

# HOUSE BILL No. 5545

April 13, 2016, Introduced by Rep. Farrington and referred to the Committee on Tax Policy.

A bill to amend 2014 PA 93, entitled "Alternative state essential services assessment act," by amending sections 3, 7, and 9 (MCL 211.1073, 211.1077, and 211.1079), sections 3 and 7 as amended by 2015 PA 121.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 3. As used in this act:

2           (A) "ACQUIRED BY" MEANS, FOR PROPERTY THAT IS CONSTRUCTION IN  
3 PROGRESS ONLY, THE YEAR THE PROPERTY IS FIRST REPORTED ON THE  
4 COMBINED DOCUMENT FILED PURSUANT TO SECTION 7(8) IN THE REPORT OF  
5 THE FAIR MARKET VALUE AND YEAR OF ACQUISITION BY THE FIRST OWNER OF  
6 QUALIFIED NEW PERSONAL PROPERTY OR QUALIFIED PREVIOUSLY EXISTING  
7 PERSONAL PROPERTY.

8           (B) ~~(a)~~"Acquisition cost" means the fair market value of  
9 personal property at the time of acquisition by the first owner,

1 including the cost of freight, sales tax, and installation, and  
2 other capitalized costs, except capitalized interest. There is a  
3 rebuttable presumption that the acquisition price paid by the first  
4 owner for personal property, and any costs of freight, sales tax,  
5 and installation, and other capitalized costs, except capitalized  
6 interest, reflect the acquisition cost. For personal property  
7 exempt under section 9m or 9n of the general property tax act, 1893  
8 PA 206, MCL 211.9m and 211.9n, that ~~would otherwise be~~ **PRIOR TO THE**  
9 **CURRENT TAX YEAR WAS** exempt under section 7k of the general  
10 property tax act, 1893 PA 206, MCL 211.7k, under an industrial  
11 facilities exemption certificate issued under 1974 PA 198, MCL  
12 207.551 to 207.572, and effective before January 1, 2013, ~~and~~ **WHICH**  
13 **HAS BEEN EXTENDED FOR PROPERTY NOT YET EXEMPT UNDER SECTION 9M OR**  
14 **9N OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND**  
15 **211.9N**, for personal property subject to an extended industrial  
16 facilities exemption certificate under section 11a of 1974 PA 198,  
17 MCL 207.561a, that is exempt under an industrial facilities  
18 exemption certificate issued under 1974 PA 198, MCL 207.551 to  
19 207.572, and effective before January 1, 2013, **AND BEGINNING IN**  
20 **2017 FOR CONSTRUCTION IN PROGRESS**, acquisition cost means 1/2 of  
21 the fair market value of that personal property at the time of  
22 acquisition by the first owner, including the cost of freight,  
23 sales tax, and installation, and other capitalized costs, except  
24 capitalized interest. The acquisition cost for personal property  
25 exempt under the Michigan renaissance zone act, 1996 PA 376, MCL  
26 125.2681 to 125.2696, is \$0.00 except for the 3 years immediately  
27 preceding the expiration of the exemption of that personal property

1 under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681  
2 to 125.2696, during which period of time the acquisition cost for  
3 that personal property means the fair market value of that personal  
4 property at the time of acquisition by the first owner, including  
5 the cost of freight, sales tax, and installation, and other  
6 capitalized costs, except capitalized interest, multiplied by the  
7 percentage reduction in the exemption as provided in section 9(3)  
8 of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2689.  
9 The ~~state tax commission~~**DEPARTMENT** may provide guidelines for  
10 circumstances in which the actual acquisition price is not  
11 determinative of acquisition cost and the basis of determining  
12 acquisition cost in those circumstances. When the acquisition cost,  
13 year of acquisition by the first owner, or both are unknown, the  
14 ~~state tax commission~~**DEPARTMENT** may provide guidelines for  
15 estimating the acquisition cost and year of acquisition by the  
16 first owner. The ~~state tax commission~~**DEPARTMENT** may issue  
17 guidelines that allow for the reduction of acquisition cost for  
18 property that is idle, is obsolete or has material obsolescence, or  
19 is surplus.

20 (C) ~~(b)~~-"Assessment" means the alternative state essential  
21 services assessment levied under section 5.

22 (D) ~~(e)~~-"Assessment year" means the year in which the  
23 alternative state essential services assessment levied under  
24 section 5 is due.

25 (E) ~~(d)~~-"Eligible claimant" means a person that owns, leases,  
26 or is in the possession of eligible personal property.

27 (F) ~~(e)~~-"Eligible personal property" means personal property

1 exempt from the tax levied under the state essential services  
2 assessment act, 2014 PA 92, MCL 211.1051 to 211.1061, and  
3 determined to be subject to the alternative state essential  
4 services assessment as provided in section 9 of the state essential  
5 services assessment act, 2014 PA 92, MCL 211.1059.

