

State Tax Commission Bulletin No. 9 of 2000

DATE: July 12, 2000
 TO: Assessors, Equalization Directors
 FROM: State Tax Commission (STC)

RE: OBSOLETE PROPERTY REHABILITATION ACT

On June 6, 2000, Governor Engler signed into law Public Act (PA) 146 of 2000 (copy enclosed) with an effective date of June 6, 2000. PA 146 of 2000 shall be known as the **Obsolete Property Rehabilitation Act**.

The purpose of this bulletin is to explain the administration of this new act.

PA 146 of 2000 provides an exemption from ad valorem property taxes to *commercial property* and *commercial housing property* provided they are located in a *qualified local governmental unit* and certain other conditions are met. These conditions and the definitions of *commercial property* and *commercial housing property* will be explained later in this bulletin.

QUALIFIED LOCAL GOVERNMENTAL UNITS

Section 2(k) of the act gives the qualifications which must be met in order for a local unit to be a *qualified local governmental unit*. There are separate qualifications for cities, for townships, and for villages. The following are *qualified local governmental units* as of June 6, 2000.

Cities:

Adrian	Eastpointe	Kalamazoo	Saginaw
Albion	Ecorse	Lansing	Saint Louis
Alma	Escanaba	Lincoln Park	Sault St. Marie
Alpena	Ferndale	Livonia	Southfield
Ann Arbor	Flint	Ludington	Stambaugh
Bangor	Gibraltar	Manistee	Sturgis
Battle Creek	Gladstone	Manistique	Taylor
Bay City	Grand Haven	Marquette	Trenton
Benton Harbor	Grand Rapids	Melvindale	Traverse City
Big Rapids	Grayling	Midland	Vassar

Bronson	Hamtramck	Monroe	Wakefield
Burton	Harbor Beach	Mt. Morris	Warren
Cadillac	Harper Woods	Mt. Pleasant	Wayne
Carson City	Hazel Park	Muskegon	Wyandotte
Caspian	Highland Park	MuskegonHgts	Ypsilanti
Cheboygan	Holland	Oak Park	
Coleman	Inkster	Onaway	
Dearborn	Ionia	Owosso	
Dearborn Hgts.	Iron River	Pinconning	
Detroit	Ironwood	Pontiac	
Dowagiac	Ishpeming	Port Huron	
East Lansing	Jackson	River Rouge	

Townships:

Benton Charter Township, Berrien County
Buena Vista Charter Township, Saginaw County
Genesee Township, Genesee County
Mt. Morris Charter Township, Genesee County
Redford Charter Township, Wayne County
Royal Oak Charter Township, Oakland County

Villages:

Baldwin Village, Lake County

Important Note: If a local governmental unit is not a *qualified local governmental unit*, this law and this bulletin do NOT apply to that unit.

In order to obtain the exemption provided by PA 146 of 2000, there are 4 steps which must be followed:

- A. A *qualified local governmental unit* must establish an Obsolete Property Rehabilitation District.
- B. The owner of obsolete property must file an application for exemption with the clerk of the *qualified local governmental unit*.
- C. The *qualified local governmental unit* must approve the application.
- D. The State Tax Commission must also approve the application and issue the exemption certificate.

These steps will be explained in detail in the rest of this bulletin. There will also be separate discussions of the **exemption** provided by this act, the **specific tax** levied upon the owner of an exempt obsolete property, the procedures for **transferring** and **revoking** an Obsolete Property Rehabilitation Certificate, and the duties of the assessor under section 9 of this act.

A) Establishing An Obsolete Property Rehabilitation District

A *qualified local governmental unit* may establish 1 or more Obsolete Property Rehabilitation Districts. **This must be done by resolution.** A district may consist of 1 or more parcels or tracts of land or a portion of a parcel or tract of land PROVIDED THAT the parcel or tract is EITHER of the following:

- a. *obsolete property* in an area characterized by obsolete *commercial property* or *commercial housing property*. Please refer to the definitions of *obsolete property*, *commercial property*, and *commercial housing property* found in the addendum to this bulletin.
- b. *obsolete property* that is *commercial property* AND that was owned by the local governmental unit on June 6, 2000 AND was later conveyed to a private owner.

Important Note: The resolution establishing the district shall set forth a finding and determination that the district meets the requirement set forth in a or b above.

1) Establishing a District on Its Own Initiative Or At Request of Owner(s)

The legislative body of a *qualified local governmental unit* may establish an Obsolete Property Rehabilitation District on its own initiative OR upon a written request filed by the owner or owners of property comprising at least 50% of all the taxable value of the property located within a proposed Obsolete Property Rehabilitation District. The written request must be filed with the clerk of the *qualified local governmental unit*.

