

# SENATE BILL No. 376

June 23, 1987, Introduced by Senators DINGELL, MILLER, CARL, GEO. HART, WELBORN, SHINKLE, DI NELLO, CHERRY, ARTHURHULTZ, FAUST, J. HART, POSTHUMUS, O'BRIEN, CONROY, VAUGHN, HOLMES, SCHWARZ and POLLACK and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to provide for the establishment of environmental contamination rehabilitation districts in local governmental units; to provide for the issuance, transference, or revocation of an environmental rehabilitation exemption certificate; and to prescribe the powers and duties of the state tax commission, the department of natural resources, and certain officers of local governmental units.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3       Sec. 2. As used in this act:

4       (a) "Commission" means the state tax commission created by  
5 Act No. 360 of the Public Acts of 1927, being sections 209.101 to  
6 209.107 of the Michigan Compiled Laws.

1 (b) "Department" means the department of natural resources.

2 (c) "Environmental contamination rehabilitation district"  
3 means a district established by a local governmental unit as pro-  
4 vided in section 3.

5 (d) "Environmental rehabilitation exemption certificate"  
6 means a certificate issued pursuant to sections 4 through 9.

7 (e) "Local governmental unit" means a city, village, or  
8 township.

9 Sec. 3. (1) By resolution of its legislative body, a local  
10 governmental unit may establish an environmental contamination  
11 rehabilitation district which consists of 1 or more parcels of  
12 property or a portion of 1 or more parcels of property, if, at  
13 the time of adoption of the resolution, the property is identi-  
14 fied as a site of environmental contamination under section 6 of  
15 Act No. 307 of the Public Acts of 1982, being section 299.606 of  
16 the Michigan Compiled Laws.

17 (2) The legislative body of a local governmental unit may  
18 establish an environmental contamination rehabilitation district  
19 on its own initiative or upon a written request filed by the  
20 owner or owners of property located within a proposed environmen-  
21 tal contamination rehabilitation district. This request shall be  
22 filed with the clerk of the local governmental unit.

23 (3) Before adopting a resolution establishing an environmen-  
24 tal contamination rehabilitation district, the legislative body  
25 shall give written notice by certified mail to the owners of all  
26 real property within the proposed environmental contamination  
27 rehabilitation district and shall hold a public hearing on the

1 establishment of the environmental contamination rehabilitation  
2 district at which any of those owners and any other resident or  
3 taxpayer of the local governmental unit has a right to appear and  
4 be heard.

5       Sec. 4. (1) After the establishment of a district, the  
6 owner or lessee of property located within the district may file  
7 an application for an environmental rehabilitation exemption cer-  
8 tificate with the clerk of the local governmental unit that  
9 established the environmental contamination rehabilitation  
10 district. The application shall be filed in the manner and form  
11 prescribed by the commission and the department. The application  
12 shall contain or be accompanied by a plan for the removal of con-  
13 taminants from the property and cleanup activities, including an  
14 estimated cost of the cleanup activities, a time schedule for the  
15 removal of contaminants and cleanup activities, and standards  
16 regarding the quantity of contaminants to be removed.

17       (2) Upon receipt of an application for an environmental  
18 rehabilitation exemption certificate, the clerk of the local gov-  
19 ernmental unit shall notify in writing the assessor of the  
20 assessing unit in which the property is located and the legisla-  
21 tive body of each taxing unit that levies ad valorem property  
22 taxes in the local governmental unit in which the property is  
23 located.

24       Sec. 5. Upon receipt of an application for an environmental  
25 rehabilitation exemption certificate, the clerk of the local gov-  
26 ernmental unit shall submit a copy of the plan required by  
27 section 4 to the department of natural resources for approval.

1 The department shall review the plan, evaluating the  
2 appropriateness and feasibility of the cleanup activities.  
3 Within 60 days after the receipt of the plan, the department  
4 shall approve or disapprove the plan. If disapproved, the  
5 department shall provide the reason in writing to the local gov-  
6 ernmental unit.

7       Sec. 6. Before acting upon the application, the legislative  
8 body of the local governmental unit shall afford the applicant,  
9 the assessor, a representative of the affected taxing units, or a  
10 member of the public an opportunity for a hearing with notice  
11 provided not less than 7 days before the date of hearing.

12       Sec. 7. Not more than 30 days after receipt by its clerk of  
13 the approval of the plan by the department, the legislative body  
14 of the local governmental unit shall by resolution either approve  
15 or disapprove the application for an environmental rehabilitation  
16 exemption certificate in accordance with the provisions of this  
17 act. The legislative body of the local governmental unit shall  
18 not approve the application if the department does not approve  
19 the plan, or if a court previously ordered removal of contami-  
20 nants from the property for which the application applies. If  
21 disapproved, the reasons shall be set forth in writing in the  
22 resolution. If approved, the clerk shall forward the application  
23 to the commission. If disapproved, the clerk shall return the  
24 application to the applicant. The applicant may appeal the dis-  
25 approval to the commission within 10 days after the date of the  
26 disapproval.

