

ATTAINABLE HOUSING FACILITIES ACT

Act 236 of 2022

AN ACT to provide for the establishment of attainable housing districts in certain local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain qualified 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 state and local governmental officials; and to provide penalties.

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

The People of the State of Michigan enact:

207.901 Short title.

Sec. 1.

This act may be cited as the "attainable housing facilities act".

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

207.902 Definitions.

Sec. 2.

As used in this act:

- (a) "Adjusted household income" means that term as defined in R 125.101 of the Michigan Administrative Code.
- (b) "Attainable housing district" or "district" means an area in a qualified local governmental unit established as provided in section 3 in which attainable housing property is or will be located.
- (c) "Attainable housing exemption certificate" or "certificate" means the certificate issued under section 6.
- (d) "Attainable housing facilities tax" or "specific tax" means the specific tax levied under this act.
- (e) "Attainable housing property" means that portion of real property not occupied by an owner of that real property of not more than 4 units that is classified as residential real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, used for residential purposes, that is rented or leased to an income-qualified household at no more than 30% of the household's modified household income as determined by the qualified local governmental unit. Attainable housing property also includes a building or group of contiguous buildings previously used for industrial or commercial purposes that will be converted to a multiple-unit dwelling or a dwelling unit in a multiple-purpose structure, used for residential purposes consisting of not more than 4 units, that will be rented or leased to an income-qualified household at no more than 30% of the household's modified household income as determined by the qualified local governmental unit. Attainable housing property does not include any of the following:
 - (i) Land.
 - (ii) Property of a public utility.
- (f) "Commission" means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.
- (g) "Department" means the department of treasury.
- (h) "Income-qualified household" means an individual, couple, family, or group of unrelated individuals whose adjusted household income is 120% or less of the countywide area median income as posted annually by the Michigan state housing development authority on its website.
- (i) "Modified household income" means the gross annual income from all sources and before taxes or withholding of all individuals of a household living in a residential dwelling unit or housing unit after deducting all

of the following:

- (i) Unusual or temporary income of any member of the household.
- (ii) Six hundred and fifty dollars for each member of the household.
- (iii) Earnings of a member of a household who is under 18 years of age.
- (iv) Fifty percent of the income of a second adult wage earner jointly occupying the residential dwelling unit or housing unit whose individual income is less than that of the wage earner with the highest income.
- (v) The lesser of \$1,000.00 or 10% of the gross annual income.
- (j) "New facility" means attainable housing property newly constructed on or after the effective date of this act.
- (k) "Qualified facility" means a new facility or a rehabilitated facility, located in an attainable housing district.
- (l) "Qualified local governmental unit" means a city, village, or township.
- (m) "Rehabilitated facility" means existing attainable housing property that has been renovated, with a renovation investment of not less than \$5,000.00 as determined by the qualified local governmental unit, on or after the effective date of this act, to bring the property into conformance with minimum local building code standards for occupancy, as determined by the qualified local governmental unit.
- (n) "Taxable value" means the value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

207.903 Attainable housing district; establishment by qualified local governmental unit; adoption of resolution; notice and opportunity for hearing; findings and determination.

Sec. 3.

(1) A qualified local governmental unit, by resolution of its legislative body, may establish 1 or more attainable housing districts within the qualified local governmental unit.

(2) The legislative body of a qualified local governmental unit may establish an attainable housing district on its own initiative or upon a written request filed by the owner or owners of property comprising at least 50% of all taxable value of the property located within a proposed district. The written request must be filed with the clerk of the qualified local governmental unit.

(3) Before adopting a resolution establishing a district, the legislative body shall give written notice by certified mail to the county in which the proposed district is to be located and the owners of all real property within the proposed district and shall afford an opportunity for a hearing on the establishment of the district at which any of those owners and any other resident or taxpayer of the qualified local governmental unit may appear and be heard. The legislative body shall give public notice of the hearing not less than 10 days or more than 30 days before the date of the hearing.

(4) The legislative body of the qualified local governmental unit, in its resolution establishing a district, shall set forth a finding and determination that there is a need for attainable housing within the district and shall provide a copy of the resolution by certified mail to the county in which the district is located.

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

207.904 Attainable housing exemption certificate; application requirements; notice and opportunity for hearing.

Sec. 4.

