

Frequently Asked Questions
Obsolete Property Rehabilitation Act
(PA 146 of 2000, as amended)

The following frequently asked questions are being provided as a service to assessors and taxpayers to better inform them about the administration of Public Act 146 of 2000, MCL 125.2781 *et seq.*, as amended.

Note: The information contained in these frequently asked questions constitutes an analysis of one or more statutes and not legal advice. Since the analysis is limited to general statutory requirements, individual facts may result in different conclusions being reached. Therefore, individuals may wish to consult legal counsel.

1. What is an Obsolete Property Rehabilitation Exemption?

The Obsolete Property Rehabilitation Act, PA 146 of 2000, MCL 125.2781 *et seq.*, as amended, provides a property tax exemption for commercial and commercial housing properties that are rehabilitated and meet the requirements of the Act. Properties must meet eligibility requirements. The property must be located in an established Obsolete Property Rehabilitation District.

Exemptions are approved for a term of 1-12 years as determined by the local unit of government. The property taxes for the rehabilitated property are based on the previous year's (prior to rehabilitation) taxable value. The taxable value is frozen for the duration of the exemption. Additionally, the State Treasurer may approve reductions of half of the school operating and state education taxes for a period not to exceed 6 years for 25 applications annually. Applications are filed, reviewed and approved by the local unit of government, but are also subject to review at the State level by the Property Services Division. The State Tax Commission (STC) is responsible for final approval and issuance of OPRA certificates. Exemptions are not effective until approved by the STC.

Obsolete Property Rehabilitation Exemption Certificates applications are available from the Michigan Department of Treasury at: www.michigan.gov/propertytaxexemptions

2. Who establishes an Obsolete Property Rehabilitation District?

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(s) of property comprising at least 50% of all taxable value of the property located within the proposed Obsolete Property Rehabilitation District. See question 26 for an explanation of what constitutes a "qualified local governmental unit."

3. What are the requirements for the formation of an Obsolete Property Rehabilitation District?

An Obsolete Property Rehabilitation District may consist of one 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:

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- a. Obsolete property in an area characterized by obsolete commercial property or commercial housing property.
- b. Obsolete property that is commercial property that was owned by the local governmental unit on June 6, 2000 and was later conveyed to a private owner.

Before adopting a resolution establishing an Obsolete Property Rehabilitation District, the local governmental unit must 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.

Following the public hearing, the legislative body of the qualified local governmental unit may establish an Obsolete Property Rehabilitation District by resolution. The resolution must set forth a finding and determination that the district meets the requirements of the Act. A sample resolution can be found at: www.michigan.gov/propertytaxexemptions.

4. How do I apply for an Obsolete Property Rehabilitation Exemption Certificate?

Applications for Obsolete Property Rehabilitation Exemption Certificates are filed with the local governmental unit by the owner of the property.

File two (2) copies of the completed application and all attachments with the clerk of the local governmental unit where the property is located. The property must meet the following requirements:

- a. The property must be located within a “qualified local governmental unit” as defined by MCL 125.2782(k).
- b. The property must be located within an “obsolete property rehabilitation district” as defined by MCL 125.2782(i)
- c. The property must be “commercial housing property” or “commercial property” as defined by MCL 125.2782(a-b).
- d. The property has been determined by the assessor to be “obsolete property” as defined by MCL 125.2782(h).
- e. The project must meet the definition of “rehabilitation” in MCL 125.2782(l).

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5. What documents must accompany an application for an Obsolete Property Rehabilitation Exemption Certificate?

- a. A certified copy of the resolution approving the application with all required statements.
- b. Answers to questions (a) through (f) from the instructions of the application:
 - a) General description of the obsolete facility including the year built, original use, most recent use, number of stories, and square footage.
 - b) General description of the proposed use of the rehabilitated facility.
 - c) Description of the general nature and extent of the rehabilitation to be undertaken.
 - d) A descriptive list of the fixed building equipment that will be a part of the rehabilitated facility.
 - e) A time schedule for undertaking and completing the rehabilitation of the facility.
 - f) A statement of the economic advantages expected from the exemption.
- c. A legal description of the obsolete property.
- d. A statement of obsolescence signed by the assessor of record with the STC
- e. A building permit, if construction has started on the project.
- f. A contractor's bid or itemized list of costs matching the investment amount reported on the first page of the application.

6. What does the local governmental unit need to do upon receipt of an Obsolete Property Rehabilitation Exemption Certificate Application?

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.

The assessor must inspect the qualified facility, find that the property is obsolete, and file a written statement of obsolescence with the qualified local governmental unit. Before acting on the application, the qualified local governmental unit must hold a hearing on the application and give notice to the applicant, assessor, a representative of the affected taxing units, and the general public. This hearing must be held separately from the hearing on the establishment of the Obsolete Property Rehabilitation District.

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Not more than 60 days after receiving an application, the qualified local governmental unit must approve or disapprove the application by resolution. A sample resolution, with all required statements, can be found at: www.michigan.gov/propertytaxexemptions.

