

SENATE BILL No. 1597

November 6, 2008, Introduced by Senator JANSEN and referred to the Committee on Economic Development and Regulatory Reform.

[A bill to amend 2005 PA 210, entitled
"Commercial rehabilitation act,"
by amending sections 2, 8, and 10 (MCL 207.842, 207.848, and 207.850),
section 2 and 8 as amended by 2008 PA 231.]

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Commercial property" means land improvements classified
3 by law for general ad valorem tax purposes as real property
4 including real property assessable as personal property pursuant to
5 sections 8(d) and 14(6) of the general property tax act, 1893 PA
6 206, MCL 211.8 and 211.14, the primary purpose and use of which is
7 the operation of a commercial business enterprise or multifamily
8 residential use. Commercial property shall also include facilities
9 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.

Commercial property does not include any of the following:

(i) Land.

(ii) Property of a public utility.

(b) "Commercial rehabilitation district" or "district" means an area not less than 3 acres in size of a qualified local governmental unit established as provided in section 3. However, if the commercial rehabilitation district is located in a downtown or business area or contains a qualified retail food establishment, as determined by the legislative body of the qualified local governmental unit, the district may be less than 3 acres in size.

(c) "Commercial rehabilitation exemption certificate" or "certificate" means the certificate issued under section 6.

(d) "Commercial rehabilitation tax" means the specific tax levied under this act.

(e) "Commission" means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.

(f) "Department" means the department of treasury.

(g) "Multifamily residential use" means multifamily housing consisting of 5 or more units.

(h) "Qualified facility" means a qualified retail food establishment or a building or group of contiguous buildings of

1 commercial property that is 15 years old or older or has been
2 allocated for a new markets tax credit under section 45d of the
3 internal revenue code, 26 USC 45d. Qualified facility also includes
4 vacant property located in a city with a population of more than
5 36,000 and less than 37,000 according to the 2000 federal decennial
6 census and from which a previous structure has been demolished and
7 on which commercial property will be newly constructed. A qualified
8 facility does not include property that is to be used as a
9 professional sports stadium. A qualified facility does not include
10 property that is to be used as a casino. As used in this
11 subdivision, "casino" means a casino or a parking lot, hotel,
12 motel, or retail store owned or operated by a casino, an affiliate,
13 or an affiliated company, regulated by this state pursuant to the
14 Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to
15 432.226.

16 (i) "Qualified local governmental unit" means a city, village,
17 or township.

18 (j) "Qualified retail food establishment" means property that
19 meets all of the following:

20 (i) The property will be used primarily as a retail
21 supermarket, grocery store, produce market, or delicatessen that
22 offers ~~fresh~~ **UNPROCESSED** USDA-inspected meat and poultry products
23 **OR MEAT PRODUCTS THAT CARRY THE USDA ORGANIC SEAL**, fresh fruits and
24 vegetables, and dairy products for sale to the public.

25 (ii) The property meets 1 of the following:

26 (A) Is located in a qualified local governmental unit that is
27 also located in a qualified local governmental unit as defined in

1 section 2 of the obsolete property rehabilitation act, 2000 PA 146,
2 MCL 125.2782, and is located in an underserved area.

3 (B) Is located in a qualified local governmental unit that is
4 designated as rural as defined by the United States census bureau
5 and is located in an underserved area.

6 (iii) The property was used as residential, commercial, or
7 industrial property as allowed and conducted under the applicable
8 zoning ordinance for the immediately preceding 30 years.

9 (k) "Rehabilitation" means changes to a qualified facility
10 that are required to restore or modify the property, together with
11 all appurtenances, to an economically efficient condition.
12 Rehabilitation includes major renovation and modification
13 including, but not necessarily limited to, the improvement of floor
14 loads, correction of deficient or excessive height, new or improved
15 fixed building equipment, including heating, ventilation, and
16 lighting, reducing multistory facilities to 1 or 2 stories,
17 improved structural support including foundations, improved roof
18 structure and cover, floor replacement, improved wall placement,
19 improved exterior and interior appearance of buildings, and other
20 physical changes required to restore or change the property to an
21 economically efficient condition. Rehabilitation for a qualified
22 retail food establishment also includes new construction.
23 Rehabilitation also includes new construction on vacant property
24 from which a previous structure has been demolished and if the new
25 construction is an economic benefit to the local community as
26 determined by the qualified local governmental unit. Rehabilitation
27 shall not include improvements aggregating less than 10% of the

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true cash value of the property at commencement of the
rehabilitation of the qualified facility.

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

(m) "Underserved area" means an area determined by the
Michigan department of agriculture that contains a low or moderate
income census tract and a below average supermarket density, an
area that has a supermarket customer base with more than 50% living
in a low income census tract, or an area that has demonstrated
significant access limitations due to travel distance.

[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 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.

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

(a) Except as otherwise provided in this subdivision, the
commencement of the rehabilitation of the qualified facility does not
occur earlier than 6 months before the applicant files the application
for the commercial rehabilitation exemption certificate. However, through
December 31, 2009, for a qualified facility that is a qualified retail
food establishment, the commencement of the rehabilitation does not occur
earlier than ~~36~~42 months before the applicant files the application for
the commercial rehabilitation exemption certificate.

(b) The application relates to a rehabilitation program that when
completed constitutes a qualified facility within the meaning of this act
and that shall be situated within a commercial rehabilitation district
established in a qualified local governmental unit eligible under this
act.

(c) Completion of the qualified 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 qualified facility is
situated.

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(d) The applicant states, in writing, that the rehabilitation of the qualified facility, excluding qualified retail food establishments through December 31, 2009, 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 qualified facility.]