(1) If a district is established under section 3, the owner of a qualified facility may file an application for an attainable housing exemption certificate with the clerk of the qualified local governmental unit that established the

district. The application must be filed in the manner and form prescribed by the commission. The application must contain or be accompanied by a general description of the qualified facility, a general description of the proposed use of the qualified facility, the general nature and extent of the new construction or rehabilitation to be undertaken, a time schedule for undertaking and completing the qualified facility, and information relating to the requirements in section 8.

(2) Upon receipt of an application for a certificate, the clerk of the qualified local governmental unit shall notify in writing the assessor of the local tax collecting unit in which the qualified facility is located, and the legislative body of each taxing unit that levies ad valorem property taxes in the qualified local governmental unit in which the qualified facility is located. Before acting upon the application, the legislative body of the qualified local governmental unit shall hold a public hearing on the application and give public notice of the time, date, and place of the hearing in the same manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, to the applicant, the assessor, a representative of the affected taxing units, and the general public. The hearing on each application must be held separately from the hearing on the establishment of the district.

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

207.905 Approval or disapproval of attainable housing exemption certificate.

Sec. 5.

The legislative body of the qualified local governmental unit, not more than 60 business days after receipt of the application by the clerk, shall by resolution either approve or disapprove the application for a certificate in accordance with the provisions of this act. The clerk shall retain the original of the application and resolution. If approved, the clerk shall forward a copy of the application and resolution to the commission. If disapproved, the reasons must be set forth in writing in the resolution, and the clerk shall send, by certified mail, a copy of the resolution to the applicant and to the assessor. If the legislative body fails to timely approve the application, the application is considered denied. A resolution is not effective unless approved by the commission as provided in section 6.

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

207.906 Issuance of attainable housing exemption certificate; form; contents; effective date; maintenance of record and copies.

Sec. 6.

(1) Not more than 120 days after receipt of a copy of the application and resolution adopted under section 5, the commission shall approve or disapprove the resolution.

(2) Following approval of the application by the legislative body of the qualified local governmental unit and the commission, the commission shall issue to the applicant a certificate in the form the commission determines, which must contain all of the following:

- (a) The address of the real property on which the qualified facility is located.
- (b) A statement that unless revoked as provided in this act the certificate must remain in force for the period stated in the certificate.
- (c) A statement of the taxable value of the qualified facility for the tax year immediately preceding the effective date of the certificate after deducting the taxable value of the land.
- (d) A statement of the period of time authorized by the legislative body of the qualified local governmental unit within which the rehabilitation or construction must be completed.
- (e) If the period of time authorized by the legislative body of the qualified local governmental unit pursuant to

subdivision (b) is less than 12 years, the certificate must contain the factors, criteria, and objectives, as determined by the resolution of the qualified local governmental unit, necessary for extending the period of time, if any.

(3) The effective date of the certificate is the December 31 immediately following the date of issuance of the certificate.

(4) The commission shall file with the clerk of the qualified local governmental unit a copy of the certificate, and the commission shall maintain a record of all certificates filed. The commission shall also send, by certified mail, a copy of the certificate to the applicant and the assessor of the local tax collecting unit in which the qualified facility is located.

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

207.907 Exemption of qualified facility from tax; duration of force and effect of certificate; commencement; date of issuance; extension.

Sec. 7.

(1) A qualified facility for which a certificate is in effect, but not the land on which the qualified facility is located, for the period on and after the effective date of the certificate and continuing so long as the certificate is in force, is exempt from ad valorem property taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(2) Unless earlier revoked as provided in section 12, a certificate must remain in force and effect for a period to be determined by the legislative body of the qualified local governmental unit. The certificate may be issued for a period of at least 1 year, but not to exceed 12 years. If the number of years determined is less than 7, the certificate may be subject to review by the legislative body of the qualified local governmental unit and the certificate may be extended. The total amount of time determined for the certificate including any extensions must not exceed 15 years after the completion of the qualified facility. The certificate must commence with its effective date and end on the December 30 immediately following the last day of the number of years determined. The date of issuance of a certificate of occupancy, if required by appropriate authority, must be the date of completion of the qualified facility.

