

# Legislative Analysis



## ATTAINABLE HOUSING AND REHABILITATION ACT

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<http://www.house.mi.gov/hfa>

**House Bill 4647 as introduced**

**Sponsor: Rep. Terry J. Sabo**

**Committee: Local Government and Municipal Finance**

**Complete to 6-1-21**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 4647 would create a new act, the Attainable Housing and Rehabilitation Act, to allow a city, township, or village to establish one or more attainable housing districts. An owner of rental housing property rehabilitated or newly built in a district could receive a tax abatement on the property if certain requirements were met. Notably, the property would have to have been built or renovated after 2017, and at least 30% of its units would have to be rented to a household with a combined annual income of 120% or less of the county median income, with the rent not exceeding 30% of the household's combined gross annual income. Qualified property owners would be exempt from standard ad valorem property taxes and would instead pay a specific tax, the attainable housing rehabilitation tax, at the rate of one-half of the ad valorem taxes that otherwise would have been levied. This abatement would apply to structures and not to land. New exemptions could not be granted after December 31, 2031, but exemptions in effect on that date could continue until they expired.

#### **Establishing an attainable housing district**

Under the new act, a city, village, or township could establish one or more attainable housing districts by resolution of its legislative body, either on that body's own initiative or upon the filing of a written request with the city, village, or township clerk by the owner or owners of property constituting at least 50% of the taxable value of the property in the proposed district. Before adopting such a resolution, the legislative body would have to provide written notice by certified mail to the county and to all owners of real property in the proposed district. The legislative body also would have to hold a public hearing on the establishment of the district, giving public notice 10 to 30 days before the hearing.

A resolution establishing a district would have to include a finding and determination that there is a need for attainable housing in the district. The legislative body would have to send a copy of the resolution by certified mail to the county, which would have 28 days after receiving it to reject the establishment of the district by providing the city, village, or township with written notification (if the county has an elected county executive) or with a resolution of the county board of commissioners (if the county does not have an elected county executive).

#### **Attainable housing exemption certificate**

After establishment of a district, the owner of a *qualified facility* could file with the city, village, or township clerk an application for an attainable housing exemption certificate in the manner and form prescribed by the state tax commission. The application would have to include a general description of the qualified facility and its proposed use, the general nature and extent of the rehabilitation or new construction, a project schedule, and information relating to the provisions described in "Applicant requirements," below.



***Qualified facility*** would mean either ***attainable housing property*** newly constructed on or after January 1, 2017, or existing attainable housing property that has been renovated on or after that date to bring it into conformance with minimum local building code standards for occupancy as determined by the city, village, or township.

***Attainable housing property*** would mean that portion of real property not occupied by an owner of the property that is classified as residential real property under the General Property Tax Act, used for residential purposes, that is rented or leased to an ***income-qualified household*** at no more than 30% of the household's combined gross annual income as determined by the city, village, or township. Attainable housing property also would include a building or group of contiguous buildings previously used for industrial or commercial purposes that will be converted to a multiple-unit dwelling or dwelling unit in a multiple-purpose structure, used for residential purposes, that is rented or leased to an income-qualified household at no more than 30% of the household's combined gross annual income. Attainable housing property would not include either of the following:

- Land.
- Property of a public utility.

***Income-qualified household*** would mean an individual, couple, or group of adults earning a combined annual income of 120% or less of the countywide area median income, as determined by the city, village, or township, within income limits as determined by the Michigan State Housing Development Authority.

Upon receiving an application, the city, village, or township clerk would have to notify the assessor of the local tax collecting unit where the qualified facility is located and the legislative body of each taxing unit that levies ad valorem property taxes in the city, village, or township where the facility is located. The legislative body of the city, village, or township would have to hold a public hearing on an application, giving notice to the applicant, the assessor, a representative of the affected taxing units, and the general public. (A hearing on an application would have to be held separately from a hearing on establishing the district.)

The legislative body of the city, village, or township would have 60 days after the clerk receives the application to approve or disapprove it by resolution. If approved, the clerk would have to send a copy of the application and resolution to the state tax commission. If disapproved, the legislative body would have to include its reasons in the resolution, and the clerk would have to send a copy of the resolution by certified mail to the applicant and the assessor.

The state tax commission would have 60 days after receiving a copy of a resolution to approve or disapprove it. A resolution could not take effect unless approved by the commission.

After approving an application, the commission would have to issue to the applicant a certificate, in a form determined by the commission, containing all of the following:

- A legal description of the real property on which the qualified facility is located.
- A statement that, unless revoked, the certificate must remain in force for the time period stated in the certificate. If the legislative body of the city, village, or township authorized the certificate for a period of less than 12 years, the certificate would have



to contain any factors, criteria, or objectives necessary for extending that period, as determined by the resolution of the city, village, or township.