1       Sec. 8. In its resolution approving an application, the  
2 legislative body of the local governmental unit shall set forth a  
3 finding and determination that the granting of the environmental  
4 rehabilitation exemption certificate shall not have the effect of  
5 substantially impeding the operation of the local governmental  
6 unit or impairing the financial soundness of a taxing unit that  
7 levies an ad valorem property tax in the local governmental unit  
8 in which the property is located. If the state equalized valua-  
9 tion of property proposed to be exempt pursuant to an application  
10 under consideration, considered together with the aggregate state  
11 equalized valuation of property exempt under certificates previ-  
12 ously granted and currently in force, exceeds 5% of the state  
13 equalized valuation of the local governmental unit, the commis-  
14 sion, with the approval of the state treasurer, shall make a  
15 finding and shall include a statement in the order approving the  
16 environmental rehabilitation exemption certificate that exceeding  
17 that amount does not have the effect of substantially impeding  
18 the operation of the local governmental unit or impairing the  
19 financial soundness of an affected taxing unit.

20       Sec. 9. (1) Within 60 days after receipt of an approved  
21 application or an appeal of a disapproved application, the com-  
22 mission shall determine whether the provisions of this act have  
23 been met. If the commission so finds, it shall issue an environ-  
24 mental rehabilitation exemption certificate. The effective date  
25 of the certificate shall be the December 31 next following the  
26 date of issuance of the certificate.

1       (2) The commission shall send an environmental  
2 rehabilitation exemption certificate, when issued, by certified  
3 mail to the applicant, and a certified copy by certified mail to  
4 the assessor of the assessing unit in which the property is  
5 located. A copy shall be filed of record in the assessor's  
6 office. Notice of the commission's refusal to issue a certifi-  
7 cate shall be sent by certified mail to the same persons.

8       Sec. 10. An environmental rehabilitation exemption certifi-  
9 cate shall be in the form the commission determines but shall  
10 contain all of the following:

11       (a) A legal description of the real property.

12       (b) A statement that unless revoked as provided in this act,  
13 the certificate shall remain in force for the period stated in  
14 the certificate.

15       (c) The length of the exemption.

16       Sec. 11. Unless earlier revoked as provided in section 13  
17 or 14, an environmental rehabilitation exemption certificate  
18 shall remain in force and effect for a period to be determined by  
19 the legislative body of the local governmental unit but, commenc-  
20 ing with its effective date, for not more than 12 years.

21       Sec. 12. For the period on and after the effective date of  
22 the certificate and continuing so long as the environmental reha-  
23 bilitation exemption certificate is in force, property for which  
24 an environmental rehabilitation exemption certificate is in  
25 effect shall be exempt from ad valorem real and personal property  
26 taxes imposed under the general property tax act, Act No. 206 of  
27 the Public Acts of 1893, being sections 211.1 to 211.157 of the

1 Michigan Compiled Laws, and the lessee, occupant, user, or person  
2 in possession of the property shall for the same period be exempt  
3 from ad valorem taxes imposed under Act No. 189 of the Public  
4 Acts of 1953, being sections 211.181 and 211.182 of the Michigan  
5 Compiled Laws. However, the total amount of exempt taxes shall  
6 not exceed the amount of the estimated cost of the cleanup activ-  
7 ities included in the plan under section 4.

8       Sec. 13. (1) Each year the environmental rehabilitation  
9 exemption certificate is in effect, the holder of the certificate  
10 shall report the progress of cleanup activities to the department  
11 by submitting an updated version of the plan required under sec-  
12 tion 4, including the costs incurred to date for cleanup; the  
13 cleanup activities that are completed, in progress, and planned;  
14 and any other information that the department considers  
15 appropriate. The department shall then report the progress to  
16 the local governmental unit.

17       (2) The legislative body of a local governmental unit may by  
18 resolution request the commission to revoke the environmental  
19 rehabilitation exemption certificate for the property upon the  
20 grounds that completion of the cleanup activities has not  
21 occurred in an adequate manner or that the holder of the certifi-  
22 cate has not proceeded in good faith with the cleanup in the  
23 absence of circumstances that are beyond the control of the  
24 holder.