(3) If the number of years determined by the legislative body of the qualified local governmental unit for the period a certificate remains in force is less than 7 years, the review of the certificate for the purpose of determining an extension must be based upon factors, criteria, and objectives that must be placed in writing, determined and approved at the time the certificate is approved by resolution of the legislative body of the qualified local governmental unit and sent, by certified mail, to the applicant, the assessor of the local tax collecting unit in which the qualified facility is located, and the commission.

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

207.908 Separate finding; contents; compliance; requirements; applicability; exception.

Sec. 8.

(1) If the taxable value of the property proposed to be exempt pursuant to an application under consideration, considered together with the aggregate taxable value of property exempt under certificates previously granted and currently in force under this act or under 1974 PA 198, MCL 207.551 to 207.572, exceeds 5% of the taxable value of the qualified local governmental unit, the legislative body of the qualified local governmental unit shall make a separate finding and shall include a statement in its resolution approving the application that exceeding that amount must not have the effect of substantially impeding the operation of the qualified local governmental unit or impairing the financial soundness of an affected taxing unit.

(2) The legislative body of the qualified local governmental unit shall not approve an application for a certificate unless the applicant complies with all of the following requirements:

(a) That the applicant provides a site plan and building floor plan approved by the local planning commission or local zoning administrator, whichever is applicable under the local zoning ordinance, that includes the total number of residential dwelling units to be available for lease or rent on the property.

(b) That the applicant provides a statement describing the number of residential dwelling units that will be reserved for income-qualified households at any given time throughout each calendar year in which the specific tax is in effect.

(c) That the applicant agrees to provide the legislative body of the qualified local governmental unit with an income certification for the income-qualified household residing within each residential dwelling unit designated as attainable housing property each year that the income-qualified household resides in that attainable housing property.

(3) A qualified local governmental unit may develop and implement an audit program that includes, but is not limited to, the audit of the information submitted under subsection (2) or may contract with an independent third-party auditor to audit the information submitted under subsection (2). The qualified local governmental unit may require the applicant to cover the cost of the independent third-party auditor. The total number of units to be reserved for income-qualified households may be negotiated by the qualified local governmental unit but must not be less than 30% of the total number of residential dwelling units on the property or 1 residential dwelling unit, whichever is greater.

(4) If an income-qualified household currently residing within a residential dwelling unit reserved for an income-qualified household has an increase in adjusted household income between the time an income certification is conducted and the next income certification in the following year and that household is no longer an income-qualified household, then that formerly qualified household may continue to reside as occupants within that residential dwelling unit only for the remainder of their lease agreement. However, the next available residential dwelling unit located on the property shall be reserved for an income-qualified household. Under no circumstances shall all residential dwelling units on the property be occupied by households whose adjusted household income is more than 120% of the countywide area median income for greater than 12 consecutive months.

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

207.909 Determining taxable value of each qualified facility.

Sec. 9.

The assessor of each qualified local governmental unit in which there is a qualified facility with respect to which 1 or more certificates have been issued and are in force shall determine annually as of December 31 the taxable value of each qualified facility separately, having the benefit of a certificate and upon receipt of notice of the filing of an application for the issuance of a certificate, shall determine and furnish to the local legislative body the taxable value of the property to which the application pertains.

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

207.910 Attainable housing facilities tax; determination of amount; exemption; payment; disbursements.

Sec. 10.

(1) The attainable housing facilities tax is levied upon every owner of a qualified facility to which a certificate is issued under this act.

(2) Except as otherwise provided in this section, the amount of the attainable housing facilities tax on a new

facility is determined each year by multiplying 1/2 of the average rate of taxation levied upon commercial, industrial, and utility property upon which ad valorem taxes are assessed as determined for the immediately preceding calendar year by the state board of assessors under section 13 of 1905 PA 282, MCL 207.13, by the current taxable value of the new facility after deducting the taxable value of the land.

(3) Except as otherwise provided in this section, the amount of the attainable housing facilities tax on a rehabilitated facility is determined each year by multiplying 1/2 of the average rate of taxation levied upon commercial, industrial, and utility property upon which ad valorem taxes are assessed as determined for the immediately preceding calendar year by the state board of assessors under section 13 of 1905 PA 282, MCL 207.13, by the current taxable value of the rehabilitated facility after deducting the taxable value of the land.