11 Sec. 10. (1) There is levied upon every owner of a qualified
12 facility to which a commercial rehabilitation exemption certificate
13 is issued a specific tax to be known as the commercial
14 rehabilitation tax.

15 (2) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (8), THE**
16 amount of the commercial rehabilitation tax, in each year, shall be
17 determined by adding the results of both of the following
18 calculations:

19 (a) Multiplying the total mills levied as ad valorem taxes for
20 that year by all taxing units within which the qualified facility
21 is located by the taxable value of the real and personal property
22 of the qualified facility on the December 31 immediately preceding
23 the effective date of the commercial rehabilitation exemption
24 certificate after deducting the taxable ~~valuation~~ **VALUE** of the land
25 and of personal property other than personal property assessed
26 pursuant to sections 8(d) and 14(6) of the general property tax
27 act, 1893 PA 206, MCL 211.8 and 211.14, for the tax year

1 immediately preceding the effective date of the commercial
2 rehabilitation exemption certificate.

3 (b) Multiplying the mills levied for school operating purposes
4 for that year under the revised school code, 1976 PA 451, MCL 380.1
5 to 380.1852, and the state education tax act, 1993 PA 331, MCL
6 211.901 to 211.906, by the taxable value of the real and personal
7 property of the qualified facility, after deducting all of the
8 following:

9 (i) The taxable value of the land and of the personal property
10 other than personal property assessed pursuant to sections 8(d) and
11 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and
12 211.14.

13 (ii) The taxable value used to calculate the tax under
14 subdivision (a).

15 (3) The commercial rehabilitation tax is an annual tax,
16 payable at the same times, in the same installments, and to the
17 same officer or officers as taxes imposed under the general
18 property tax act, 1893 PA 206, MCL 211.1 to ~~211.157~~**211.155**, are
19 payable. Except as otherwise provided in this section, the officer
20 or officers shall disburse the commercial rehabilitation tax
21 payments received by the officer or officers each year to and among
22 this state, cities, school districts, counties, and authorities, at
23 the same times and in the same proportions as required by law for
24 the disbursement of taxes collected under the general property tax
25 act, 1893 PA 206, MCL 211.1 to ~~211.157~~**211.155**.

26 (4) For intermediate school districts receiving state aid
27 under sections 56, 62, and 81 of the state school aid act of 1979,

1 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, of the amount of
2 commercial rehabilitation tax that would otherwise be disbursed to
3 an intermediate school district, all or a portion, to be determined
4 on the basis of the tax rates being utilized to compute the amount
5 of state aid, shall be paid to the state treasury to the credit of
6 the state school aid fund established by section 11 of article IX
7 of the state constitution of 1963.

8 (5) The amount of commercial rehabilitation tax described in
9 ~~subsection~~**SUBSECTIONS** (2)(a) **AND (8) (A)** that would otherwise be
10 disbursed to a local school district for school operating purposes,
11 and all of the amount described in ~~subsection~~**SUBSECTIONS** (2)(b)
12 **AND (8) (B)**, shall be paid instead to the state treasury and
13 credited to the state school aid fund established by section 11 of
14 article IX of the state constitution of 1963.

15 (6) The officer or officers shall send a copy of the amount of
16 disbursement made to each unit under this section to the commission
17 on a form provided by the commission.

18 (7) A qualified facility located in a renaissance zone under
19 the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
20 125.2696, is exempt from the commercial rehabilitation tax levied
21 under this act to the extent and for the duration provided pursuant
22 to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
23 125.2696, except for that portion of the commercial rehabilitation
24 tax attributable to a special assessment or a tax described in
25 section 7ff(2) of the general property tax act, 1893 PA 206, MCL
26 211.7ff. The commercial rehabilitation tax calculated under this
27 subsection shall 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.

(8) THE AMOUNT OF THE COMMERCIAL REHABILITATION TAX, IN EACH YEAR, FOR A QUALIFIED RETAIL FOOD ESTABLISHMENT THAT WAS ISSUED A CERTIFICATE ON OR BEFORE DECEMBER 31, 2009, SHALL BE DETERMINED BY ADDING THE RESULTS OF BOTH OF THE FOLLOWING CALCULATIONS:

(A) MULTIPLYING THE TOTAL MILLS LEVIED AS AD VALOREM TAXES FOR THAT YEAR BY ALL TAXING UNITS WITHIN WHICH THE QUALIFIED FACILITY IS LOCATED BY THE TAXABLE VALUE OF THE REAL AND PERSONAL PROPERTY OF THE QUALIFIED FACILITY ON THE DECEMBER 31 IMMEDIATELY PRECEDING THE REHABILITATION AFTER DEDUCTING THE TAXABLE VALUATION OF THE LAND AND OF PERSONAL PROPERTY OTHER THAN PERSONAL PROPERTY ASSESSED PURSUANT TO SECTIONS 8(D) AND 14(6) OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.8 AND 211.14, FOR THE TAX YEAR IMMEDIATELY PRECEDING THE REHABILITATION.

(B) MULTIPLYING THE MILLS LEVIED FOR SCHOOL OPERATING PURPOSES FOR THAT YEAR UNDER THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1 TO 380.1852, AND THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906, BY THE TAXABLE VALUE OF THE REAL AND PERSONAL PROPERTY OF THE QUALIFIED RETAIL FOOD ESTABLISHMENT, AFTER DEDUCTING ALL OF THE FOLLOWING:

(i) THE TAXABLE VALUE OF THE LAND AND OF THE PERSONAL PROPERTY OTHER THAN PERSONAL PROPERTY ASSESSED PURSUANT TO SECTIONS 8(D) AND 14(6) OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.8 AND 211.14.

(ii) THE TAXABLE VALUE USED TO CALCULATE THE TAX UNDER

1 SUBDIVISION (A) .