25       (3) Upon receipt of the resolution, the commission shall  
26 give notice in writing by certified mail to the holder of the  
27 certificate, to the legislative body of the local governmental

1 unit, to the assessor of the assessing unit, to the department,  
2 and to the legislative body of each local taxing unit that levies  
3 taxes upon property in the local governmental unit in which the  
4 property is located. The commission shall afford to the holder  
5 of the certificate, the local legislative body, the assessor, and  
6 a representative of the legislative body of each taxing unit an  
7 opportunity for a hearing. The commission shall by order revoke  
8 the certificate if the commission finds that completion of the  
9 cleanup activities has not occurred in an adequate manner or that  
10 the holder of the certificate has not proceeded in good faith  
11 with the cleanup in the absence of circumstances that are beyond  
12 the control of the holder.

13       (4) The order of the commission revoking the certificate  
14 shall be effective on the December 31 next following the date of  
15 the order and the commission shall send by certified mail copies  
16 of its order of revocation to the holder of the certificate, to  
17 the local legislative body, to the assessor of the assessing unit  
18 in which the property is located, and to the legislative body of  
19 each taxing unit that levies taxes upon property in the local  
20 governmental unit in which the property is located.

21       (5) If a certificate is revoked under this section because  
22 the holder of that certificate has not proceeded in good faith  
23 with the cleanup in the absence of circumstances that are beyond  
24 the control of the holder, the local governmental unit may impose  
25 a penalty on the holder of that certificate equal to the amount  
26 of taxes that would have been paid had the property not been  
27 exempt since the issuance of the certificate plus interest at the



1 same rate provided for delinquent taxes under section 59(1) of  
2 the general property tax act minus the amount of actual costs  
3 incurred for cleanup activities prior to the revocation of the  
4 certificate.

5       Sec. 14. Upon receipt of a request by certified mail to the  
6 commission by the holder of an environmental rehabilitation  
7 exemption certificate requesting revocation of the certificate,  
8 the commission shall by order revoke the certificate.

9       Sec. 15. (1) The assessor of each city or township in which  
10 property is located for which an environmental rehabilitation  
11 exemption certificate is in force shall annually determine, with  
12 respect to each parcel of property, an assessment of the real and  
13 personal property having the benefit of an environmental rehabil-  
14 itation exemption certificate that would have been made under Act  
15 No. 206 of the Public Acts of 1893, being sections 211.1 to  
16 211.157 of the Michigan Compiled Laws, if the certificate had not  
17 been in force. A holder of an environmental rehabilitation  
18 exemption certificate shall furnish to the assessor information  
19 necessary for the determination of the assessment.

20       (2) Having made the assessment, the assessor shall annually  
21 notify the commission, the legislative body of each local govern-  
22 mental unit that levies taxes upon property in the city or town-  
23 ship in which the property is located, and the holder of the  
24 environmental rehabilitation exemption certificate of the assess-  
25 ment, separately stating the determinations for real property and  
26 personal property, by certified mail not later than October 15  
27 based upon valuations as of the preceding December 31.

1       Sec. 16. The assessor of each city or township in which  
2 property for which 1 or more environmental rehabilitation exemp-  
3 tion certificates have been issued and are in force shall deter-  
4 mine annually as of December 31 the value of each parcel of prop-  
5 erty separately, both for real and personal property, having the  
6 benefit of the certificates. Upon receipt of notice of the  
7 filing of an application for the issuance of a certificate, the  
8 assessor shall determine and furnish to the local legislative  
9 body and the commission the value of the property to which the  
10 application pertains and other information as may be necessary to  
11 permit the local legislative body and the commission to make the  
12 determinations required by this act.

13       Sec. 17. An environmental rehabilitation exemption certifi-  
14 cate may be transferred and assigned by the holder to a new owner  
15 or lessee of the property, but only with the approval of the  
16 local governmental unit and the commission after application by  
17 the new owner or lessee, and notice and hearing in the same  
18 manner as provided in section 6 for the application for a  
19 certificate.

20       Sec. 18. A party aggrieved by the issuance or refusal to  
21 issue, revocation, or transfer of an environmental rehabilitation  
22 exemption certificate may appeal from the finding and order of  
23 the commission in the manner and form and within the time pro-  
24 vided by the administrative procedures act of 1969, Act No. 306  
25 of the Public Acts of 1969, being sections 24.201 to 24.328 of  
26 the Michigan Compiled Laws.

1       Sec. 19. Nothing under this act shall be construed to  
2 relieve an owner of property subject to an environmental  
3 rehabilitation exemption certificate from liability for environ-  
4 mental contamination.

5       Sec. 20. The commission may promulgate rules it considers  
6 necessary for the administration of this act pursuant to the  
7 administrative procedures act of 1969, Act No. 306 of the Public  
8 Acts of 1969, being sections 24.201 to 24.328 of the Michigan  
9 Compiled Laws.