

SENATE BILL No. 914

December 9, 1999, Introduced by Senators SCHUETTE, YOUNG, SCHWARZ and SIKKEMA and referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

A bill to provide for the establishment of obsolete property rehabilitation 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 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 certain local government officials; and to provide penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "obsolete property rehabilitation act".

3 Sec. 2. As used in this act:

4 (a) "Commercial property" means land improvements classified
5 by law for general ad valorem tax purposes as real property

1 including real property assessable as personal property pursuant
2 to sections 8(d) and 14(6) of the general property tax act, 1893
3 PA 206, MCL 211.8 and 211.14, the primary purpose and use of
4 which is the operation of a commercial business enterprise.

5 Commercial property shall also include facilities related to a
6 commercial business enterprise under the same ownership, includ-
7 ing, but not limited to, office, engineering, research and devel-
8 opment, warehousing parts distribution, retail sales, and other
9 commercial activities. Commercial property may be owned or
10 leased, but only the owner of the commercial property is eligible
11 for an exemption certificate issued pursuant to section 6.

12 Commercial property does not include any of the following:

13 (i) Land.

14 (ii) Property of a public utility.

15 (iii) Inventory.

16 (b) "Commercial housing property" means that portion of real
17 property not occupied by an owner of that real property that is
18 classified as residential real property under section 34c of the
19 general property tax act, 1893 PA 206, MCL 211.34c, is a
20 multiple-unit dwelling, or is a dwelling unit in a
21 multiple-purpose structure, used for residential purposes.

22 Commercial housing property may be owned or leased, but only the
23 owner of the commercial housing property is eligible for an
24 exemption certificate issued pursuant to section 6.

25 (c) "Commission" means the state tax commission created by
26 1927 PA 360, MCL 209.101 to 209.107.

1 (d) "Department" means the department of treasury.

2 (e) "Facility" means a building or group of contiguous
3 buildings built for commercial, commercial housing, or industrial
4 purposes.

5 (f) "Industrial property" means land improvements, build-
6 ings, structures, and other real property, the primary purpose
7 and use of which is the manufacture of goods or materials or the
8 processing of goods and materials by physical or chemical change,
9 or agricultural processing facilities. Industrial property
10 includes facilities related to a manufacturing operation under
11 the same ownership, including, but not limited to, office, engi-
12 neering, research and development, warehousing, parts distribu-
13 tion facilities, or research and development laboratories.
14 Industrial property shall not include any of the following:

15 (i) Land.

16 (ii) Property of a public utility.

17 (iii) Inventory.

18 (g) "Local governmental unit" means a city, village, or
19 township.

20 (h) "Obsolete properties tax" means the specific tax levied
21 under this act.

22 (i) "Obsolete property" means commercial property, indus-
23 trial property, or commercial housing property the condition of
24 which is significantly impaired due to changes in design, con-
25 struction, composition, technology, or other similar factors that
26 make the property less desirable and less valuable for continued
27 use.

1 (j) "Obsolete property rehabilitation district" means an
2 area of a local governmental unit established as provided in sec-
3 tion 3. Only those properties within the district meeting the
4 definition of "obsolete property" are eligible for an exemption
5 certificate issued pursuant to section 6.

6 (k) "Obsolete property rehabilitation exemption certificate"
7 or "certificate" means the certificate issued pursuant to section
8 6.

9 (l) "Rehabilitation" means changes to obsolete property
10 other than replacement as may be required to restore or modify
11 the property, together with all appurtenances, to an economically
12 efficient condition. Rehabilitation shall include major renova-
13 tion and modification including, but not necessarily limited to,
14 the improvement of floor loads, correction of deficient or exces-
15 sive height, new or improved fixed building equipment, including
16 heating, ventilation, and lighting, reducing multistory facili-
17 ties to 1 or 2 stories, improved structural support including
18 foundations, improved roof structure and cover, floor replace-
19 ment, improved wall placement, improved exterior and interior
20 appearance of buildings, and other physical changes required to
21 restore or change the obsolete property to an economically effi-
22 cient condition. Rehabilitation shall not include improvements
23 aggregating less than 10% of the true cash value of the property
24 at commencement of the rehabilitation of the obsolete property.

