

HOUSE BILL NO. 5379

October 07, 2021, Introduced by Reps. Martin and Roth and referred to the Committee on Commerce and Tourism.

A bill to amend 1980 PA 395, entitled "Community convention or tourism marketing act," by amending sections 4, 5, 6, 7a, and 8 (MCL 141.874, 141.875, 141.876, 141.877a, and 141.878), sections 4 and 8 as amended by 1984 PA 59, section 5 as amended by 2014 PA 273, section 6 as amended by 2010 PA 283, and section 7a as added by 2018 PA 626.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. A marketing program may include ~~all or any~~ **1 or more**
2 of the following:

1 (a) Provisions for establishing and paying the costs of
2 advertising, marketing, and promotional programs to encourage
3 convention business or tourism in the assessment district.

4 (b) Provisions for assisting transient facilities within the
5 assessment district in promoting convention business or tourism.

6 (c) Provisions for the acquisition of personal property
7 considered appropriate by the bureau in furtherance of the purposes
8 of the marketing program.

9 (d) Provisions for the hiring of and payment for personnel
10 employed by the bureau to implement the marketing program.

11 (e) Provisions for contracting with organizations, agencies,
12 or persons for carrying out activities in furtherance of the
13 purposes of the marketing program.

14 (f) Programs for establishing and paying the costs of research
15 designed to encourage convention business or tourism in the
16 assessment district.

17 (g) Provisions for incurring any other expense or cost which
18 the board, in the exercise of its reasonable business judgment,
19 considers reasonably related to promotion of the convention
20 business or tourism within the assessment district.

21 (h) Procedures for election of the board.

22 **(i) Provisions for adding additional transient facilities**
23 **under the marketing program and the marketing program notice.**

24 Sec. 5. (1) Upon the effective date of an assessment under
25 section 3a, each owner of a transient facility in the assessment
26 district shall be liable for payment of the assessment, computed by
27 multiplying the percentage set forth in the marketing program
28 notice by the aggregate room charges imposed by the transient
29 facility during a calendar month. The assessment shall be paid by

1 the owner of each transient facility to the bureau or the person
2 designated by the bureau within 30 days after the end of each
3 calendar month, and shall be accompanied by a statement of room
4 charges imposed by the transient facility for that calendar month.
5 **An owner may elect to have an owner agent, hosting platform, or**
6 **other intermediary collect room charges, state use taxes, local**
7 **excise taxes, and assessments described in this act through a**
8 **written agreement. The written agreement shall clearly provide each**
9 **party's responsibility to remit those state use taxes, local excise**
10 **taxes, and assessments described in this act.** This act does not
11 prohibit an owner from reimbursing the transient facility by adding
12 the assessment imposed under this act to room charges payable by
13 transient guests. However, the owner shall disclose that the
14 transient facility has been reimbursed for the assessment imposed
15 under this act on the bill presented to the transient guest.

16 (2) A bureau or person designated by the bureau may enter into
17 an agreement with a regional tourism marketing organization
18 established under the regional tourism marketing act, 1989 PA 244,
19 MCL 141.891 to 141.900, to accept from owners subject to an
20 assessment under this act the payment of assessments that are
21 levied by a regional marketing organization under section 6 of the
22 regional tourism marketing act, 1989 PA 244, MCL 141.896. A bureau
23 or the person designated by the bureau shall forward the money
24 received in payment of an assessment levied by a regional marketing
25 organization under the regional tourism marketing act, 1989 PA 244,
26 MCL 141.891 to 141.900, to the person designated by the regional
27 marketing organization to receive the payment of assessments under
28 section 6 of the regional tourism marketing act, 1989 PA 244, MCL
29 141.896. The bureau may withhold the portion of an assessment

1 received on behalf of a regional marketing organization under this
2 subsection and section 6 of the regional tourism marketing act,
3 1989 PA 244, MCL 141.896, as agreed upon between the bureau and the
4 regional marketing organization to reimburse the bureau or person
5 designated by the bureau for reasonable administrative costs to
6 receive and forward assessments due a regional marketing
7 organization.

8 (3) Within 30 days after the close of each calendar quarter,
9 each owner within an assessment district shall forward to the
10 independent certified public accountants who audit the financial
11 statements of the bureau, copies of the state use tax returns of
12 the transient facility for the preceding quarter **and a copy of the**
13 **receipt of those returns from the department of treasury.** The
14 copies of the state use tax returns shall be used solely by the
15 certified public accountants to verify and audit the payment by the
16 owner of the assessments under this act, and shall not be disclosed
17 to the bureau except as the director determines necessary to
18 enforce this act.

19 (4) Interest shall be paid by an owner to the bureau on any
20 assessments not paid within the time required under this act. The
21 interest shall accrue at the rate of 1.5% per month. Owners
22 delinquent for more than 90 days in paying assessments, in addition
23 to the 1.5% interest, shall pay a delinquency charge of 1.5% per
24 month or fraction of a month on the amount of the delinquent
25 assessments and shall pay the costs of reasonable attorney fees and
26 court costs incurred in collecting the delinquent assessments. In
27 addition to any other remedy provided by law, the bureau may sue in
28 its own name to collect the assessments, interest, and delinquency
29 charges. All assessments collected but not paid to a bureau by an

1 owner of a transient facility within an assessment district shall
2 be considered trust funds and shall be remitted to the bureau as
3 required by this section.

