

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 126

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 2 (MCL 207.552), as amended by 2008 PA 581.

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) "Replacement facility" means 1 of the following:

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

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

18 (4) "New facility" means new industrial property other than a
19 replacement facility to be built in a plant rehabilitation district
20 or industrial development district.

21 (5) "Local governmental unit" means a city, village, or
22 township located in this state.

23 (6) "Industrial property" means land improvements, buildings,
24 structures, and other real property, and machinery, equipment,
25 furniture, and fixtures or any part or accessory whether completed
26 or in the process of construction comprising an integrated whole,
27 the primary purpose and use of which is the engaging in a high-

1 technology activity, operation of a strategic response center,
2 operation of a motorsports entertainment complex, operation of a
3 logistical optimization center, operation of qualified commercial
4 activity, operation of a major distribution and logistics facility,
5 the manufacture of goods or materials, creation or synthesis of
6 biodiesel fuel, or the processing of goods and materials by
7 physical or chemical change; property acquired, constructed,
8 altered, or installed due to the passage of proposal A in 1976; the
9 operation of a hydro-electric dam by a private company other than a
10 public utility; or agricultural processing facilities. Industrial
11 property includes facilities related to a manufacturing operation
12 under the same ownership, including, but not limited to, office,
13 engineering, research and development, warehousing, or parts
14 distribution facilities. Industrial property also includes research
15 and development laboratories of companies other than those
16 companies that manufacture the products developed from their
17 research activities and research development laboratories of a
18 manufacturing company that are unrelated to the products of the
19 company. For applications approved by the legislative body of a
20 local governmental unit between June 30, 1999 and December 31,
21 2007, industrial property also includes an electric generating
22 plant that is not owned by a local unit of government, including,
23 but not limited to, an electric generating plant fueled by biomass.
24 **FOR AN INDUSTRIAL DEVELOPMENT DISTRICT CREATED BEFORE JULY 1, 2010,**
25 **INDUSTRIAL PROPERTY ALSO INCLUDES AN ELECTRIC GENERATING PLANT THAT**
26 **IS FUELED BY BIOMASS THAT IS NOT OWNED BY A UNIT OF LOCAL**
27 **GOVERNMENT IF THE ELECTRIC GENERATING PLANT INVOLVES THE REUSE OF A**

1 FEDERAL SUPERFUND SITE REMEDIATED BY THE UNITED STATES
2 ENVIRONMENTAL PROTECTION AGENCY AND AN INDEPENDENT STUDY HAS
3 CONCLUDED THAT THE ELECTRIC GENERATING PLANT WOULD NOT HAVE AN
4 ADVERSE EFFECT ON WOOD SUPPLY OF THE AREA FROM WHICH THE WOOD
5 SUPPLY OF THE ELECTRIC GENERATING PLANT WOULD BE DERIVED. AN
6 ELECTRIC GENERATING PLANT DESCRIBED IN THE PRECEDING SENTENCE IS
7 PRESUMED NOT TO HAVE AN ADVERSE IMPACT ON THE WOOD SUPPLY OF THE
8 AREA FROM WHICH THE WOOD SUPPLY OF THE ELECTRIC GENERATING PLANT
9 WOULD BE DERIVED IF THE COMPANY HAS A STUDY FUNDED BY THE UNITED
10 STATES DEPARTMENT OF ENERGY AND MANAGED BY THE DEPARTMENT OF
11 ENERGY, LABOR, AND ECONOMIC GROWTH THAT CONCLUDES THAT THE ELECTRIC
12 GENERATING PLANT WILL CONSUME NOT MORE THAN 7.5% OF THE ANNUAL WOOD
13 GROWTH WITHIN A 60-MILE RADIUS OF THE ELECTRIC GENERATING PLANT.
14 Industrial property also includes convention and trade centers in
15 which construction begins not later than December 31, 2010 and is
16 over 250,000 square feet in size or, if located in a county with a
17 population of more than 750,000 and less than 1,100,000, is over
18 100,000 square feet in size or, if located in a county with a
19 population of more than 26,000 and less than 28,000, is over 30,000
20 square feet in size. Industrial property also includes a federal
21 reserve bank operating under 12 USC 341, located in a city with a
22 population of 750,000 or more. Industrial property may be owned or
23 leased. However, in the case of leased property, the lessee is
24 liable for payment of ad valorem property taxes and shall furnish
25 proof of that liability. Industrial property does not include any
26 of the following:

27 (a) Land.

1 (b) Property of a public utility other than an electric
2 generating plant that is not owned by a local unit of government
3 ~~and for which an application was approved by the legislative body~~
4 ~~of a local governmental unit between June 30, 1999 and December 31,~~
5 ~~2007~~ **AS PROVIDED IN THIS SUBSECTION.**

6 (c) Inventory.

7 (7) "Obsolete industrial property" means industrial property
8 the condition of which is substantially less than an economically
9 efficient functional condition.

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

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

24 (10) "Manufacture of goods or materials" or "processing of
25 goods or materials" means any type of operation that would be
26 conducted by an entity included in the classifications provided by
27 sector 31-33 - manufacturing, of the North American industry

1 classification system, United States, 1997, published by the office
2 of management and budget, regardless of whether the entity
3 conducting that operation is included in that manual.

4 (11) "High-technology activity" means that term as defined in
5 section 3 of the Michigan economic growth authority act, 1995 PA
6 24, MCL 207.803.

7 (12) "Logistical optimization center" means a sorting and
8 distribution center that supports a private passenger motor vehicle
9 assembly center and its manufacturing process for the purpose of
10 optimizing transportation, just-in-time inventory management, and
11 material handling, and to which all of the following apply:

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

15 (b) The sorting and distribution center contains at least
16 950,000 square feet.

17 (c) The sorting and distribution center has applied for an
18 industrial facilities exemption certificate after June 30, 2005 and
19 before January 1, 2006.

20 (d) The private passenger motor vehicle assembly center is
21 located on land conditionally transferred by a township with a
22 population of more than 25,000 under 1984 PA 425, MCL 124.21 to
23 124.30, to a city with a population of more than 100,000 that
24 levies an income tax under the city income tax act, 1964 PA 284,
25 MCL 141.501 to 141.787.

26 (13) "Commercial property" means that term as defined in
27 section 2 of the obsolete property rehabilitation act, 2000 PA 146,

1 MCL 125.2782.

2 (14) "Qualified commercial activity" means commercial property
3 that meets all of the following:

4 (a) At least 90% of the property, excluding the surrounding
5 green space, is used for warehousing, distribution, or logistic
6 purposes and is located in a county that borders another state or
7 Canada or for a communications center.

8 (b) Occupies a building or structure that is greater than
9 100,000 square feet in size.

10 (15) "Motorsports entertainment complex" means a closed-course
11 motorsports facility, and its ancillary grounds and facilities,
12 that satisfies all of the following:

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

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

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

23 (d) Engages in tourism promotion.

24 (e) Has permanent exhibitions of motorsports history, events,
25 or vehicles.

26 (16) "Major distribution and logistics facility" means a
27 proposed distribution center that meets all of the following:

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

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

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

5 (d) Has as its purpose the distribution of inventory and
6 materials to facilities owned by the taxpayer whose primary
7 business is the retail sale of sporting goods and related
8 inventory.