25 (m) "Rehabilitated facility" means a commercial property,
26 industrial property, or commercial housing property that has

1 undergone rehabilitation, including rehabilitation that changes
2 the intended use of the building.

3 (n) "Taxable value" means the value determined under section
4 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

5 Sec. 3. (1) A local governmental unit, by resolution of its
6 legislative body, may establish 1 or more obsolete property reha-
7 bilitation districts that may consist of 1 or more parcels or
8 tracts of land or a portion of a parcel or tract of land, if at
9 the times the resolution is adopted, the property within the dis-
10 trict is either of the following:

11 (a) Obsolete commercial, commercial housing, or industrial
12 property in an area characterized by obsolete commercial, commer-
13 cial housing, or industrial property and a decline in commercial,
14 commercial housing, or industrial activity.

15 (b) Obsolete commercial or industrial facilities that were
16 owned by a local governmental unit on the effective date of this
17 act, and subsequently conveyed to a private owner and zoned for
18 commercial, commercial housing, or industrial activity.

19 (2) The legislative body of a local governmental unit may
20 establish an obsolete property rehabilitation district on its own
21 initiative or upon a written request filed by the owner or owners
22 of at least 50% of the taxable value of the property located
23 within a proposed obsolete property rehabilitation district. The
24 written request must be filed with the clerk of the local govern-
25 mental unit.

26 (3) Before adopting a resolution establishing an obsolete
27 property rehabilitation district, the legislative body shall give

1 written notice by certified mail to the owners of all real
2 property within the proposed obsolete property rehabilitation
3 district and shall afford an opportunity for a hearing on the
4 establishment of the obsolete property rehabilitation district at
5 which any of those owners and any other resident or taxpayer of
6 the local governmental unit may appear and be heard. The legis-
7 lative body shall give public notice of the hearing not less than
8 10 days or more than 30 days before the date of the hearing.

9 (4) The legislative body of the local governmental unit, in
10 its resolution establishing an obsolete property rehabilitation
11 district, shall set forth a finding and determination that the
12 district meets the requirements set forth in subsection (1).

13 (5) An obsolete property rehabilitation district established
14 by a township shall be applicable only within the unincorporated
15 territory of the township and shall not be applicable within a
16 village located in that township.

17 Sec. 4. (1) After the establishment of an obsolete property
18 rehabilitation district, the owner or lessee of obsolete property
19 may file an application for an obsolete property rehabilitation
20 exemption certificate with the clerk of the local governmental
21 unit that established the obsolete property rehabilitation
22 district. The application shall be filed in the manner and form
23 prescribed by the commission. The application shall contain or
24 be accompanied by a general description of the obsolete facility
25 and a general description of the proposed use of the facility,
26 the general nature and extent of the rehabilitation to be
27 undertaken, a descriptive list of the fixed building equipment

1 that will be a part of the rehabilitated facility, a time
2 schedule for undertaking and completing the rehabilitation of the
3 facility, a statement of the economic advantages expected from
4 the exemption, including the number of jobs to be retained or
5 created as a result of completing the facility, including
6 expected construction employment, and information relating to the
7 requirements in section 8.

8 (2) Upon receipt of an application for an obsolete property
9 rehabilitation exemption certificate, the clerk of the local gov-
10 ernmental unit shall notify in writing the assessor of the
11 assessing unit in which the obsolete facility is located, and the
12 legislative body of each taxing unit that levies ad valorem prop-
13 erty taxes in the local governmental unit in which the obsolete
14 facility is located. Before acting upon the application, the
15 legislative body of the local governmental unit shall hold a
16 public hearing on the application and give public notice to the
17 applicant, the assessor, a representative of the affected taxing
18 jurisdictions, and the general public. The hearing on the appli-
19 cation shall be held separately from the hearing on the estab-
20 lishment of the obsolete property rehabilitation district.

