

HOUSE BILL No. 5737

April 1, 2004, Introduced by Rep. Stewart and referred to the Committee on Commerce.

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 1999 PA 140.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) The legislative body of the local governmental
2 unit, in its resolution approving an application, shall set forth
3 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
6 previously granted and currently in force, shall not have the

1 effect of substantially impeding the operation of the local
2 governmental unit or impairing the financial soundness of a
3 taxing unit that levies an ad valorem property tax in the local
4 governmental unit in which the facility is located or to be
5 located. If the state equalized valuation of property proposed
6 to be exempt pursuant to an application under consideration,
7 considered together with the aggregate state equalized valuation
8 of property exempt under certificates previously granted and
9 currently in force, exceeds 5% of the state equalized valuation
10 of the local governmental unit, the commission, with the approval
11 of the state treasurer, shall make a separate finding and shall
12 include a statement in the order approving the industrial
13 facilities exemption certificate that exceeding that amount shall
14 not have the effect of substantially impeding the operation of
15 the local governmental unit or impairing the financial soundness
16 of an affected taxing unit.

17 (2) Except for an application for a speculative building,
18 which is governed by subsection (4), **and except as otherwise**
19 **provided in this section**, the legislative body of the local
20 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
23 following 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
27 facilities exemption certificate. If the application is not

1 filed within the 12-month period, the application may be filed
2 within the succeeding 12-month period and the industrial
3 facilities exemption certificate shall in this case expire 1 year
4 earlier than it would have expired if the application had been
5 timely filed. This subdivision does not apply for applications
6 filed with the local governmental unit after 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
11 to establish a district and that was established upon a request
12 filed or by the local governmental unit's own initiative taken
13 before the commencement of the restoration, replacement, or
14 construction of 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,
21 or replacement program that when completed constitutes a new or
22 replacement facility within the meaning of this act and that
23 shall be situated within a plant rehabilitation district or
24 industrial development district duly established in a local
25 governmental unit eligible under this act to establish the
26 district.

27 (e) Completion of the facility is calculated to, and will at

1 the time of issuance of the certificate have the reasonable
2 likelihood to create employment, retain employment, prevent a
3 loss of employment, or produce energy in the community in which
4 the facility is situated.

5 (f) Completion of the facility does not constitute merely the
6 addition of machinery and equipment for the purpose of increasing
7 productive capacity but rather is primarily for the purpose and
8 will primarily have the effect of restoration, replacement, or
9 updating the technology of obsolete industrial property. An
10 increase in productive capacity, even though significant, is not
11 an impediment to the issuance of an industrial facilities
12 exemption certificate if other criteria in this section and act
13 are met. This subdivision does not apply to a new facility.

14 (g) The provisions of subdivision (c) do not apply to a new
15 facility located in an existing industrial development district
16 owned by a person who filed an application for an industrial
17 facilities exemption certificate in April of 1992 if the
18 application was approved by the local governing body and was
19 denied by the state tax commission in April of 1993.

20 (h) The provisions of subdivisions (b) and (c) and
21 section 4(3) do not apply to 1 or more of the following:

22 (i) A facility located in an industrial development district
23 owned by a person who filed an application for an industrial
24 facilities exemption certificate in October 1995 for construction
25 that was commenced in July 1992 in a district that was
26 established by the legislative body of the local governmental
27 unit in July 1994. An industrial facilities exemption

1 certificate described in this subparagraph shall expire as
2 provided in section 16(3).

3 (ii) A facility located in an industrial development district
4 that was established in January 1994 and was owned by a person
5 who filed an application for an industrial facilities exemption
6 certificate in February 1994 if the personal property and real
7 property portions of the application were approved by the
8 legislative body of the local governmental unit and the personal
9 property portion of the application was approved by the state tax
10 commission in December 1994 and the real property portion of the
11 application was denied by the state tax commission in
12 December 1994. An industrial facilities exemption certificate
13 described in this subparagraph shall expire as provided in
14 section 16(3).

15 (iii) A facility located in an industrial development
16 district that was established in December 1995 and was owned by a
17 person who filed an application for an industrial facilities
18 exemptions certificate in November or December 1995 for
19 construction that was commenced in September 1995.

20 (i) The provisions of subdivision (c) do not apply to any of
21 the following:

22 (i) A new facility located in an existing industrial
23 development district owned by a person who filed an application
24 for an industrial facilities exemption certificate in October
25 1993 if the application was approved by the legislative body of
26 the local governmental unit and the real property portion of the
27 application was denied by the state tax commission in December

1 1993.

2 (ii) A new facility located in an existing industrial
3 development district owned by a person who filed an application
4 for an industrial facilities exemption certificate in September
5 1993 if the personal property portion of the application was
6 approved by the legislative body of the local governmental unit
7 and the real property portion of the application was denied by
8 the legislative body of the local governmental unit in October
9 1993 and subsequently approved by the legislative body of the
10 local governmental unit in September 1994.