4 (5) The owner of a transient facility shall not be liable for
5 payment of an assessment until ~~a marketing program notice has been~~
6 ~~mailed to the transient facility of the owner pursuant to section~~
7 ~~3.~~ **the owner or owner agent has been provided either written or**
8 **electronic notice of the assessment by the bureau or its**
9 **representative or the bureau posts a public notice on its website.**

10 Sec. 6. (1) The assessment revenues collected pursuant to this
11 act shall not be state funds. The money shall be deposited in a
12 bank or other depository in this state, in the name of the bureau,
13 and shall be disbursed only for the expenses properly incurred by
14 the bureau with respect to the marketing programs developed by the
15 bureau under this act.

16 (2) The financial statements of the bureau shall be audited at
17 least annually by a certified public accountant. A copy of the
18 audited financial statements shall be ~~mailed to each owner~~ **posted**
19 **on its website** not more than 150 days after the close of the
20 bureau's fiscal year. The financial statements shall include a
21 statement of all assessment revenues received by the bureau during
22 the fiscal year in question and include the amount of compensation
23 for the chief executive director of the bureau and shall be
24 accompanied by a detailed report, certified as correct by the chief
25 operating officer of the bureau, describing the marketing programs
26 implemented or, to the extent then known, to be implemented by the
27 bureau.

28 (3) Copies of the audited financial statements and the
29 certified report shall simultaneously be mailed to the director,

1 who shall make it available to the public on the internet. If the
2 bureau fails to submit copies of the audited financial statements
3 and the certified report to the director as provided in this
4 subsection, the director or his or her designee shall mail a demand
5 letter to the bureau requesting copies of the audited financial
6 statements and the certified report with a copy of that demand
7 letter forwarded to the attorney general. If the director or his or
8 her designee does not receive copies of the audited financial
9 statement and the certified report described in this subsection
10 within 90 days of the demand letter, upon notice by the director or
11 the attorney general, for the period of noncompliance with this
12 subsection, the bureau shall not expend any portion of the
13 assessment collected during the period of noncompliance with this
14 subsection. The attorney general may assist the director in
15 enforcing the provisions of this act.

16 (4) If the bureau fails to provide the copies of the audited
17 financial statement and the certified report within 90 days of the
18 demand letter as provided in subsection (3), the bureau is
19 responsible for a state civil infraction and may be ordered to pay
20 a civil fine of not more than \$10,000.00 and, in addition, the
21 attorney general may bring action to dissolve the bureau as
22 provided by law.

23 Sec. 7a. The board at regular intervals, but not less than
24 twice per year, shall convene a formal meeting at which the board
25 shall review its current annual marketing plan and its proposed
26 annual marketing plan for the succeeding 1-year period. Once a year
27 at these formal meetings, the board shall review and either approve
28 or reject the proposed annual marketing plan. **The marketing plan**
29 **shall articulate the current assessment districts being served by**

1 **the bureau.** Subject to section 7b, an approved annual marketing
2 plan shall be instituted by the bureau. A rejected marketing plan
3 shall not be instituted by the bureau.

4 Sec. 8. (1) At any time 2 years or more after the effective
5 date of an assessment, and upon the written request of owners of
6 transient facilities located within an assessment district
7 representing not less than 40% of the total number of owners or not
8 less than 40% of the total number of rooms in all of the transient
9 facilities in the assessment district, **none of which will be**
10 **eligible to make a request or participate in a referendum vote if**
11 **they are delinquent in paying any portion of their assessments owed**
12 **to the bureau,** the ~~bureau~~**director** shall conduct a referendum on
13 whether the assessment shall be discontinued. **For the purposes of**
14 **any referendum to discontinue assessments, only transient**
15 **facilities that have maintained timely and active assessment**
16 **payments to the bureau over a minimum of 6 months immediately**
17 **preceding the request and that are not delinquent in collecting**
18 **assessments, remitting assessments, or providing required financial**
19 **reports to the bureau will be eligible to participate in making a**
20 **request for a referendum and voting in that referendum.** The ~~bureau~~
21 **director** shall cause a written referendum to be held ~~by mail or in~~
22 ~~person, as the bureau chooses,~~ **as determined by the director** among
23 all owners of transient facilities in the petitioning assessment
24 district within 60 days of the receipt of the requests. For the
25 purposes of the referendum, each owner shall have 1 vote for each
26 room in each of the owner's transient facilities within the
27 petitioning assessment district. If a majority of the votes
28 actually cast at the referendum for the assessment district
29 supports discontinuance of the assessment, the assessment shall be

1 discontinued for that area or county on the first day of the month
2 following expiration of 60 days after the certification of the
3 results of the referendum by the bureau.

4 (2) Passage of a resolution discontinuing the assessment shall
5 not prevent a bureau from proposing a new marketing program notice
6 during or after the 60-day period, in which case the procedures set
7 forth in section 3 shall be followed.

8 (3) If a referendum is conducted under subsection (1) and if a
9 resolution to discontinue the assessment is not adopted, a further
10 referendum on the discontinuation of that assessment for the
11 assessment district for which the referendum was held shall not be
12 held for a period of 2 years.

13 Enacting section 1. This amendatory act does not take effect
14 unless all of the following bills of the 101st Legislature are
15 enacted into law:

16 (a) Senate Bill No. ____ or House Bill No. 5377 (request no.
17 02342'21).

18 (b) Senate Bill No. ____ or House Bill No. 5378 (request no.
19 04486'21).