21 (3) Upon receipt of an application for an obsolete property
22 rehabilitation exemption certificate for a facility located on
23 property that was owned by a local governmental unit on the
24 effective date of this act, and subsequently conveyed to a pri-
25 vate owner, the clerk of the local governmental unit, in addition
26 to the other requirements of this section, shall request the
27 assessor of the assessing unit in which the facility is located

1 to determine the taxable value of the property. This
2 determination shall be made prior to the hearing on the applica-
3 tion for an obsolete property rehabilitation exemption certifi-
4 cate held pursuant to subsection (2).

5 Sec. 5. The legislative body of the local governmental
6 unit, not more than 60 days after receipt of the application by
7 the clerk, shall by resolution either approve or disapprove the
8 application for an obsolete property rehabilitation exemption
9 certificate in accordance with section 8 and the other provisions
10 of this act. The clerk shall retain the original of the applica-
11 tion and resolution. If disapproved, the reasons shall be set
12 forth in writing in the resolution, and the clerk shall send, by
13 certified mail, a copy of the resolution to the applicant and to
14 the assessor.

15 Sec. 6. (1) Following approval of the application by the
16 legislative body of the local governmental unit, the clerk of the
17 local governmental unit shall issue to the applicant an obsolete
18 property rehabilitation exemption certificate in the form the
19 commission determines, which shall contain all of the following:

20 (a) A legal description of the real property on which the
21 obsolete facility is located.

22 (b) A statement that unless revoked as provided in this act
23 the certificate shall remain in force for the period stated in
24 the certificate.

25 (c) A statement of the taxable value of the obsolete proper-
26 ty, separately stated for real and personal property, for the tax
27 year immediately preceding the effective date of the certificate

1 after deducting the taxable value of the land and personal
2 property other than personal property assessed pursuant to sec-
3 tion 14(6) of the general property tax act, 1893 PA 206, MCL
4 211.14.

5 (d) A statement of the period of time authorized by the leg-
6 islative body within which the rehabilitation must be completed.

7 (e) If the period of time authorized by the legislative body
8 pursuant to subdivision (d) is less than 12 years, the exemption
9 certificate must contain the factors, criteria, and objectives,
10 as determined by the resolution of the local governmental unit,
11 necessary for extending the period of time, if any.

12 (2) The effective date of the certificate is the December 31
13 immediately following the date of issuance of the certificate.

14 (3) The clerk of the local governmental unit shall file with
15 the commission a copy of the obsolete property rehabilitation
16 exemption certificate, and the commission shall maintain a record
17 of all certificates filed. The clerk of the local governmental
18 unit shall also send, by certified mail, a copy of the obsolete
19 property rehabilitation exemption certificate to the applicant
20 and the assessor.

21 Sec. 7. (1) A facility for which an obsolete property reha-
22 bilitation exemption certificate is in effect, but not the land
23 on which the facility is located, or personal property other than
24 personal property assessed pursuant to section 14(6) of the gen-
25 eral property tax act, 1893 PA 206, MCL 211.14, for the period on
26 and after the effective date of the certificate and continuing so
27 long as the obsolete property rehabilitation exemption

1 certificate is in force, is exempt from ad valorem property taxes
2 collected under the general property tax act, 1893 PA 206, MCL
3 211.1 to 211.157.

4 (2) Unless earlier revoked as provided in section 12, an
5 obsolete property rehabilitation exemption certificate shall
6 remain in force and effect for a period to be determined by the
7 legislative body of the local governmental unit. The certificate
8 may be issued for a period of at least 1 year, but not to exceed
9 12 years. If the number of years determined is less than 12, the
10 certificate may be subject to review by the legislative body of
11 the local governmental unit and the certificate may be extended.
12 The total amount of time determined for the certificate including
13 any extensions shall not exceed 12 years after the completion of
14 the rehabilitated facility. The certificate shall commence with
15 its effective date and end on the December 31 immediately follow-
16 ing the last day of the number of years determined. The date of
17 issuance of a certificate of occupancy, if required by appropri-
18 ate authority, shall be the date of completion of the rehabili-
19 tated facility.

