

DEVELOPMENT DISTRICT LIQUOR LICENSES FOR NEWLY CONSTRUCTED BUILDINGS

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House Bill 5062 as reported
Sponsor: Rep. Kyra Harris Bolden
Committee: Regulatory Reform
Complete to 11-9-21

SUMMARY:

House Bill 5062 would amend the Michigan Liquor Control Code to allow a development district liquor license to be issued for a newly constructed building. Currently, such a license can be issued only for an existing building that is restored or rehabilitated.

Development district licenses¹ are public on-premises retailer licenses that are not subject to the population-based quotas that typically apply to on-premises licenses under the act and under which local units of government are generally allotted one license per 1,500 residents. (An on-premises license allows the sale of alcohol to customers for consumption at the place where the alcohol is sold, such as at a bar or restaurant.)

To be eligible for a development district license, a business must meet all of the following:

- Be located in one of the following development districts or areas:
 - A downtown district established under Part 2 (Downtown Development Authorities) of the Recodified Tax Increment Financing Act.²
 - A tax increment finance authority district established under Part 3 (Tax Increment Finance Authorities) of the Recodified Tax Increment Financing Act.
 - A development area established under Part 6 (Corridor Improvement Authorities) of the Recodified Tax Increment Financing Act.³
 - A principal shopping district established under 1961 PA 120.⁴
- Be open to the general public for dining, entertainment, or recreation.
- Have a seating capacity of at least 25 people.
- Have spent at least \$75,000 for the rehabilitation or restoration of the building that will house the license over the previous five years or commit to a capital investment of at least \$75,000 in the building that must be spent before the license is issued.
- Provide an affidavit from the assessor, as certified by the clerk of the applicable city, village, or township, that shows that at least \$200,000 in private and public investment was made in real and personal property in the development district or area over the previous five years.

¹ https://www.michigan.gov/documents/lara/DDA_Requirements_629246_7.pdf

² <https://www.michiganbusiness.org/4aef8d/globalassets/documents/reports/fact-sheets/downtowndevelopmentauthority.pdf>

³ <https://www.michiganbusiness.org/4aef87/globalassets/documents/reports/fact-sheets/corridorimprovementauthoritypa280.pdf>

⁴ <https://www.michiganbusiness.org/4aef8c/globalassets/documents/reports/fact-sheets/businessimprovementdistrict.pdf>

An applicant must state and demonstrate that, despite the applicant's efforts, an appropriate on-premises quota license or ***escrowed license*** is not ***readily available*** in the area. As with all on-premises licenses, the local unit of government must adopt a resolution approving the applicant for the license. The initial fee for a development district license is \$20,000.

Escrowed license means a license in which the rights of the licensee in the license or to the renewal of the license are still in existence and are subject to renewal and activation as provided in R 436.1107 of the Michigan Administrative Code.⁵

Readily available means available under a standard of economic feasibility, as applied to the specific circumstances of the applicant, that includes at least the following:

- If it can be determined, the fair market value of the license based on where the applicant will be located.
- The size and scope of the proposed operation.
- The existence of mandatory contractual restrictions or inclusions attached to the sale of the license.

A development district license cannot be transferred to another location. If the licensee goes out of business, the license must be surrendered to MLCC for cancellation. However, the governing body of the city, village, or township can approve another applicant within a development district or area to replace a licensee who has surrendered the license.

MLCC can issue one development district license in a development district or area for each \$200,000, or major fraction of \$200,000, of private and public investment that was made in real and personal property in the district or area over the previous five years.

The bill would allow a development district liquor license to be issued for a newly constructed building in addition to the rehabilitated or restored buildings that are currently eligible for a license under the act.

Specifically, the bill would amend the provision that now requires the applicant to have spent \$75,000 in the previous five years for the *rehabilitation or restoration* of the building housing the licensed premises, to instead require the applicant to have spent \$75,000 in the previous five years *either* for new construction *or* to rehabilitate or restore an existing building. The option to commit to a \$75,000 capital investment in the building that must be expended before the license is issued also would apply to a new building.

The bill also would newly allow MLCC to issue one development district license for each \$75,000, or major fraction of \$75,000, spent by an owner on a building as described above. Presumably these licenses would be available for other properties in the district or area, each of which would also need at least \$75,000 in expenditures to be eligible for a license.

MCL 436.1521a

⁵ https://www.michigan.gov/documents/lara/escrows_678963_7.pdf

FISCAL IMPACT:

House Bill 5062 may cause a modest revenue increase for the Michigan Liquor Control Commission within the Department of Licensing and Regulatory Affairs. LARA indicated that if the bill results in additional locations qualifying for a development district license, the MLCC would collect fee revenue of \$20,000 per license for the initial license and \$600 per license for the annual license fee. The number of additional entities that would qualify for licensure is presently unknown, so the magnitude of the potential revenue increase is indeterminate.

POSITIONS:

The following entities indicated support for the bill (9-28-21):

- City of Grand Rapids
- Grand Rapids Chamber
- Detroit Regional Chamber
- Traverse Connect
- Northern Michigan Chamber Alliance
- Midland Business Alliance
- Muskegon Lakeshore Chamber of Commerce
- Saginaw County Chamber of Commerce
- Michigan West Coast Chamber of Commerce
- Lansing Regional Chamber
- Downtown Grand Rapids, Inc.
- Bay Area Chamber of Commerce
- Chamber of Grand Haven, Spring Lake and Ferrysburg
- Flint & Genesee Group

The Michigan Liquor Control Commission indicated a neutral position on the bill.
(10-19-21)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.