- A statement of the **taxable value** of the qualified facility, separately stated for real and personal property, for the tax year immediately preceding the certificate's effective date, after deducting the taxable value of the land and personal property other than personal property assessed under sections 8(d) and 14(6) of the General Property Tax Act.<sup>1</sup>
- A statement of the time period within which the rehabilitation or construction must be completed, as authorized by the legislative body of the city, village, or township.

**Taxable value** would mean the value determined under section 27a of the General Property Tax Act.<sup>2</sup>

The certificate's effective date would be the next December 31 after its date of issuance.

The state tax commission would have to file a copy of the certificate with the city, village, or township clerk and maintain a record of all certificates filed. The state tax commission also would have to send a copy by certified mail to the applicant and to the assessor of the local tax collecting unit where the qualified facility is located.

#### **Applicant requirements**

The legislative body of the city, village, or township could not approve an application for a certificate unless all of the following requirements were met:

- The applicant provides a site plan and building floor plan approved by the local planning commission or local zoning administrator, as applicable, that includes the total number of residential units to be available for lease or rent on the property.
- The applicant provides a statement describing the number of residential units that will be reserved for income-qualified residents at any given time throughout each calendar year in which the tax abatement is in effect.
- The applicant agrees to conduct an income certification for each resident of each unit designated as attainable housing property, for each year in which the resident is a resident of that property.

The total number of units to be reserved for income-qualified households could be negotiated by the city, village, or township but could not be less than 30% of the total number of residential units on the property.

#### **Duration of certificate**

Unless revoked, a certificate would remain in effect for a period determined by the legislative body of the city, village, or township, which could be from 1 to 12 years. A certificate with a period of less than 7 years could be subject to review by the legislative body and extended. The total amount of time determined for the certificate, including any extensions, could not exceed 15 years after completion of the qualified facility. The certificate would commence with its effective date and end on the next December 31 after the last day of the number of years

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<sup>1</sup> <http://legislature.mi.gov/doc.aspx?mcl-211-8> and <http://legislature.mi.gov/doc.aspx?mcl-211-14>

<sup>2</sup> <http://legislature.mi.gov/doc.aspx?mcl-211-27a>



determined. The date of issuance of a certificate of occupancy, if required, would be the date of completion of a qualified facility.

The review for an extension of a certificate with an initial effective period of less than 7 years would have to be based on factors, criteria, and objectives that are determined and approved by resolution of the legislative body of the city, village, or township at the time the certificate is approved. This resolution would have to be sent, by certified mail, to the applicant, the assessor of the local tax collecting unit where the qualified facility is located, and the state tax commission.

#### **Exemption from ad valorem property taxes**

A qualified facility would be exempt from ad valorem property taxes under the General Property Tax Act while its certificate was in effect. This exemption would not apply to the land on which the qualified facility is located or to personal property other than personal property assessed under sections 8(d) and 14(6) of the General Property Tax Act.

If the taxable value of the property proposed to be exempt under an application, together with the aggregate taxable value of property exempt under certificates previously granted and currently in force under the act or under 1974 PA 198,<sup>3</sup> exceeded 5% of the taxable value of the city, village, or township, the legislative body of the city, village, or township would have to make a separate finding and include a statement in its resolution approving the application that exceeding that amount could not substantially impede the operation of the city, village, or township or impair the financial soundness of an affected taxing unit.

The assessor of each city, village, or township in which there was a qualified facility with one or more certificates in force would have to determine annually as of December 31 the value and taxable value, for both real and personal property, of each qualified facility. Upon receiving notice of the filing of an application for a certificate, the assessor would have to determine and provide to the local legislative body the value and taxable value of the property to which the application pertains.

#### **Attainable housing rehabilitation tax**

The attainable housing rehabilitation tax would be levied on every owner of a qualified facility to which a certificate is issued under the act. The amount of the tax in each year would be determined by multiplying 1/2 of the total mills levied as ad valorem taxes for that year by all taxing units within which the qualified facility is located by the current taxable value of the real and personal property of the qualified facility after deducting the taxable value of the land and of personal property other than personal property assessed under sections 8(d) and 14(6) of the General Property Tax Act.

The attainable housing rehabilitation tax would be an annual tax, payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the General Property Tax Act. Except as described below, the officer or officers would disburse the specific tax payments each year to and among the state, cities, school districts, counties, and authorities, at the same times and in the same proportions as for the disbursement of taxes collected under the General Property Tax Act.