6 (G) "DEPARTMENT" MEANS THE DEPARTMENT OF TREASURY.

7 Sec. 7. (1) The department ~~of treasury~~ shall collect and  
8 administer the alternative state essential services assessment as  
9 provided in this section.

10 (2) Not later than May 1 in each assessment year, the  
11 department ~~of treasury~~ shall make available in electronic form to  
12 each eligible claimant a statement for calculation of the  
13 assessment as provided in section 5. **THAT STATEMENT SHALL BE**  
14 **DEVELOPED FROM THE INFORMATION SUBMITTED BY THE ELIGIBLE CLAIMANT**  
15 **ON THE COMBINED DOCUMENT AS REQUIRED BY SECTIONS 9M AND 9N OF THE**  
16 **GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND 211.9N.**

17 (3) Not later than August 15 in each assessment year, each  
18 eligible claimant shall ~~submit electronically to the department of~~  
19 ~~treasury~~ **REVISE AS NECESSARY AND CERTIFY** the completed statement  ~~,~~  
20 ~~in a form and manner prescribed by the department of treasury,~~ and  
21 **MAKE** full payment of the assessment levied under section 5 for that  
22 assessment year as calculated in section 5(2). The department ~~of~~  
23 ~~treasury~~ may waive or delay the electronic ~~filing~~ **CERTIFICATION**  
24 requirement at its discretion. The department ~~of treasury~~ may  
25 accept a timely filed statement **THAT CALCULATES THE TAX UNDER THIS**  
26 **ACT THAT IS TRANSMITTED AND CERTIFIED** using reporting software  
27 approved by the department, ~~of treasury,~~ subject to audit under

1 subsection (6). A statement ~~submitted~~**CERTIFIED** by an eligible  
2 claimant shall include all of the eligible claimant's eligible  
3 personal property located in this state subject to the assessment  
4 levied under section 5. The ~~completed~~ statement required under this  
5 subsection shall not be subject to disclosure under the freedom of  
6 information act, 1976 PA 442, MCL 15.231 to 15.246.

7 (4) If an eligible claimant does not ~~submit~~**CERTIFY** the  
8 statement and full payment of the assessment levied under section 5  
9 by August 15, the department ~~of treasury~~ shall issue a notice to  
10 the eligible claimant not later than September 15. The notice shall  
11 include a statement explaining the consequences of nonpayment as  
12 set forth in subsection (5) and instructing the eligible claimant  
13 of its potential responsibility under subsection (5)(e). An  
14 eligible claimant shall submit payment in full by October 15 of the  
15 assessment year along with a penalty of 1% per week on the unpaid  
16 balance for each week payment is not made in full up to a maximum  
17 of 5% of the total amount due and unpaid. For the eligible  
18 claimant's first assessment year, the penalty shall be waived if  
19 the eligible claimant ~~submits~~**CERTIFIES** the statement and **MAKES**  
20 full payment of the assessment levied under section 5 by September  
21 15. An eligible claimant may amend a ~~filed~~**CERTIFIED** statement for  
22 the current year up to September 15. Payments made due to an  
23 amended statement are subject to the penalties as described in this  
24 subsection. The department ~~of treasury~~ shall issue refunds for  
25 overpayments due to an amended statement. All refunds due to  
26 overpayment shall be remitted without interest except as provided  
27 by section 37 of the tax tribunal act, 1973 PA 186, MCL 205.737.

1 (5) For any assessment year in which an eligible claimant does  
2 not submit payment in full and any penalty due under subsection (4)  
3 or (6) by October 15, or if the ~~state tax commission~~**DEPARTMENT**  
4 discovers that the property is not eligible under section 9m or 9n  
5 of the general property tax act, 1893 PA 206, MCL 211.9m and  
6 211.9n, all of the following shall apply:

7 (a) The ~~state tax commission~~**DEPARTMENT** shall issue an order  
8 to rescind no later than the first Monday in December for the  
9 assessment year any exemption described in section 9m or 9n of the  
10 general property tax act, 1893 PA 206, MCL 211.9m and 211.9n,  
11 granted for any parcel for which payment in full and any penalty  
12 due have not been received or for which the ~~state tax commission~~  
13 **DEPARTMENT** discovers that the property is not eligible under  
14 section 9m or 9n of the general property tax act, 1893 PA 206, MCL  
15 211.9m and 211.9n.