11 (iii) A facility located in an existing industrial
12 development district owned by a person who filed an application
13 for an industrial facilities exemption certificate in August 1993
14 if the application was approved by the local governmental unit in
15 September 1993 and the application was denied by the state tax
16 commission in December 1993.

17 (iv) A facility located in an existing industrial development
18 district occupied by a person who filed an application for an
19 industrial facilities exemption certificate in June of 1995 if
20 the application was approved by the legislative body of the local
21 governmental unit in October of 1995 for construction that was
22 commenced in November or December of 1994.

23 (v) A facility located in an existing industrial development
24 district owned by a person who filed an application for an
25 industrial facilities exemption certificate in June of 1995 if
26 the application was approved by the legislative body of the local
27 governmental unit in July of 1995 and the personal property

1 portion of the application was approved by the state tax
2 commission in November of 1995.

3 (j) If the facility is locating in a plant rehabilitation
4 district or an industrial development district from another
5 location in this state, the owner of the facility is not
6 delinquent in any of the taxes described in section 10(1)(a) of
7 the Michigan renaissance zone act, 1996 PA 376, MCL 125.2690, or
8 substantially delinquent in any of the taxes described in and as
9 provided under section 10(1)(b) of the Michigan renaissance zone
10 act, 1996 PA 376, MCL 125.2690.

11 (3) If the replacement facility when completed will not be
12 located on the same premises or contiguous premises as the
13 obsolete industrial property, then the applicant shall make
14 provision for the obsolete industrial property by demolition,
15 sale, or transfer to another person with the effect that the
16 obsolete industrial property shall within a reasonable time again
17 be subject to assessment and taxation under the general property
18 tax act, 1893 PA 206, MCL 211.1 to 211.157, or be used in a
19 manner consistent with the general purposes of this act, subject
20 to approval of the commission.

21 (4) The legislative body of the local governmental unit shall
22 not approve an application and the commission shall not grant an
23 industrial facilities exemption certificate that applies to a
24 speculative building unless the speculative building is or is to
25 be located in a plant rehabilitation district or industrial
26 development district duly established by a local governmental
27 unit eligible under this act to establish a district; the

1 speculative building was constructed less than 9 years before the
2 filing of the application for the industrial facilities exemption
3 certificate; the speculative building has not been occupied since
4 completion of construction; and the speculative building
5 otherwise qualifies under subsection (2)(e) for an industrial
6 facilities exemption certificate. An industrial facilities
7 exemption certificate granted under this subsection shall expire
8 as provided in section 16(3).

9 (5) Not later than September 1, 1989, the commission shall
10 provide to all local assessing units the name, address, and
11 telephone number of the person on the commission staff
12 responsible for providing procedural information concerning this
13 act. After October 1, 1989, a local unit of government shall
14 notify each prospective applicant of this information in
15 writing.

16 (6) Notwithstanding any other provision of this act, if on
17 December 29, 1986 a local governmental unit passed a resolution
18 approving an exemption certificate for 10 years for real and
19 personal property but the commission did not receive the
20 application until 1992 and the application was not made complete
21 until 1995, then the commission shall issue, for that property,
22 an industrial facilities exemption certificate that begins
23 December 30, 1987 and ends December 30, 1997. The facility
24 described in this subsection shall be taxed under this act as if
25 it was granted an industrial facilities exemption certificate on
26 December 30, 1987.

27 (7) Notwithstanding any other provision of this act, if a

1 local governmental unit passed a resolution approving an
2 industrial facilities exemption certificate for a new facility on
3 July 8, 1991 but rescinded that resolution and passed a
4 resolution approving an industrial facilities exemption
5 certificate for that same facility as a replacement facility on
6 October 21, 1996, the commission shall issue for that property an
7 industrial facilities exemption certificate that begins December
8 30, 1991 and ends December 2003. The replacement facility
9 described in this subsection shall be taxed under this act as if
10 it was granted an industrial facilities exemption certificate on
11 December 30, 1991.

12 (8) Property owned or operated by a casino is not industrial
13 property or otherwise eligible for an abatement or reduction of
14 ad valorem property taxes under this act. As used in this
15 subsection, "casino" means a casino or a parking lot, hotel,
16 motel, convention and trade center, or retail store owned or
17 operated by a casino, an affiliate, or an affiliated company,
18 regulated by this state pursuant to the Michigan gaming control
19 and revenue act, the Initiated Law of 1996, MCL 432.201 to
20 432.226.

21 (9) Notwithstanding any other provision of this act, if
22 pursuant to section 16a a local governmental unit passed a
23 resolution approving an industrial facilities exemption
24 certificate for a new facility on October 14, 2003 for a
25 certificate that expired in December 2002, the commission shall
26 issue for that property an industrial facilities exemption
27 certificate that begins on December 30, 2002 and ends December

1 30, 2009.