7. What requirements for an Obsolete Property Rehabilitation Exemption Certificate must be met to gain approval at the local governmental unit level?

An applicant seeking an Obsolete Property Rehabilitation Exemption Certificate must meet the following qualifications:

- a. The commencement of the rehabilitation of the facility does not occur before the establishment of the obsolete property rehabilitation district.
- b. The application relates to a rehabilitation program that when completed constitutes a rehabilitated facility within the meaning of this act and that shall be situated within an obsolete property rehabilitation district established in a qualified local governmental unit.
- c. Completion of the rehabilitated facility is calculated to, and will at the time of issuance of the certificate have the reasonable likelihood to, increase commercial activity, create employment, retain employment, prevent a loss of employment, revitalize urban areas, or 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.

8. What happens if the qualified local governmental unit approves the application?

If the qualified local governmental unit approves the application, the clerk must forward a copy of the application and resolution to the STC.

9. What happens if the qualified local governmental unit disapproves the application?

If the local governmental unit disapproves the application, the reason for disapproval must be set forth in writing in the resolution, and the clerk must send a copy of the resolution to the applicant and assessor by certified mail.

10. Are there provisions in the application process that are time sensitive?

Yes. State Tax Commission Rule 209.91(2) states that “[a]ll complete applications for obsolete property rehabilitation act exemption received through October 31 shall receive consideration and action by the commission before December 31. An application received

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on or after November 1 shall be considered by the commission contingent upon staff availability.”

11. What does the STC do when it receives an application and resolution from the clerk of the qualified local governmental unit?

The STC reviews the application for completeness and compliance with the statute. If the application is incomplete, staff sends a letter requesting the missing information. Once the application is complete, the STC is required to either approve or disapprove the application within 60 days as required by MCL 125.2786(1). If the application is approved, the STC issues an Obsolete Property Rehabilitation Exemption Certificate, and it is effective December 31st immediately following the date of issuance by the STC.

12. Who determines if a facility qualifies for an Obsolete Property Rehabilitation Exemption Certificate?

Initially, that determination is made when the application is filed and reviewed by the local governmental unit. However, the local governmental unit’s determination is reviewed and either approved, modified, or denied by the STC.

13. Can a decision of the STC regarding an Obsolete Property Rehabilitation Exemption Certificate be appealed?

Yes. A party aggrieved by the issuance, refusal to issue, revocation, transfer or modification of an Obsolete Property Rehabilitation exemption may appeal a final decision of the STC by filing a petition with the Michigan Tax Tribunal, www.michigan.gov/taxtrib, within 35 days. MCL 205.735a(6).

14. What is the term of an Obsolete Property Rehabilitation Exemption Certificate?

The certificate may be issued for a period of at least one year, but not more than 12 years. The total amount of time determined for the certificate, including any extensions, shall not exceed 12 years after the completion of the rehabilitated facility. If the certificate is approved for less than 12 years, the local governmental unit must either set forth the factors, criteria, and objectives for extension or state that no extension will be permitted in the resolution approving the application. The certificate shall commence with its effective date and end on the December 30th immediately following the last day of the number of years approved.

15. What determines the starting date of an Obsolete Property Rehabilitation Exemption Certificate?

The effective date of the certificate is December 31st immediately following the date of issuance of the certificate by the STC.

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16. What is the State Treasurer’s Exclusion?

In accordance with MCL 125.279, within 60 days after the granting of an Obsolete Property Rehabilitation Exemption Certificate, the State Treasurer may exempt 50% of the mills levied for local school operating purposes and for the State Education Tax for a period not to exceed six years. The statute permits the State Treasurer to grant no more than 25 exclusions annually.

In order to be considered for the exclusion, the applicant must check the box on page one of the *Application for Obsolete Property Rehabilitation Exemption Certificate* (Form 3674), at the time that the application is filed with the qualified local governmental unit.

17. How is the tax computed on a rehabilitated facility?

A specific tax, known as the obsolete properties tax, is levied upon every owner of a rehabilitated facility to which an Obsolete Property Rehabilitation Exemption Certificate is issued. MCL 125.2790(1).

Calculating the obsolete properties tax is a two-step process:

First, multiply the total mills levied as ad valorem taxes for that year by all taxing units by the taxable value of the real property (excluding land) for the tax year immediately preceding the effective date of the Obsolete Property Rehabilitation Exemption Certificate.

Second, multiply the local school operating and State Education Tax mills by the difference between the taxable value of the real property (excluding land) for the current tax year and the taxable value of the real property (excluding land) for the tax year immediately preceding the effective date of the exemption. If the certificate was granted a State Treasurer’s Exclusion, as explained by question 16, calculate the mills levied for local school operating purposes and for the State Education Tax at 50% for the period of the exclusion.

18. Are special assessment millage rates impacted by the granting of an Obsolete Property Rehabilitation Exemption Certificate?