16 (b) ~~The~~**UPON THE REQUEST OF THE DEPARTMENT, THE** state tax  
17 commission shall issue an order to rescind no later than the first  
18 Monday in December for the assessment year any exemption under  
19 section 9f of the general property tax act, 1893 PA 206, MCL  
20 211.9f, which exemption was approved under section 9f of the  
21 general property tax act, 1893 PA 206, MCL 211.9f, after 2013 for  
22 any parcel for which payment in full and any penalty due have not  
23 been received or for which the state tax commission discovers that  
24 the property is not eligible ~~under section 9m or 9n of the general~~  
25 ~~property tax act, 1893 PA 206, MCL 211.9m and 211.9n.~~**PERSONAL**  
26 **PROPERTY.**

27 (c) ~~The~~**UPON THE REQUEST OF THE DEPARTMENT, THE** state tax

1 commission shall issue an order to rescind no later than the first  
2 Monday in December for the assessment year any exemption for  
3 eligible personal property subject to an extended industrial  
4 facilities exemption certificate under section 11a of 1974 PA 198,  
5 MCL 207.561a, for any parcel for which payment in full and any  
6 penalty due have not been received or for which the ~~state tax~~  
7 ~~commission~~ **DEPARTMENT** discovers that the property is not eligible  
8 ~~under section 9m or 9n of the general property tax act, 1893 PA~~  
9 ~~206, MCL 211.9m and 211.9n.~~ **PERSONAL PROPERTY.**

10 (d) ~~The~~ **UPON THE REQUEST OF THE DEPARTMENT, THE** state tax  
11 commission shall issue an order to rescind no later than the first  
12 Monday in December for the assessment year any extended exemption  
13 for eligible personal property under section 9f(8) (a) of the  
14 general property tax act, 1893 PA 206, MCL 211.9f, for any parcel  
15 for which payment in full and any penalty due have not been  
16 received or for which the ~~state tax commission~~ **DEPARTMENT** discovers  
17 that the property is not eligible ~~under section 9m or 9n of the~~  
18 ~~general property tax act, 1893 PA 206, MCL 211.9m and~~  
19 ~~211.9n.~~ **PERSONAL PROPERTY.**

20 (e) The eligible claimant shall file with the assessor of the  
21 township or city within 30 days of the date of the ~~state tax~~  
22 ~~commission order to rescind~~ **RESCISSION** issued under subdivisions  
23 (a) to (d) a statement under section 19 of the general property tax  
24 act, 1893 PA 206, MCL 211.19, for all property for which the  
25 exemption has been rescinded under this section.

26 (f) Within 60 days of ~~an order of rescission by the state tax~~  
27 ~~commission~~ **A RESCISSION** under subdivisions (a) to (d), the

1 treasurer of the local tax collecting unit shall issue amended tax  
2 bills for any taxes, including penalty and interest, that were not  
3 billed under the general property tax act, 1893 PA 206, MCL 211.1  
4 to 211.155, or under 1974 PA 198, MCL 207.551 to 207.572, and that  
5 are owed as a result of the ~~order of~~ rescission.

6 (6) An eligible claimant shall provide access to the books and  
7 records, for audit purposes, relating to the location and  
8 description; the date of purchase, lease, or acquisition; and the  
9 purchase price, lease amount, or value of all personal property  
10 owned by, leased by, or in the possession of that person or a  
11 related entity if requested by the assessor of the township or  
12 city, county equalization department, or department ~~of treasury~~ for  
13 the year in which the statement is filed and the immediately  
14 preceding 3 years. The department ~~of treasury~~ shall develop and  
15 implement an audit program which includes, but is not limited to,  
16 the audit of statements submitted under subsection (3) and amended  
17 statements submitted under subsection (4) for the current calendar  
18 year and the 3 calendar years immediately preceding the  
19 commencement of an audit. An assessment as a result of an audit  
20 shall be paid in full within 35 days of issuance and shall include  
21 penalties and interest as described in section 154(3) of the  
22 general property tax act, 1893 PA 206, MCL 211.154. Refunds as a  
23 result of an audit under this subsection shall be without interest.  
24 The exemption for personal property for which an assessment has  
25 been issued as a result of an audit under this subsection shall be  
26 subject to the rescission provisions of subsection (5) for the  
27 years of the assessment if full payment is not timely made as



1 required by this subsection.

2 (7) An eligible claimant may appeal an assessment levied under  
 3 section 5 or a penalty or rescission under this section to the  
 4 ~~state tax commission~~ **MICHIGAN TAX TRIBUNAL** by filing a petition not  
 5 later than December 31 in that tax year. An eligible claimant may  
 6 appeal an assessment issued, including penalties, interest, or  
 7 rescission, as a result of an audit conducted under subsection (6)  
 8 by filing a petition with the ~~state tax commission~~ **MICHIGAN TAX**  
 9 **TRIBUNAL** within ~~30~~ **35** days of the date of that assessment's  
 10 issuance. The department of ~~treasury~~ may appeal to the ~~state tax~~  
 11 ~~commission~~ **MICHIGAN TAX TRIBUNAL** by filing a petition for the  
 12 current calendar year and 3 immediately preceding calendar years.  
 13 ~~The state tax commission shall decide any appeal based on the~~  
 14 ~~written petition and the written recommendation of state tax~~  
 15 ~~commission staff and any other relevant information. The department~~  
 16 ~~of treasury or any eligible claimant may appeal the determination~~  
 17 ~~of the state tax commission to the Michigan tax tribunal within 35~~  
 18 ~~days of the date of the determination.~~

