

HOUSE BILL NO. 5441

February 13, 2024, Introduced by Reps. Brixie, Arbit, McKinney, Paiz, Hill, Byrnes, Rheingans, Scott, Dievendorf, Grant, O'Neal, Neeley, Brabec, Conlin, Morgan, Wilson, Hope, Tyrone Carter, Price, Wegela and Aiyash and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 395, entitled "Community convention or tourism marketing act," by amending the title and sections 2, 3, 3a, 4, and 8 (MCL 141.872, 141.873, 141.873a, 141.874, and 141.878), the title and section 2 as amended by 2018 PA 626, section 3 as amended by 2010 PA 283, section 3a as amended by 1993 PA 224, and sections 4 and 8 as amended by 1984 PA 59; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

1 An act relating to the promotion of convention business or
2 tourism in municipalities in this state; to provide for tourism or
3 convention marketing programs in municipalities through nonprofit
4 convention and tourist bureaus; **to allow certain activities as part**
5 **of tourism or convention marketing programs;** to provide for the
6 imposition and collection of assessments on the owners of transient
7 facilities, **including short-term rentals,** to support tourism or
8 convention marketing programs; to provide for the disbursement of
9 the assessments; to establish the oversight functions and duties of
10 certain state departments, state agencies, and state employees; and
11 to prescribe remedies and penalties.

12 Sec. 2. As used in this act:

13 (a) "Assessment" means the amount levied against an owner of a
14 transient facility within an assessment district, computed by
15 application of the applicable percentage against aggregate room
16 charges with respect to that transient facility during the
17 applicable assessment period.

18 (b) "Assessment district" means a municipality or combination
19 of municipalities as described in a marketing program. A
20 combination of municipalities is not required to be contiguous.

21 (c) "Assessment revenues" means the money derived from the
22 assessment, including any interest and penalties on the assessment,
23 imposed by this act.

24 (d) "Board" means the board of directors elected by the
25 members of a bureau. A majority of the members of a board ~~shall~~
26 **must** be owners of transient facilities.

27 (e) "Bureau" means a nonprofit corporation existing to promote
28 convention business or tourism within this state or a portion of
29 this state.

1 (f) "Director" means the president of the Michigan strategic
2 fund or ~~his or her~~ **the president of the Michigan strategic fund's**
3 designee.

4 (g) "Marketing program" means a program established by a
5 bureau to develop, encourage, solicit, and promote convention
6 business or tourism within this state or a portion of this state
7 within which the bureau operates. The encouragement and promotion
8 of convention business or tourism includes any service, function,
9 or activity, whether or not performed, sponsored, or advertised by
10 a bureau, that intends to attract transient guests to the
11 assessment district. ~~For a bureau described in section 3(8), a~~
12 ~~marketing program includes a contract with a nonprofit organization~~
13 ~~formed to promote convention business or tourism that receives~~
14 ~~funding from a tax levied under 1974 PA 263, MCL 141.861 to~~
15 ~~141.867, in a contiguous county to provide for the promotion of~~
16 ~~convention business or tourism.~~

17 (h) "Marketing program notice" means the notice described in
18 section 3.

19 (i) "Master plan" means the comprehensive, long-range master
20 plan developed by the Michigan travel commission and the travel
21 bureau under section 2c of the Michigan tourism policy act, 1945 PA
22 106, MCL 2.102c.

23 (j) "Municipality" means a county with a population of less
24 than 650,000 or a city, village, or township within a county with a
25 population of less than 650,000.

26 (k) "Owner" means the owner of a transient facility to be
27 served by the bureau or, if the transient facility is operated or
28 managed by a person other than the owner, then the operator or
29 manager of that transient facility.

1 (l) "Room" means a room or other space provided for sleeping
2 that can be rented independently, including the furnishings and
3 other accessories in the room. Room includes, but is not limited
4 to, ~~a~~**both of the following:**

5 (i) **A** condominium or time-sharing unit that, pursuant to a
6 management agreement, may be used to provide dwelling, lodging, or
7 sleeping quarters for a transient guest.

8 (ii) **A dwelling offered as a short-term rental.**

9 (m) "Room charge" means the charge imposed for the use or
10 occupancy of a room, excluding charges for food, beverages, state
11 use tax, telephone service, or like services paid in connection
12 with the charge, and excluding reimbursement of the assessment
13 imposed by this act. **For a short-term rental, room charge means the**
14 **occupancy charge as that term is defined in section 2 of the short-**
15 **term rental regulation act.**

16 (n) "Short-term rental" means that term as defined in section
17 2 of the short-term rental regulation act.

18 (o) "State use tax" means the tax levied under the use tax
19 act, 1937 PA 94, MCL 205.91 to 205.111.