2) Written Notice by Certified Mail

Before adopting a resolution establishing an Obsolete Property Rehabilitation District, the legislative body shall give written notice by certified mail to the owners of all real property within the proposed Obsolete Property Rehabilitation District AND shall afford an opportunity for a hearing on the establishment of the Obsolete Property Rehabilitation District. Any of the owners and any other resident or taxpayer of the *qualified local governmental unit* may appear at the hearing 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.

B) Owner Files An Application for Exemption

The following are procedures which must be followed when an owner files an application for an Obsolete Property Rehabilitation Exemption Certificate:

1) Owner Files Application

If an Obsolete Property Rehabilitation District is established, the owner of obsolete property may file an application for an Obsolete Property Rehabilitation Exemption

Certificate with the clerk of the *qualified local governmental unit* that established the Obsolete Property Rehabilitation District (The definition of "obsolete property" is contained in the addendum to this bulletin.) The law requires that the application shall be filed on the form prescribed by the State Tax Commission. [STC Form 3674](#) has been developed for this purpose. This form requests all of the information required to be provided by PA 146 of 2000.

Important Note: If the application form ([STC Form 3674](#)) is not fully completed, it will be returned by the staff of the Property Tax Division prior to any processing being done by the State Tax Commission as described in paragraph D of this bulletin.

2) Notifications by Clerk

Upon receipt of an application for an Obsolete Property Rehabilitation Exemption Certificate, the clerk of the *qualified local governmental unit* shall notify, in writing, the assessor and the legislative body of each taxing unit that levies ad valorem property taxes in the *qualified local governmental unit* in which the obsolete facility is located.

C) Qualified Local Governmental Unit Approves or Disapproves Application

1) Hearing

Before acting upon the application, the legislative body of the *qualified local governmental unit* shall hold a hearing on the application and give notice to the applicant, the assessor, a representative of the affected taxing units, and the general . **The hearing on each application shall be held separately from the hearing on the establishment of the Obsolete Property Rehabilitation District.**

2) Approval or Disapproval

The legislative body of the *qualified local governmental unit*, not more than 60 days after receipt of the application by the clerk, shall **by resolution** either approve or disapprove the application for an Obsolete Property Rehabilitation Exemption Certificate.

Important Note: Only those properties within the Obsolete Property Rehabilitation District which meet the definition of *obsolete property* are eligible for an exemption certificate. Please see the definition of *obsolete property* contained in the addendum to this bulletin.

The legislative body of the *qualified local governmental unit* shall not approve an application for an Obsolete Property Exemption Certificate unless the applicant complies with ALL of the following requirements:

- a. The commencement of the rehabilitation of the facility does not occur before the establishment of the Obsolete Property Rehabilitation District. (Please see the definition of "rehabilitation" contained in the addendum to this bulletin.)
- b. The application relates to a rehabilitation program that when completed constitutes a rehabilitated facility within the meaning of the act and that shall be situated within an Obsolete Property Rehabilitation District established in a *qualified local governmental unit* eligible under the act to establish such a district. (Please see the definition of "rehabilitated facility" contained in the addendum to this bulletin.)
- c. Completion of the rehabilitated facility is calculated to, and will at the time of issuance of the certificate, have the reasonable likelihood to accomplish **one or more** of the following:
 - increase commercial activity
 - create employment
 - retain employment
 - prevent a loss of employment
 - revitalize urban areas
 - increase the number of residents in the community in which the facility is situated.
- d. The applicant states, in writing, that the rehabilitation of the facility would not be undertaken without the applicant's receipt of the exemption certificate.
- e. The applicant is not delinquent in the payment of any taxes related to the facility.

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 State Tax Commission. **A resolution is not effective unless approved by the State Tax Commission.** If DISAPPROVED by the *qualified local governmental unit*, the reasons shall be set forth in writing in the resolution, and the clerk shall send a copy of the resolution by certified mail to the applicant and to the assessor.

There is NO provision in PA 146 of 2000 for an appeal to the State Tax Commission when a local unit disapproves an application. (This differs from the provisions of PA 198 of 1974 which allows such action.)

3) Exempt Taxable Values Which Exceed 5% of the Taxable Value of the Local Unit

There are separate requirements which must be met when the taxable value

of the property proposed to be exempt, **CONSIDERED TOGETHER** with the total taxable value of property already exempt under certificates previously granted and currently in force under this act or under 1974 PA 198 (i.e. Industrial Facility Exemptions), exceeds 5% of the taxable value of the qualified local governmental unit. When this occurs, the legislative body of the *qualified local governmental unit* shall make a separate finding and shall include a statement in its resolution that exceeding that amount shall **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.

