

**SUBSTITUTE FOR
SENATE BILL NO. 393**

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
(MCL 206.1 to 206.713) by adding sections 279 and 679.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 279. (1) For the 2020 and 2021 tax years, a qualified**
2 **taxpayer who owns or operates an afflicted business that has been**
3 **negatively impacted during the tax year due to a COVID-19 order and**
4 **that afflicted business has a certified loss in gross receipts**
5 **revenue of 25% or more during the tax year may claim a credit**
6 **against the tax imposed by this part in an amount equal to the**
7 **total property taxes levied and collected for that same calendar**
8 **year on the qualified taxpayer's property used in connection with**
9 **the operation of the qualified taxpayer's afflicted business. A**

1 qualified taxpayer who rents or leases property used in connection
2 with the operation of the qualified taxpayer's afflicted business
3 that is subject to property taxes may claim a similar credit based
4 on 23% of the gross rent paid during the tax year if that afflicted
5 business has been negatively impacted during the tax year due to a
6 COVID-19 order and has a certified loss in gross receipts revenue
7 of 25% or more during the tax year.

8 (2) For a qualified taxpayer who is a member of a flow-through
9 entity that owns and operates an afflicted business that qualifies
10 for the credit under this section, that qualified taxpayer may
11 claim a credit against the member's tax liability under this part
12 based on the member's distributive share of business income
13 reported from that flow-through entity or an alternative method
14 approved by the department. A qualified taxpayer's afflicted
15 business is considered negatively impacted by a COVID-19 order if
16 either of the following applies:

17 (a) As a result of a COVID-19 order, the qualified taxpayer's
18 afflicted business was closed to ingress, egress, use, and
19 occupancy by members of the public.

20 (b) The qualified taxpayer's afflicted business involves
21 assemblages of people that were prohibited by a COVID-19 order.

22 (3) The department shall prescribe the form and manner in
23 which a qualified taxpayer shall claim a credit under this section.
24 The department may require reasonable proof from the taxpayer in
25 order to verify the negative impact due to a COVID-19 order and the
26 reported revenue loss claimed to qualify for the credit under this
27 section.

28 (4) If the amount of the credit allowed under this section
29 exceeds the tax liability of the qualified taxpayer for the tax

1 year, that excess shall be refunded.

2 (5) As used in this section:

3 (a) "Afflicted business" means any of the following businesses
4 whose primary operation is any of the following:

5 (i) An entertainment venue.

6 (ii) An exercise facility.

7 (iii) A food service establishment.

8 (iv) A recreation facility or place of public amusement.

9 (v) A cosmetology shop or barber shop.

10 (vi) A nursery dealer or nursery grower.

11 (vii) An athletic trainer.

12 (viii) A body art facility.

13 (ix) A hotel or bed and breakfast.

14 (b) "Bed and breakfast" means that term as defined in
15 section 4b of the Stille-DeRossett-Hale single state
16 construction code act, 1972 PA 230, MCL 125.1504b.

17 (c) "COVID-19 order" means an executive order issued by
18 the governor or an emergency order issued by the department
19 of health and human services.

20 (d) "Entertainment venue" includes an auditorium, arena,
21 banquet hall, cinema, concert hall, conference center, performance
22 venue, sporting venue, stadium, or theater.

23 (e) "Exercise facility" means a facility in which individuals
24 participate in individual or group physical activity, including a
25 gymnasium, fitness center, or exercise studio.

26 (f) "Food service establishment" means that term as defined in
27 section 1107 of the food law, 2000 PA 92, MCL 289.1107.

28 (g) "Gross receipts" means that term as defined in section
29 607.

1 (h) "Hotel" means a building or structure kept, used,
2 maintained as, or held out to the public to be an inn, hotel,
3 or public lodging house. Hotel does not include a bed and
4 breakfast.

5 (i) "Qualified taxpayer" means a taxpayer who owns and
6 operates an afflicted business or a taxpayer who is a member
7 of a flow-through entity that owns and operates an afflicted
8 business.

9 (j) "Recreation facility or place of public amusement"
10 includes an amusement park, arcade, bingo hall, bowling alley,
11 casino, nightclub, skating rink, water park, or trampoline park.

12 Sec. 679. (1) For the 2020 and 2021 tax years, a taxpayer that
13 owns and operates an afflicted business that was negatively
14 impacted during the tax year due to a COVID-19 order and that
15 afflicted business has a certified loss in gross receipts revenue
16 of 25% or more during the tax year may claim a credit against the
17 tax imposed by this part in an amount equal to the total property
18 taxes levied and collected for that same calendar year on the
19 taxpayer's property used in connection with the operation of the
20 taxpayer's afflicted business. A taxpayer that rents or leases
21 property used in connection with the operation of the taxpayer's
22 afflicted business that is subject to property taxes may claim a
23 similar credit based on 23% of the gross rent paid during the tax
24 year if that afflicted business has been negatively impacted during
25 the tax year due to a COVID-19 order and has a certified loss in
26 gross receipts revenue of 25% or more during the tax year. A
27 taxpayer's afflicted business is considered negatively impacted by
28 a COVID-19 order if either of the following applies:

29 (a) As a result of a COVID-19 order, the taxpayer's afflicted

1 business was closed to ingress, egress, use, and occupancy by
2 members of the public.

3 (b) The taxpayer's afflicted business involves assemblages of
4 people that were prohibited by a COVID-19 order.

5 (2) The department shall prescribe the form and manner in
6 which a taxpayer shall claim a credit under this section. The
7 department may require reasonable proof from the taxpayer in order
8 to verify the negative impact due to a COVID-19 order and the
9 reported revenue loss claimed to qualify for the credit under this
10 section.

11 (3) If the amount of the credit allowed under this section
12 exceeds the tax liability of the taxpayer for the tax year, that
13 excess shall be refunded.

14 (4) As used in this section:

15 (a) "Afflicted business" means any of the following businesses
16 whose primary operation is any of the following:

17 (i) An entertainment venue.

18 (ii) An exercise facility.

19 (iii) A food service establishment.

20 (iv) A recreation facility or place of public amusement.

21 (v) A cosmetology shop or barber shop.

22 (vi) A nursery dealer or nursery grower.

23 (vii) An athletic trainer.

24 (viii) A body art facility.

25 (ix) A hotel or bed and breakfast.

26 (b) "Bed and breakfast" means that term as defined in section
27 4b of the Stille-DeRossett-Hale single state construction code act,
28 1972 PA 230, MCL 125.1504b.

29 (c) "COVID-19 order" means an executive order issued by the

1 governor or an emergency order issued by the department of health
2 and human services.

3 (d) "Entertainment venue" includes an auditorium, arena,
4 banquet hall, cinema, concert hall, conference center, performance
5 venue, sporting venue, stadium, or theater.

6 (e) "Exercise facility" means a facility in which individuals
7 participate in individual or group physical activity, including a
8 gymnasium, fitness center, or exercise studio.

9 (f) "Food service establishment" means that term as defined in
10 section 1107 of the food law, 2000 PA 92, MCL 289.1107.

11 (g) "Hotel" means a building or structure kept, used,
12 maintained as, or held out to the public to be an inn, hotel, or
13 public lodging house. Hotel does not include a bed and breakfast.

14 (h) "Recreation facility or place of public amusement"
15 includes an amusement park, arcade, bingo hall, bowling alley,
16 casino, nightclub, skating rink, water park, or trampoline park.

17 Enacting section 1. This amendatory act is intended to be
18 retroactive and applies retroactively to tax years that begin on
19 and after January 1, 2020.