(4) Within 60 days after the granting of an attainable housing exemption certificate under section 6 for a new facility, if the state treasurer does not determine that reducing the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and used to calculate the specific tax under subsection (2) is necessary to provide an adequate supply of housing for income-qualified households in this state, the millage rate used to calculate the specific tax under subsection (2) shall be increased by 3 mills. If the state treasurer determines that further reducing the millage rate used to calculate the specific tax under subsection (2) is necessary to provide an adequate supply of housing for income-qualified households in this state, the state treasurer may exclude an additional 3 mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, from the millage rate used to calculate the specific tax under subsection (2).

(5) Notwithstanding subsections (2) and (3), the specific tax paid each year for that part of a qualified facility that is exempt from ad valorem property taxes under section 7 and not used as attainable housing property in the immediately preceding year must be equal to the amount of the ad valorem property taxes that would be paid on that portion of the qualified facility if the qualified facility were not exempt from ad valorem property taxes under section 7. The owner of the qualified facility must allocate the benefits of any tax exemption granted under this act exclusively to attainable housing property.

(6) The specific tax is 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, 1893 PA 206, MCL 211.1 to 211.155, are payable. Except as otherwise provided in this section, the officer or officers shall disburse the specific tax payments received by the officer or officers each year to and among this state, cities, school districts, counties, and authorities, at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(7) For intermediate school districts receiving state aid under sections 56 and 62 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656 and 388.1662, of the amount of the specific tax that would otherwise be disbursed to an intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of state aid, must be paid to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(8) The amount of specific tax described in this section that would otherwise be disbursed to a local school district for school operating purposes must be paid instead to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(9) The officer or officers shall send a copy of the amount of disbursement made to each unit under this section to the department on a form provided by the department.

(10) A qualified facility located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the specific tax levied under this act to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, 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, 1893 PA 206, MCL 211.7ff. The specific tax calculated under this subsection must 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, 1893 PA 206, MCL 211.7ff.

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

207.911 Lien.

Sec. 11.

The amount of the specific tax, until paid, is a lien upon the real property to which the certificate is applicable.

Proceedings upon the lien as provided by law for the foreclosure in the circuit court of mortgage liens upon real property may commence only upon the filing by the appropriate collecting officer of a certificate of nonpayment of the specific tax, together 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 in which the qualified facility is situated.

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

207.912 Attainable housing exemption certificate; revocation; transfer to subsequent owner.

Sec. 12.

(1) The legislative body of the qualified local governmental unit may, by resolution, revoke the certificate of a qualified facility if it finds that the completion of the qualified facility has not occurred within the time authorized by the legislative body in the certificate or a duly authorized extension of that time, or that the holder of the certificate has not proceeded in good faith with the operation of the qualified facility in a manner consistent with the purposes of this act and in the absence of circumstances that are beyond the control of the holder of the certificate.

(2) Upon receipt of a request by certified mail to the legislative body of the qualified local governmental unit by the holder of a certificate requesting revocation of the certificate, the legislative body of the qualified local governmental unit may, by resolution, revoke the certificate.

(3) Upon the written request of the holder of a revoked certificate to the legislative body of the qualified local governmental unit and the commission or upon the application of a subsequent owner to the legislative body of the qualified local governmental unit to transfer the revoked certificate to a subsequent owner, and the submission to the commission of a resolution of concurrence by the legislative body of the qualified local governmental unit in which the qualified facility is located, and if the qualified facility continues to qualify under this act, the commission may reinstate a revoked certificate for the holder or a subsequent owner that has applied for the transfer.

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

207.913 Transfer and assignment of certificate.

Sec. 13.

A certificate may be transferred and assigned by the holder of the certificate to a new owner of the qualified facility if the qualified local governmental unit approves the transfer after application by the new owner.

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

207.914 Status report by local government.

Sec. 14.

Not later than June 15 each year, each qualified local governmental unit granting a certificate shall report to the

commission on the status of each exemption. The report must include the current taxable value of the property to which the exemption pertains.

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

207.915 Annual report to legislature.

Sec. 15.

(1) The department shall annually prepare and submit to the committees of the house of representatives and senate responsible for tax policy and economic development issues a report on the utilization of attainable housing districts, based on the information filed with the commission.

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

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022

207.916 Exemption not granted after December 31, 2027.

Sec. 16.

A new exemption must not be granted under this act after December 31, 2027, but an exemption then in effect must continue until the expiration of the certificate.

History: 2022, Act 236, Imd. Eff. Dec. 13, 2022