4) Length of Certificate

Unless earlier revoked as provided in section 12 of the act, an Obsolete Property Rehabilitation Exemption Certificate shall 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**. The 12 year period may include the time during which the rehabilitation occurs.

If the number of years determined is less than 12, the certificate may be subject to review by the legislative body of the *qualified local governmental unit* and the certificate may be extended. The review of the certificate, for the purpose of determining an extension, shall be based upon factors, criteria, and objectives that shall 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 obsolete property is located, and the State Tax Commission.

The total amount of time determined for the certificate including any extensions shall not exceed 12 years. The certificate **shall commence** with its effective date and end on the December 31 immediately following the last day of the number of years determined. (The **effective date** is December 31 immediately following the date of issuance of the certificate by the State Tax Commission.)

D) State Tax Commission Approves or Disapproves Application

1) State Tax Commission Approves or Disapproves

Not more than 60 days after receipt of a copy of the application and resolution adopted by the *qualified local governmental unit*, the State Tax Commission shall approve or disapprove the resolution.

Important Note: If the application form ([STC Form 3674](#)) is not fully completed, it will be returned by the staff of the Property Tax Division prior to any processing being done by the State Tax Commission.

2) State Tax Commission Issues Exemption Certificate

Following approval of the application by the legislative body of the *qualified local governmental unit* and the State Tax Commission, the Commission shall issue to the applicant an Obsolete Property Rehabilitation Exemption Certificate which contains certain information required by section 6(2) of PA 146 of 2000.

3) Effective Date of Certificate

The effective date of the certificate is the December 31 immediately following the date of issuance of the certificate by the State Tax Commission.

4) Length of Certificate

Unless earlier revoked as provided in section 12 of the act, an Obsolete Property Rehabilitation Exemption Certificate shall 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 12, the certificate may be subject to review by the legislative body of the *qualified local governmental unit* and the certificate may be extended. (Please see the discussion regarding **Length of Certificate** contained in paragraph C of this bulletin.)

The total amount of time determined for the certificate including any extensions shall not exceed 12 years. The certificate shall commence with its effective date and end on the December 31 immediately following the last day of the number of years determined.

E) Other Matters

1) The Exemption From Ad Valorem Property Taxes

PA 146 of 2000 provides an exemption from ad valorem property taxes for the rehabilitated facility for which the exemption is granted INCLUDING buildings and improvements located on leased land. The exemption from ad valorem property taxes DOES NOT apply to:

- a. the land on which the rehabilitated facility is located.
- b. personal property other than buildings on leased land.

2) The Specific Tax Levied Upon the Owners of Exempt Obsolete Property

Section 10 of PA 146 of 2000 provides that a specific tax, known as the Obsolete Properties Tax, shall be levied upon the owner of every rehabilitated facility exempt under the act.

The amount of Obsolete Properties Tax is calculated using a 2-step process.

Step 1: Multiply the mills levied by all taxing units for the current year by the *"frozen" taxable value* of the rehabilitated facility INCLUDING the *"frozen" taxable value* of buildings on leased land BUT EXCLUDING the *"frozen" taxable value* of the land and of the other personal property.

The ***"frozen" taxable value*** is the taxable value for the December 31 immediately preceding the effective date of the Obsolete Property Rehabilitation Exemption Certificate.

EXAMPLE OF FROZEN TAXABLE VALUE: If the effective date of the Obsolete Property Rehabilitation Exemption Certificate is December 31, 2000, the frozen taxable value is the 2000 taxable value.

EXAMPLE OF CALCULATION IN STEP 1:

Assume the following regarding the rehabilitated property:

Current Total Millage for All Units = 50 mills

"Frozen" Taxable Value of Total Real and Personal Property (including buildings on leased land) = \$125,000

"Frozen" Taxable Value of Buildings on Leased Land = \$ 20,000

"Frozen" Taxable Value of Land = \$ 10,000

"Frozen" Taxable Value of Other Personal Property = \$ 15,000

Calculation of Tax

. 050 (50 mills)

X \$100,000 (\$125,000 MINUS \$10,000 MINUS \$15,000)
\$5,000 Tax for Step 1

Step 2: Multiply the mills levied for school operating purposes by a local school district for the current year plus the mills levied for the State Education Tax for the current year times the *CURRENT taxable value* of the rehabilitated facility INCLUDING buildings on leased land BUT EXCLUDING the CURRENT taxable value of the land, the CURRENT taxable value of the other personal property and the "frozen" taxable value used in the final calculation in Step 1.