20 (3) If the number of years determined by the legislative
21 body of the local governmental unit for the period a certificate
22 remains in force is less than 12 years, the review of the certif-
23 icate for the purpose of determining an extension shall be based
24 upon factors, criteria, and objectives that shall be placed in
25 writing, determined and approved at the time the certificate is
26 approved by resolution of the legislative body of the local

1 governmental unit and sent, by certified mail, to the applicant,
2 the assessor, and the commission.

3 Sec. 8. (1) If the taxable value of the property proposed
4 to be exempt pursuant to an application under consideration, con-
5 sidered together with the aggregate taxable value of property
6 exempt under certificates previously granted and currently in
7 force under this act or under 1974 PA 198, MCL 207.551 to
8 207.572, exceeds 5% of the taxable value of the local governmen-
9 tal unit, the legislative body of the local governmental unit
10 shall make a separate finding and shall include a statement in
11 its resolution approving the application that exceeding that
12 amount shall not have the effect of substantially impeding the
13 operation of the local governmental unit or impairing the finan-
14 cial soundness of an affected taxing unit.

15 (2) The legislative body of the local governmental unit
16 shall not approve an application for an obsolete property exemp-
17 tion certificate unless the applicant complies with all of the
18 following requirements:

19 (a) The commencement of the rehabilitation of the facility
20 does not occur before the establishment of the obsolete property
21 rehabilitation district.

22 (b) The application relates to a rehabilitation program that
23 when completed constitutes a rehabilitated facility within the
24 meaning of this act and that shall be situated within an obsolete
25 property rehabilitation district established in a local govern-
26 mental unit eligible under this act to establish such a
27 district.

1 (c) Completion of the rehabilitated facility is calculated
2 to, and will at the time of issuance of the certificate have the
3 reasonable likelihood to, increase commercial activity, create
4 employment, retain employment, prevent a loss of employment, or
5 increase the number of residents in the community in which the
6 facility is situated.

7 (d) The applicant states, in writing, that the rehabilita-
8 tion of the facility would not be undertaken without the
9 applicant's receipt of the exemption certificate.

10 (e) The applicant is not delinquent in the payment of all
11 taxes related to the facility.

12 Sec. 9. The assessor of each city, township, or village in
13 which there is a rehabilitated facility with respect to which 1
14 or more obsolete property rehabilitation exemption certificates
15 have been issued and are in force shall determine annually as of
16 December 31 the value and taxable value, both for real and per-
17 sonal property, of each rehabilitated facility separately, having
18 the benefit of a certificate and upon receipt of notice of the
19 filing of an application for the issuance of a certificate, shall
20 determine and furnish to the local legislative body the value and
21 the taxable value of the property to which the application per-
22 tains and other information as may be necessary to permit the
23 local legislative body to make the determinations required by
24 section 8(2).

25 Sec. 10. (1) There is levied upon every owner of a rehabil-
26 itated facility to which an obsolete property rehabilitation

1 exemption certificate is issued a specific tax to be known as the
2 obsolete properties tax.

3 (2) The amount of the obsolete properties tax, in each year,
4 shall be determined by multiplying the total mills levied as ad
5 valorem taxes for that year by all taxing units within which the
6 facility is located by the taxable value of the real and personal
7 property of the obsolete property for the tax year immediately
8 preceding the effective date of the obsolete property rehabilita-
9 tion exemption certificate after deducting the taxable valuation
10 of the land and of personal property other than personal property
11 assessed pursuant to section 14(6) of the general property tax
12 act, 1893 PA 206, MCL 211.14.

13 (3) The obsolete properties tax shall be collected, dis-
14 bursed, and assessed in accordance with this act.

