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Senate Bill 308 (as enacted)
Sponsor: Senator Rick Jones
Senate Committee: Economic Development
House Committee: Tax Policy

PUBLIC ACT 265 of 2013

Date Completed: 8-7-14

RATIONALE

The Obsolete Property Rehabilitation Act provides for tax abatements for certain facilities undergoing rehabilitation that are located in an obsolete property rehabilitation district created by a qualified local governmental unit (sometimes called a "core community"). The local unit of government by resolution may approve an exemption certificate for the rehabilitation of blighted, functionally obsolete, and contaminated property, and then must forward the application and resolution to the State Tax Commission. After the Commission approves an application, it must issue the applicant an obsolete property rehabilitation exemption certificate. The legislative body of a qualified local unit may not approve an application, however, unless the applicant complies with certain criteria. The criteria include a requirement that the rehabilitation of the facility not begin before the obsolete property rehabilitation district has been established. Various exceptions have been made to this requirement, and others were suggested.

In 2010, an organization wishing to rehabilitate a closed, blighted nursing home in Charlotte and reopen it as a residential care facility for dementia patients worked with the city to secure a tax-break under the Act. The new owners of the facility later discovered that the Tax Commission had never received the application for the exemption certificate. City officials admitted responsibility for the error and established a rehabilitation district in 2012, but the rehabilitation work had already been done.

In addition, because of an assessment of severe risk of collapse, a small business incubator in Detroit's Midtown area had to make immediate repairs to the roof of an old warehouse it had acquired, before a rehabilitation district could be established. Consequently, the Tax Commission denied the request for an exemption certificate because rehabilitation work began before a district was established.

It was suggested that the Act should accommodate those situations in Charlotte and Detroit.

CONTENT

The bill amended the Obsolete Property Rehabilitation Act to make two exceptions to the requirement that the rehabilitation of a facility not begin before the establishment of an obsolete property rehabilitation district.

Specifically, the bill allows a qualified local unit's legislative body to approve an application for an exemption certificate if the rehabilitation began before the rehabilitation district was established, if all of the following are met:

- The building permit for the rehabilitation of the facility was obtained in September 2010.
- The obsolete property rehabilitation district was created in October 2012.

- The rehabilitation of the facility included renovation of the entire interior building structure and mold removal.

The effective date of a certificate issued under this exception is December 31, 2011.

In addition, the bill allows a qualified local unit to approve an application for an exemption certificate if the rehabilitation began before the rehabilitation district was established, if all of the following are met:

- Roof repairs or improvements began before the district was established.
- The application for the facility was submitted to the local unit in January 2010.
- The local unit established the rehabilitation district in June 2010 and approved the certificate in October 2010.
- The facility is located in a city with a population of more than 600,000 and in a county with a population of more than 1.8 million, according to the most recent decennial census.

For a certificate issued as a result of this exception, the effective date of the certificate is December 31, 2010.

MCL 125.2788

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

In 2010, Sensations Memory Care bought a former nursing home in Charlotte with the intention to rehabilitate the property and open it as a residential facility for people suffering from dementia. Since the facility was blighted and in need of extensive mold removal, the company approached city officials about designating the property as a rehabilitation district so that the property would be eligible for a tax break under the Obsolete Property Rehabilitation Act. City officials apparently were agreeable and the property owner submitted its application for an exemption certificate. The rehabilitation project was begun in September 2010 and, following some delays in completing the project and securing a license to operate, the facility opened in 2012. After the improvements were completed, the facility's owners received a tax bill that did not reflect an abatement under the Act. City officials realized that they had made a mistake, and the application for the exemption certificate had not been processed. The city then created the obsolete property rehabilitation district in October 2012, but that was more than two years after the rehabilitation project was begun, so the property did not qualify for the tax abatement.

In Detroit, the Green Garage (a small, family-run business incubator) acquired a vacant historic warehouse in 2008. After a structural engineer's assessment that there was a severe risk of the roof collapsing in heavy snowfall, the organization had the roof repaired. Later, working with State and local economic development organizations, the Green Garage sought and secured local designation of a rehabilitation district and city approval of an exemption certificate. The State Tax Commission subsequently denied the certificate, however, because the roof repair occurred before the rehabilitation district was established. The Green Garage reportedly has seen a great deal of success and houses 40 small businesses with over 70 entrepreneurs. Without the tax abatement otherwise available for the rehabilitation of obsolete property, the Green Garage and its constituent businesses would have had to pay much higher property taxes, which could have caused some of those operations to leave Detroit or even cease doing business.

Previous amendments to the Act have made exceptions to the requirement that a district be designated before a rehabilitation project has begun, for other instances in which an error was made. By enacting two exceptions to that requirement, the bill corrected an error that kept Sensations Memory Care from securing an expected tax benefit of rehabilitating blighted property and accommodated the Green Garage business incubator as well as the small businesses and entrepreneurs that it houses.

Response: A statutory amendment should not be required to correct honest mistakes and instances of needed immediate repairs. Rather than amend the Act every time a situation like this occurs, perhaps legislation should establish an administrative procedure to address such errors.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill will reduce local property tax revenue by an unknown and likely negligible amount. The actual amount of the reduction will depend upon the specific characteristics of the property affected by the bill, as well as the specific improvements made for any rehabilitated property.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.