19 (8) ~~For any year before 2023, the~~ **THE** department of treasury  
 20 may require eligible claimants to **ANNUALLY** file by February 20 of  
 21 ~~the~~ **EACH** year a combined document that includes the affidavit **FORM**  
 22 **TO CLAIM THE EXEMPTION** under sections 9f(9), 9m, and 9n of the  
 23 general property tax act, 1893 PA 206, MCL 211.9f, 211.9m, and  
 24 211.9n, ~~the affidavit~~ **AND** under section 11a of 1974 PA 198, MCL  
 25 207.561a, **A REPORT OF THE FAIR MARKET VALUE AND YEAR OF ACQUISITION**  
 26 **BY THE FIRST OWNER OF ELIGIBLE PERSONAL PROPERTY, AND FOR ANY YEAR**  
 27 **BEFORE 2023**, a statement under section 19 of the general property

1 tax act, 1893 PA 206, MCL 211.19. ~~and a report of the acquisition~~  
2 ~~cost and year of acquisition by the first owner of eligible~~  
3 ~~personal property.~~ ALL OF THE FOLLOWING APPLY TO THE FILING OF A  
4 COMBINED DOCUMENT UNDER THIS SUBSECTION:

5 (A) The combined document shall be in a form prescribed by the  
6 ~~state tax commission.~~ DEPARTMENT.

7 (B) LEASING COMPANIES ARE NOT ELIGIBLE TO RECEIVE THE  
8 EXEMPTION UNDER THIS SECTION AND MAY NOT USE THE COMBINED DOCUMENT  
9 PRESCRIBED IN THIS SECTION. WITH RESPECT TO PERSONAL PROPERTY THAT  
10 IS THE SUBJECT OF A LEASE AGREEMENT, REGARDLESS OF WHETHER THE  
11 AGREEMENT CONSTITUTES A LEASE FOR FINANCIAL OR TAX PURPOSES, ALL OF  
12 THE FOLLOWING APPLY:

13 (i) IF THE PERSONAL PROPERTY IS ELIGIBLE MANUFACTURING  
14 PERSONAL PROPERTY, THE LESSEE AND LESSOR MAY ELECT THAT THE LESSEE  
15 REPORT THE LEASED PERSONAL PROPERTY ON THE COMBINED DOCUMENT.

16 (ii) AN ELECTION MADE BY THE LESSOR AND THE LESSEE UNDER THIS  
17 SUBDIVISION SHALL BE MADE IN A FORM AND MANNER APPROVED BY THE  
18 DEPARTMENT.

19 (iii) ABSENT AN ELECTION, THE PERSONAL PROPERTY SHALL BE  
20 REPORTED BY THE LESSOR ON THE PERSONAL PROPERTY STATEMENT UNLESS  
21 THE EXEMPTION FOR ELIGIBLE MANUFACTURING PERSONAL PROPERTY IS  
22 CLAIMED BY THE LESSEE ON THE COMBINED DOCUMENT.

23 (C) FOR ELIGIBLE PERSONAL PROPERTY EXEMPT UNDER THE MICHIGAN  
24 RENAISSANCE ZONE ACT, 1996 PA 376, MCL 125.2681 TO 125.2696, AN  
25 ELIGIBLE CLAIMANT SHALL REPORT THE FAIR MARKET VALUE OF THAT  
26 PERSONAL PROPERTY AT THE TIME OF ACQUISITION BY THE FIRST OWNER,  
27 INCLUDING THE COST OF FREIGHT, SALES TAX, INSTALLATION, AND OTHER

1 **CAPITALIZED COSTS, EXCEPT CAPITALIZED INTEREST.**

2 (D) The combined document shall be filed with the assessor of  
3 the township or city in which the eligible personal property is  
4 located.

5 (E) The assessor shall transmit the information contained in  
6 the combined document filed under this subsection, and other parcel  
7 information required by the department, ~~of treasury,~~ to the  
8 department ~~of treasury~~ in the form and in the manner prescribed by  
9 the department ~~of treasury~~ no later than April 1.

10 Sec. 9. (1) Proceeds of the assessment collected under section  
11 7 shall be credited to the general fund.

12 (2) Beginning in fiscal year 2014-2015 and each fiscal year  
13 thereafter, the legislature shall appropriate funds in an amount  
14 equal to the necessary expenses incurred by the department ~~of~~  
15 ~~treasury~~ in implementing this act.