15 (4) The obsolete properties tax is an annual tax, payable at
16 the same times, in the same installments, and to the same officer
17 or officers as taxes imposed under the general property tax act,
18 1893 PA 206, MCL 211.1 to 211.157, are payable. Except as other-
19 wise provided in this section, the officer or officers shall dis-
20 burse the obsolete properties tax payments received by the offi-
21 cer or officers each year to and among the state, cities, town-
22 ships, villages, school districts, counties, and authorities, at
23 the same times and in the same proportions as required by law for
24 the disbursement of taxes collected under the general property
25 tax act, 1893 PA 206, MCL 211.1 to 211.157.

1 (5) The officer or officers shall send a copy of the amount
2 of disbursement made to each unit under this section to the
3 commission on a form provided by the commission.

4 (6) A rehabilitated facility located in a renaissance zone
5 under the Michigan renaissance zone act, 1996 PA 376, MCL
6 125.2681 to 125.2696, is exempt from the obsolete properties tax
7 levied under this act to the extent and for the duration provided
8 pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL
9 125.2681 to 125.2696, except for that portion of the obsolete
10 properties tax attributable to a special assessment or a tax
11 described in section 7ff(2) of the general property tax act, 1893
12 PA 206, MCL 211.7ff. The obsolete properties tax calculated
13 under this subsection shall be disbursed proportionately to the
14 taxing unit or units that levied the special assessment or the
15 tax described in section 7ff(2) of the general property tax act,
16 1893 PA 206, MCL 211.7ff.

17 Sec. 11. The amount of the tax applicable to real property,
18 until paid, shall be a lien upon the real property to which the
19 certificate is applicable. Proceedings upon the lien as provided
20 by law for the foreclosure in the circuit court of mortgage liens
21 upon real property may commence only upon the filing by the
22 appropriate collecting officer of a certificate of nonpayment of
23 the obsolete properties tax applicable to real property, together
24 with an affidavit of proof of service of the certificate of non-
25 payment upon the owner of the facility by certified mail, with
26 the register of deeds of the county in which the property is
27 situated.

1 Sec. 12. The legislative body of the local governmental
2 unit may, by resolution, revoke the obsolete property rehabilita-
3 tion exemption certificate of a facility if it finds that the
4 completion of rehabilitation of the facility has not occurred
5 within the time authorized by the legislative body in the exemp-
6 tion certificate or a duly authorized extension of that time, or
7 that the holder of the obsolete property exemption certificate
8 has not proceeded in good faith with the operation of the facil-
9 ity in a manner consistent with the purposes of this act and in
10 the absence of circumstances that are beyond the control of the
11 holder of the exemption certificate.

12 Sec. 13. An obsolete property rehabilitation exemption cer-
13 tificate may be transferred and assigned by the holder of the
14 certificate to a new owner of the facility if the local govern-
15 mental unit approves the transfer after application by the new
16 owner.

17 Sec. 14. Not later than October 15 each year, each local
18 governmental unit granting an obsolete property rehabilitation
19 exemption shall report to the commission on the status of each
20 exemption. The report must include the current value of the
21 property to which the exemption pertains, the value on which the
22 obsolete property rehabilitation tax is based, a current estimate
23 of the number of jobs retained or created by the exemption, and a
24 current estimate of the number of new residents occupying commer-
25 cial housing property units covered by the exemption.

26 Sec. 15. (1) The department annually shall prepare and
27 submit to the committees of the house of representatives and

1 senate responsible for tax policy and economic development issues
2 a report on the utilization of obsolete property rehabilitation
3 districts, based on the information filed with the commission.

4 (2) After this act has been in effect for 3 years, the
5 department shall prepare and submit to the committees of the
6 house of representatives and senate responsible for tax policy
7 and economic development issues an economic analysis of the costs
8 and benefits of this act in the 3 local governmental units in
9 which it has been most heavily utilized.

10 Sec. 16. A new exemption shall not be granted under this
11 act after December 31, 2015, but an exemption then in effect
12 shall continue until the expiration of the exemption
13 certificate.