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<sup>3</sup> The act provides for the establishment of plant rehabilitation districts and industrial development districts. See <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-act-198-of-1974.pdf>



For intermediate school districts receiving state aid under sections 56, 62, and 81 of the State School Aid Act,<sup>4</sup> all or a portion of the amount of the specific tax that would otherwise be disbursed to an intermediate school district, to be determined on the basis of the tax rates used to compute the amount of state aid, would have to be paid to the state treasury to the credit of the state School Aid Fund.

The amount of specific tax described above that would otherwise be disbursed to a local school district for school operating purposes would be paid instead to the state treasury and credited to the School Aid Fund.

The officer or officers would have to send a copy of the amount of disbursement made to each unit to the state tax commission on a form provided by the commission.

A qualified facility located in a renaissance zone under the Michigan Renaissance Zone Act would be exempt from the specific tax to the extent and for the duration provided under that act, except for that portion of the specific tax attributable to a special assessment or a tax described in section 7ff(2) of the General Property Tax Act.<sup>5</sup> The specific tax would have to be disbursed proportionately to the taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the General Property Tax Act.

Until paid, the amount of the tax applicable to real property would be a lien on the property to which the certificate applies. Proceedings on the lien could commence only upon the filing by the appropriate collecting officer of a certificate of nonpayment of the specific tax applicable to real property, along with an affidavit of proof of service of the certificate of nonpayment upon the owner of the qualified facility by certified mail, with the register of deeds of the county where the qualified facility is located.

#### **Certificate transfers, revocations, and reinstatements**

A certificate holder could transfer and assign the certificate to a new owner of the qualified facility if the city, village, or township approved the transfer after application by the new owner.

The legislative body of the city, village, or township could, by resolution, revoke a certificate upon finding that the qualified facility was not completed in the authorized time frame or that the certificate holder has not been operating the facility in good faith in a manner consistent with the purposes of the act (in the absence of circumstances beyond the certificate holder's control). In addition, if a certificate holder requested revocation of the certificate by certified mail sent to the legislative body of the city, village, or township, that body could, by resolution, revoke the certificate.

The state tax commission could reinstate a revoked certificate upon the certificate holder's written request to the state tax commission and the legislative body of the city, village, or township. The state tax commission also could reinstate a revoked certificate for transfer to a subsequent owner if the subsequent owner applies to the legislative body for the transfer and

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<sup>4</sup> See <http://legislature.mi.gov/doc.aspx?mcl-388-1656>, <http://legislature.mi.gov/doc.aspx?mcl-388-1662>, and <http://legislature.mi.gov/doc.aspx?mcl-388-1681>

<sup>5</sup> <http://legislature.mi.gov/doc.aspx?mcl-211-7ff>



the legislative body submits to the state tax commission a resolution of concurrence. In either case, the certificate could be reinstated only if the facility continued to qualify under the act.

### **Reporting requirements**

By October 15 each year, each city, village, or township granting a certificate would have to report to the state tax commission on the status of each exemption, including the exempt property's current value on which the specific tax under the act is based.

Based on the information filed with the state tax commission, the Department of Treasury would have to prepare an annual report on attainable housing districts and submit it to the House and Senate committees responsible for tax policy and economic development issues. Three years after the effective date of the act, the department would have to prepare and submit to the same committees an economic analysis of the costs and benefits of the act in the three local governmental units where it was most heavily used.

### **Sunset on new exemptions**

A new exemption could not be granted after December 31, 2031, but an exemption then in effect would continue until the certificate expired.

## **FISCAL IMPACT:**

The bill could reduce state and local property tax revenue by an indeterminate amount for those local units of government that authorize an attainable housing district under the bill. Any fiscal impact would depend on whether the attainable housing would have occurred without the property tax incentive. The bill would reduce revenues relative to current law if it was determined that the attainable housing would have occurred even if no property tax incentive existed. The magnitude of the reduction in tax revenues would be directly related to the quantity and value of newly eligible properties. Since school operating mills would be reduced on eligible properties, costs for the School Aid Fund would increase assuming the foundation allowance were maintained. State property taxes would be reduced via the state education tax. In the alternative, if the attainable housing would not have been undertaken but for the incentive then it could be argued that the incentive would increase state and local property tax revenues by an unknown amount.

The bill likely would increase certain administrative costs for local units of government that elected to authorize attainable housing districts. These administrative costs could include assessment activities, notification costs, and other oversight and regulatory costs.

The bill would increase costs for the Department of Treasury by an unknown amount. Costs would include those for administration, oversight and regulation, and reporting and costs associated with the required economic analysis after three years.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.