

Act No. 82
Public Acts of 2011
Approved by the Governor
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**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011**

Introduced by Senators Kowall, Young, Emmons, Bieda, Hunter and Brandenburg

ENROLLED SENATE BILL No. 223

AN ACT to amend 2005 PA 210, entitled "An act to provide for the establishment of commercial rehabilitation 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 local governmental officials; and to provide penalties," by amending sections 2 and 8 (MCL 207.842 and 207.848), as amended by 2008 PA 500.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

(a) "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 211.14, the primary purpose and use of which is the operation of a commercial business enterprise or multifamily residential use. 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. 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 commercial property that is 15 years old or older or has been allocated for a new markets tax credit under section 45D of the internal revenue code, 26 USC 45D. Qualified facility also includes a building or a group of contiguous buildings, a portion of a building or group of contiguous buildings previously used for commercial or industrial purposes, obsolete industrial property, and vacant property which, within the immediately preceding 15 years, was commercial property as defined in subdivision (a). Qualified facility shall also include vacant property located in a city with a population of more than 500,000 according to the most recent federal decennial census and from which a previous structure has been demolished and on which commercial property is or will be newly constructed provided an application for a certificate has been filed with that city before July 1, 2010. A qualified facility also includes a hotel or motel that has additional meeting or convention space that is attached to a convention and trade center that is over 250,000 square feet in size and that is located in a county with a population of more than 1,100,000 and less than 1,600,000 as of the most recent decennial census. A qualified facility does not include property that is to be used as a professional sports stadium. A qualified 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, 1996 IL 1, MCL 432.201 to 432.226.

(i) “Qualified local governmental unit” means a city, village, or township.

(j) “Qualified retail food establishment” means property that meets all of the following:

(i) The property will be used primarily as a retail supermarket, grocery store, produce market, or delicatessen that offers unprocessed USDA-inspected meat and poultry products or meat products that carry the USDA organic seal, fresh fruits and vegetables, and dairy products for sale to the public.

(ii) The property meets 1 of the following:

(A) Is located in a qualified local governmental unit that is also located in a qualified local governmental unit as defined in section 2 of the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2782, and is located in an underserved area.

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

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

(k) “Rehabilitation” means changes to a qualified facility 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 property to an economically efficient condition. Rehabilitation for a qualified retail food establishment also includes new construction. Rehabilitation also includes new construction of a qualified facility that is a hotel or motel that has additional meeting or convention space that is attached to a convention and trade center that is over 250,000 square feet in size that is located in a county with a population of more than 1,100,000 and less than 1,600,000 as of the most recent decennial census, if that new construction is an economic benefit to the local community as determined by the qualified local governmental unit. Rehabilitation also includes new construction on vacant property from which a previous structure has been demolished and if the new construction is an economic benefit to the local community as determined by the qualified local governmental unit. Rehabilitation shall not include improvements aggregating less than 10% of the 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 or subsection (3), 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 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.

(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.

(3) The provisions of subsection (2)(a) and (d) and the provision contained in section 4(1) that provides that the district must be established before an application is filed do not apply to the rehabilitation of a qualified facility located in a commercial rehabilitation district established by the legislative body of the qualified local governmental unit in 2011 for construction or rehabilitation that was commenced in August 2010 and for which an application for a commercial rehabilitation exemption certificate was filed in June 2010.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Gay E. Randall

Clerk of the House of Representatives

Approved

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Governor