Special assessment millage rates may be impacted. Millage-based special assessments levied under Public Act 33 of 1951 do not apply to property with an Obsolete Property Rehabilitation Act exemption. However, the special assessment would still be applicable to the land on which the Obsolete Property Rehabilitation Act exemption property is located. Conversely, for millage-based special assessments levied under public acts other than Public Act 33 of 1951, property with an Obsolete Property Rehabilitation Act exemption pays on the full special assessment millage rate, the same as any “ad valorem” property.

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19. Can an Obsolete Property Rehabilitation Exemption Certificate be transferred?

Yes. “A 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.” MCL 125.2793.

20. Can a Obsolete Property Rehabilitation Exemption Certificate be revoked?

Yes. The legislative body of the qualified local governmental unit may, by resolution, revoke the Obsolete Property Rehabilitation Exemption Certificate of a facility if 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 if the certificate holder has not proceeded in good faith with the operation of the rehabilitated facility in a manner consistent with the purposes of the Act and in the absence of circumstances that are beyond the control of the holder of the exemption certificate. MCL 125.2792(1).

In addition, The holder of an Obsolete Property Rehabilitation Certificate may send, by certified mail, a request to revoke the certificate to the “qualified local governmental unit.” Upon receipt of the request, the legislative body of the local governmental unit may, by resolution, revoke the certificate. MCL 125.2792(2).

21. When does the revocation of an Obsolete Property Rehabilitation Exemption Certificate take effect?

The revocation of an Obsolete Property Rehabilitation Exemption Certificate is effective on December 31st of the year in which the local governmental unit resolves to revoke the certificate.

22. Can a revoked Obsolete Property Rehabilitation Exemption Certificate be reinstated?

Yes. Pursuant to MCL 125.2792(3), a revoked Obsolete Property Rehabilitation Certificate may be reinstated under two circumstances. If the holder of the revoked certificate is requesting reinstatement, they must submit a written request to the qualified local governmental unit and the STC. If a subsequent owner is requesting reinstatement of a revoked certificate, they must file an application with the qualified local governmental unit.

If the legislative body of the qualified local governmental unit submits a resolution of concurrence to the STC, and the facility continues to qualify under the Act, a revoked Obsolete Property Rehabilitation Exemption Certificate may be reinstated by the STC.

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23. What is the definition of “commercial property”?

MCL 125.2782(b) defines “commercial property” as:

“. . . land improvements classified by law for general ad valorem tax purposes as real property including buildings and improvements assessable as real property pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206; MCL 211.8 and 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: land or property of a public utility” (emphasis added).

24. What is the definition of “commercial housing property”?

MCL 125.2782(a) defines “commercial housing property” as:

“. . . 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.”

25. What is the definition of “obsolete property”?

MCL 125.2782(h) defines “obsolete property” as:

“. . . commercial property or commercial housing property that is 1 or more of the following:

- i. Blighted, as that term is defined in section 2 of the brownfield redevelopment financing act, 1996 PA 381; MCL 125.2652;

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- ii. A facility as that term is defined under section 20101 of the natural resources and environmental protection act, 1994 PA 451; MCL 324.20101; and
- iii. Functionally obsolete.”

26. What is the definition of a “qualified local governmental unit?”

A “qualified local governmental unit” is a city, township, or village that meets the statutory requirements of MCL 125.2782(k). Each year, the STC publishes a list of “qualified local governmental units,” which can be found here: https://www.michigan.gov/documents/taxes/OPRA_Qualified_Local_Govt_Units_2015_8_25_2_498400_7.pdf

27. What is the definition of “rehabilitation”?

“Rehabilitation” is defined by MCL 125.2782(l) as:

“. . . 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, adding additional stories to a facility or adding additional space on the same floor level not to exceed 100% of the existing floor space on that floor level, 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.”

28. What is the definition of a “rehabilitated facility”?

MCL 125.2782(m) defines a “rehabilitated facility” as:

“. . . 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 or casino” (emphasis added).

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29. What is required of the Local Governmental Unit regarding the yearly status reporting of Obsolete Property Rehabilitation Exemptions to the STC?

Not later than October 15th of each year, the assessor of each qualified local governmental unit containing properties subject to an active Obsolete Property Rehabilitation Exemption Certificate shall file *Assessing Officer Report for Obsolete Property Rehabilitation Exemption* (Form 4770) with the STC. The report must include the current value of the property to which the exemption pertains, the value on which the obsolete property rehabilitation tax is based, a current estimate of the number of jobs retained or created by the exemption, and a current estimate of the number of new residents occupying commercial housing property units covered by the exemption.

30. Where can I obtain copies of previously issued Obsolete Property Rehabilitation Exemption Certificates?

Copies of certificates acted upon by the STC after January 1, 2013 are available on the Department of Treasury website at:

www.michigan.gov/propertytaxexemptions.

Choose the exemption program under which the certificate was issued. Within the “Certificate Activity” link, the certificates are listed according to the date they were acted upon.