amendatory act that added subsection (2)(e), the effective date of the certificate shall be January 1, 2001.

(6) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (2)(j), the effective date of the certificate shall be the first day of the tax year following the year the certificate is approved by the commission.

Sec. 8. A neighborhood enterprise zone certificate shall be in the form prescribed and provided by the commission and shall include the following:

(a) A legal description of the real property on which the new facility is to be located or the legal description of the homestead facility or the rehabilitated property.

(b) A statement that unless revoked under this act, the certificate shall remain in effect for the period stated in the certificate.

Sec. 10. (1) Except as provided in subsections (2) and (3), the effective date of the neighborhood enterprise zone certificate is December 31 in the year in which the new facility or rehabilitated facility is substantially completed and, for a new facility, occupied by an owner as a principal residence, as evidenced by the owner filing with the assessor of the local assessing unit all of the following:

(a) For a new facility, a certificate of occupancy.

(b) For a rehabilitated facility, a certificate that the improvements meet minimum local building code standards issued by the local building inspector or other authorized officer or a certificate of occupancy if required by local building permits or building codes.

(c) For a rehabilitated facility, documentation proving the cost requirements of section 2(k) are met.

(d) For a homestead facility or a new facility, an affidavit executed by an owner affirming that the homestead facility or new facility is occupied by an owner as a principal residence.

(2) If a new facility is substantially completed in a year but is not occupied by an owner as a principal residence until the following year, upon the request of the owner, the effective date of the neighborhood enterprise zone certificate shall be December 31 in the year immediately preceding the date of occupancy by the owner as a principal residence.

(3) Upon the request of the owner, the effective date of the neighborhood enterprise zone certificate for a rehabilitated facility shall be December 31 in the year immediately preceding the date on which the rehabilitated facility is substantially completed.

Sec. 11. (1) Upon receipt of a request by certified mail to the commission by the holder of a neighborhood enterprise zone certificate requesting revocation of the certificate, the commission by order shall revoke the certificate.

(2) The certificate shall expire if the owner fails to complete the filing requirements under section 10 within 2 years of the date the certificate was issued. The holder of the certificate may request in writing to the commission a 1-year automatic extension of the certificate if the owner has proceeded in good faith with the construction or rehabilitation of the facility in a manner consistent with the purposes of this act and the delay in completion or occupancy by an owner is due to circumstances beyond the control of the holder of the certificate. Upon request of the local governmental unit, the commission shall extend the certificate if the new facility has not been occupied.

(3) The certificate for a homestead facility or new facility is automatically revoked if the homestead facility or new facility is no longer a homestead as that term is defined in section 7a of the general property tax act, 1893 PA 206, MCL 211.7a. However, if the owner or any subsequent owner submits a certificate before the revocation is effective, the commission, upon application of the owner, shall rescind the order of revocation. If the certificate is submitted after revocation of the certificate, the commission, upon application of the owner, shall reinstate the certificate for the remaining period of time for which the original certificate would have been in effect.

(4) If the owner of the facility fails to make the annual payment of the neighborhood enterprise zone tax and the ad valorem property tax on the land under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, the commission by order shall revoke the certificate. However, if payment of these taxes is made before the revocation is effective, the commission, upon application of the owner, shall rescind the order of revocation. If payment of these taxes and any subsequent ad valorem property tax due on the facility is made after revocation of the certificate, the commission, upon application of the owner, shall reinstate the certificate for the remaining period of time for which the original certificate would have been in effect.

(5) If a homestead facility, a new facility, or a rehabilitated facility ceases to have as its primary purpose residential housing, the commission by order shall revoke the certificate for that facility. A new or rehabilitated facility does not cease to be used for its primary purpose if it is temporarily damaged or destroyed in whole or in part.

(6) If the governing body of a local governmental unit determines that a homestead facility, a new facility, or a rehabilitated facility is not in compliance with any local construction, building, or safety codes and notifies the commission by certified mail of the noncompliance, the commission by order shall revoke the certificate.

(7) The revocation shall be effective beginning the December 31 following the date of the order or, if the certificate is automatically revoked under subsection (3), the December 31 following the automatic revocation. The commission shall send by certified mail copies of the order of revocation to the holder of the certificate, to the local governmental unit in which the facility is located, to the assessor of that local governmental unit, and to the legislative body of each taxing unit that levies taxes upon property in the local governmental unit in which the new facility or rehabilitated facility is located.

Sec. 12. (1) Except as otherwise provided in this section, unless earlier revoked as provided in section 11, a neighborhood enterprise zone certificate issued before January 1, 2006 shall remain in effect for 6 to 12 years and a neighborhood enterprise zone certificate issued after December 31, 2005 shall remain in effect for 6 to 15 years from the effective date of the certificate as determined by the governing body of the local governmental unit. The governing body of

a local governmental unit that issued a neighborhood enterprise zone certificate for a new facility or a rehabilitated facility before January 1, 2006 may extend the certificate for an additional 3 years if the extension is approved by resolution before the original neighborhood enterprise zone certificate expires. If the homestead facility, new facility, or rehabilitated facility is sold or transferred to another owner who otherwise complies with this act and, for a homestead facility or a new facility, uses the homestead facility or the new facility as a principal residence, the certificate shall remain in effect.

(2) If a rehabilitated facility was sold before December 29, 1994 and a certificate was in effect for that facility at the time of the sale, and the new owner of the rehabilitated facility otherwise complies with this act, the certificate shall be reinstated and remain in effect for the remainder of the original period described in subsection (1), unless earlier revoked under section 11.

(3) Except as provided in subsection (4), a change in ownership of a rehabilitated facility constituting all or a portion of a qualified historic building, occurring after the effective date of a neighborhood enterprise zone certificate for that rehabilitated facility, shall not affect the validity of that neighborhood enterprise zone certificate, and the certificate shall remain in effect for the period specified in this section as long as the rehabilitated facility has as its primary purpose residential housing.

(4) Unless revoked earlier as provided in section 11, a neighborhood enterprise zone certificate in effect for a rehabilitated facility constituting all or a portion of a qualified historic building shall remain in effect for 11 to 17 years from the effective date of the certificate as determined by the governing body of the local governmental unit. However, if a rehabilitated facility constituting all or a portion of a qualified historic building is not transferred or sold to a person who will own and occupy the rehabilitated facility as his or her principal residence within 6 years of the effective date of the neighborhood enterprise zone certificate, the neighborhood enterprise zone certificate is revoked.

Sec. 13. (1) The assessor of each local governmental unit in which is located a homestead facility, a new facility, or a rehabilitated facility for which a neighborhood enterprise zone certificate is in effect shall determine annually, with respect to each homestead facility, new facility, or rehabilitated facility, the assessed valuation of the property comprising the facility having the benefit of a neighborhood enterprise zone certificate and the amount of ad valorem property tax that would have been paid with respect to each homestead facility, new facility, and rehabilitated facility under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, if the certificate had not been in force, and the assessed valuation on which the neighborhood enterprise zone tax is based for a homestead facility or a rehabilitated facility. A holder of a certificate shall furnish to the assessor the information necessary for the determination.

(2) After making the determinations under subsection (1), the assessor shall send annually notification of those determinations to the Michigan enterprise zone authority and the governing body of each taxing unit that levies taxes upon property in the local governmental unit in which the new facility or rehabilitated facility is located and the holder of the certificate for which the determination is made. The notice shall be sent by certified mail not later than October 15 and shall be based upon the valuation as of the immediately preceding December 31.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Jay E. Randall*

Clerk of the House of Representatives

Approved .....

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Governor