EXAMPLE OF CALCULATION IN STEP 2:

Assume the following:

Current Millage for School Operating
Purposes and for State Education Tax = 24 mills

CURRENT Taxable Value of Total
Real and Personal Property of
Rehabilitated Facility = \$150,000

CURRENT Taxable Value of
Buildings on Leased Land = \$ 22,000

CURRENT Taxable Value of Land = \$ 10,100

CURRENT Taxable Value of
Other Personal Property = \$ 16,000

Calculation of Tax

.024 (24 mills)
X \$23,900 (\$150,000 MINUS \$10,100
MINUS \$16,000 MINUS
\$100,000 from Step 1)

\$573.60 Tax for Step 2

Total Obsolete Properties Tax = \$5,000 (from
Step 1) + \$573.60 (from Step 2) = \$5,573.60.

Note: Exclusion of Some Mills from the Specific Tax by the State Treasurer

The State Treasurer may exclude from the Specific Tax up to ½ of the mills levied for local school operating purposes and for the State Education Tax. This may be done if the State Treasurer determines that reducing the millage is necessary to reduce unemployment, promote economic growth, and increase capital investment in Qualified Local Governmental Units. This exclusion is for a period not to exceed 6 years. Only 25 exclusions can be granted each year. An exclusion must be granted within 60 days after the STC approves an Obsolete Property Rehabilitation Exemption Certificate. (Please see section 17 of PA 146 of 2000 included with this bulletin.) Requests for consideration for this exclusion should be made by the applicant on line 10 of the application ([Form 3674](#)).

3) Transferring the Obsolete Property Rehabilitation Exemption Certificate

An Obsolete Property Rehabilitation Exemption Certificate may be transferred and assigned by the holder of the certificate to a new owner of the rehabilitated facility if the *qualified local governmental unit* approves the transfer after application by the new owner.

There is NO provision in PA 146 of 2000 for approval by the STC of the transfer of a certificate. Likewise, there is no provision in PA 146 of 2000 for an appeal to the STC when a local unit does not approve the transfer of a certificate.

4) Revocation of the Obsolete Property Rehabilitation Exemption Certificate

The legislative body of the QUALIFIED LOCAL GOVERNMENTAL UNIT may, by resolution, revoke the Obsolete Property Rehabilitation Exemption Certificate of a facility if:

- a. it finds that the completion of rehabilitation of the facility has not occurred within the time authorized by the legislative body in the exemption certificate or a duly authorized extension of that time.

OR

- b. it finds that the holder of the Obsolete Property Exemption Certificate has not proceeded in good faith with the operation of the rehabilitated 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 exemption certificate.

There is NO provision in PA 146 of 2000 for an appeal to the STC when a local unit revokes an Obsolete Property Rehabilitation Exemption Certificate.

5) Duties of the Assessor As Required by Section 9 of the Act

Section 9 of PA 146 of 2000 requires the assessor to perform the following duties:

- a. The assessor shall annually determine the value and taxable value as of December 31, of each exempt rehabilitated facility. This determination shall be made separately for each facility and shall be broken down by both real and personal property.
- b. Upon receipt of notice of the filing of an application for an exemption certificate, the assessor shall determine and furnish to the local legislative body the value and the taxable value of the property to which the application pertains and other information as may be necessary to permit the local legislative body to make the determinations required by section 8(2) of the act.

6) Additional Matters Covered by PA 146 of 2000

The following are additional items covered by PA 146 of 2000. The sections of the law where they can be found are also noted. Please refer to the enclosed copy of PA 146 of 2000 for more information about these items.

ITEM		SECTION OF PA 146 OF 2000
1)	Disbursement of Obsolete Properties Tax Payments	Section 10(4)
2)	Disbursement of Intermediate School's Share of Tax to the State Treasury	Section 10(5)
3)	Disbursement of Local School's Share of Tax to the State Treasury	Section 10(6)
4)	Report by Collection Officer to the State Tax Commission	Section 10(7)
5)	Rehabilitated Facility Located in a Renaissance Zone	Section 10(8)
6)	Tax is a Lien	Section 11

7)	Annual Report by the Local Unit to the State Tax Commission on the Status of Each Exemption	Section 14
8)	Reports by the Treasury Department	Section 15
9)	No New Exemptions after 12-31-2010	Section 16

ADDENDUM

Definitions Contained In or Referenced In Public Act 146 of 2000

(Please see the copy of the act enclosed with this bulletin for additional definitions.)

"Commercial housing property" means that portion of real property not occupied by an owner of that real property that is classified as residential real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, is a multiple-unit dwelling, or is a dwelling unit in a multiple-purpose structure, used for residential purposes. Commercial housing property also includes a building or group of contiguous buildings previously used for industrial purposes that will be converted to a multiple-unit dwelling or dwelling unit in a multiple-purpose structure, used for residential purposes.

"Commercial property" means land improvements classified by law for general ad valorem tax purposes as real property including real property assessable as personal property pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and MCL 211.14, the primary purpose and use of which is the operation of a commercial business enterprise. Commercial property shall also include facilities related to a commercial business enterprise under the same ownership at that location, including, but not limited to, office, engineering, research and development, warehousing, parts distribution, retail sales, and other commercial activities. Commercial property also includes a building or group of contiguous buildings previously used for industrial purposes that will be converted to the operation of a commercial business enterprise or a multiple-unit dwelling or a dwelling unit in a multiple-purpose structure, used for residential purposes. Commercial property does not include any of the following:

- (i) Land
- (ii) Property of a utility

"Facility", except as otherwise provided in this act, means a building or group of contiguous buildings.

"Functionally obsolete" means that the property is unable to be used to adequately perform the function for which it was intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or superadequacies in design, or other similar factors that affect the property itself or the property's relationship

with other surrounding property. (See MCL 125.2652)

Note: The STC offers the following as examples of functional obsolescence:

- 1) A floor plan which is inappropriate for the highest and best use of the property.
- 2) A heating system which is inadequate for the highest and best use of the property.
- 3) Excessively high or low ceilings for the highest and best use of the property.
- 4) Partition walls which restrict the highest and best use of the property.
- 5) Mechanical systems (e.g. electrical, plumbing, etc) which are inadequate for the highest and best use of the property.

"Obsolete property" means commercial property or commercial housing property, that is 1 or more of the following:

(i) "Blighted property". Blighted property means property that meets 1 or more of the following criteria:

- i. Has been declared a nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.
- ii. Is an attractive nuisance to children because of physical condition, use, or occupancy.
- iii. Is a fire hazard or is otherwise dangerous to the safety of persons or property.
- iv. Has had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.
- v. Is tax reverted property owned by a qualified local governmental unit, by a county, or by this state. The sale, lease, or transfer of tax reverted property by a qualified local governmental unit, county, or this state after the property's inclusion in a brownfield plan shall not result in the loss to the property of the status as blighted property for purposes of PA 145 of 2000. (See MCL 125.2652)

(ii) A facility as that term is defined below:

"Facility" as defined in PA 451 of 1994 means any area, place, or property where a hazardous substance in excess of the concentrations which satisfy the requirements of section 20120a

(1)(a) or (17) or the cleanup criteria for unrestricted residential use under part 213 has been released, deposited, disposed of, or otherwise comes to be located. Facility does not include any area, place, or property at which response activities have been completed which satisfy the cleanup criteria for the residential category provided for in section 20120a(1)(a) and (17) or at which corrective action has been completed under part 213 which satisfies the cleanup criteria for unrestricted residential use. (See MCL 324.20101)

(iii) Functionally obsolete. Please see the definition of "functionally obsolete".

"Obsolete property rehabilitation district" means an area of a qualified local governmental unit established as provided in section 3. Only those properties within the district meeting the definition of "obsolete property" are eligible for an exemption certificate issued pursuant to section 6 of PA 146 of 2000.

"Rehabilitation" means changes to obsolete property OTHER THAN REPLACEMENT that are required to restore or modify the property, together with all appurtenances, to an economically efficient condition. Rehabilitation includes major renovation and modification including, but not necessarily limited to, the improvement of floor loads, correction of deficient or excessive height, new or improved fixed building equipment, including heating, ventilation, and lighting, reducing multistory facilities to 1 or 2 stories, improved structural support including foundations, improved roof structure and cover, floor replacement, improved wall placement, improved exterior and interior appearance of buildings, and other physical changes required to restore or change the obsolete property to an economically efficient condition. **Rehabilitation shall not include improvements aggregating less than 10% of the true cash value of the property at commencement of the rehabilitation of the obsolete property.**

"Rehabilitated facility" means a commercial property or commercial housing property that has undergone rehabilitation or is in the process of being rehabilitated, including rehabilitation that changes the intended use of the building. A rehabilitated facility does not include property that is to be used as a professional sports stadium. A rehabilitated facility does not include property that is to be used as a casino. As used in this subdivision, "casino" means a casino or a parking lot, hotel, motel, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

"Taxable value" means the value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.