20 (p) ~~(n)~~"Transient facility" means **either of the following**
21 **facilities, except transient facility does not include a college or**
22 **school dormitory, a hospital, a nursing home, or a facility owned**
23 **and operated by an organization qualified for an exemption from**
24 **federal taxation under section 501(c) of the internal revenue code**
25 **of 1986, 26 USC 501:**

26 (i) **A** building or combination of buildings under common
27 ownership, operation, or management that contains ~~10~~**1** or more
28 rooms used in the business of providing dwelling, lodging, or
29 sleeping to transient guests, whether or not membership is required

1 for the use of the rooms. ~~Transient facility does not include a~~
 2 ~~college or school dormitory, a hospital, a nursing home, or a~~
 3 ~~facility owned and operated by an organization qualified for an~~
 4 ~~exemption from federal taxation under section 501(c) of the~~
 5 ~~internal revenue code.~~

6 **(ii) A dwelling offered as a short-term rental.**

7 **(q)** ~~(e)~~—"Transient guest" means a natural person who occupies
 8 a room in a transient facility for less than 30 consecutive days
 9 regardless of who pays the room charge.

10 **(r)** ~~(p)~~—"Travel bureau" means the Michigan travel bureau
 11 created under section 2a of the Michigan tourism policy act, 1945
 12 PA 106, MCL 2.102a, **and renamed Travel Michigan by Executive**
 13 **Reorganization Order No. 1997-1, MCL 2.111.**

14 Sec. 3. (1) A bureau that intends to establish a marketing
 15 program and assessment district shall file a marketing program
 16 notice with the director. The marketing program notice ~~shall~~**must**
 17 state that the bureau proposes to create a marketing program under
 18 this act and cause an assessment to be collected from owners of
 19 transient facilities within the assessment district to pay the
 20 costs of the marketing program.

21 (2) The marketing program notice ~~shall~~**must** describe the
 22 structure, membership, and activities of the bureau.

23 (3) The marketing program notice ~~shall~~**must** describe the
 24 marketing program to be implemented by the bureau with the
 25 assessment revenues, specify the amount of the assessment proposed
 26 to be levied, which ~~, except as provided in this subsection, shall~~
 27 **must** not exceed 5% of the room charges in the applicable payment
 28 period, and describe the municipalities comprising the assessment
 29 district.

1 (4) Except as provided in section 10, an area ~~shall~~**must** not
2 be included in the marketing program notice filed under this act
3 and the assessment district specified in the notice if the area is
4 part of an existing assessment district under this act for which a
5 marketing program is in effect.

6 (5) If on the date of the mailing of the marketing program
7 notice under this act an excise tax or other tax based on a room
8 charge is not being collected, a municipality included in the
9 marketing program notice ~~shall~~**is** not ~~be~~ subject to the collection
10 of an excise tax imposed under 1974 PA 263, MCL 141.861 to 141.867,
11 or another tax based on a room charge.

12 (6) If a part of a municipality is subject to an assessment
13 under the convention and tourism marketing act, 1980 PA 383, MCL
14 141.881 to 141.889, that part of the municipality ~~shall~~**must** not be
15 included in a marketing program notice or assessment district under
16 this act.

17 (7) Simultaneously with the filing of the marketing program
18 notice with the director, the bureau shall mail a copy of the
19 notice, by registered or certified mail, to each owner of a
20 transient facility located in the assessment district specified in
21 the notice, in care of the respective transient facility. In
22 assembling the list of owners to whom the notices ~~shall~~**must** be
23 mailed, the bureau shall use any data that is reasonably available
24 to the bureau, **including, but not limited to, the short-term rental**
25 **database as that term is defined in section 2 of the short-term**
26 **rental regulation act.**

27 Sec. 3a. (1) ~~Within~~**Not later than** 30 days after a marketing
28 program notice is filed, the director shall approve or disapprove
29 the marketing program. The director shall not disapprove a

1 marketing program unless the program violates this act.

2 (2) ~~Within~~ **Not later than** 40 days after approval of a
3 marketing program, the director shall require a written referendum
4 to be held by mail or in person, as determined by the director,
5 among all owners of transient facilities in each municipality in
6 the proposed assessment district. For the purpose of the
7 referendum, each owner ~~shall have~~ **has** 1 vote for each room in an
8 owner's transient facility. **For purposes of this subsection, a**
9 **dwelling offered as a short-term rental is considered 1 room.**

10 (3) The marketing program and assessment set forth in the
11 notice ~~shall become~~ **becomes** effective on the first day of the month
12 that is more than 30 days after certification by the director that
13 the program was approved by a majority of the votes actually cast
14 in each municipality in the assessment district. If a majority of
15 the votes actually cast in any municipality counted separately is
16 not in favor of the program and assessment, the program and
17 assessment ~~shall do~~ not go into effect in the assessment district.
18 However, for purposes of tabulating the votes in the referendum for
19 a marketing program proposed on or after April 12, 1984, each
20 municipality in the proposed assessment district requiring a
21 majority of votes cast in favor of the proposed assessment district
22 ~~shall~~ **must** be defined in the marketing program notice required
23 under section 3. A bureau may file and serve another marketing
24 program notice not less than 60 days after certification of the
25 results of a referendum.

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

28 (a) Provisions for establishing and paying the costs of
29 advertising, marketing, and promotional programs to encourage

1 convention business or tourism in the assessment district.

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

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

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

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

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

15 **(g) Provisions or programs to assist with or provide child**
16 **care.**

17 **(h) Housing activities.**

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

22 (j) ~~(h)~~ Procedures for election of the board.

23 **(k) Provisions clarifying the assessment on room charges for**
24 **short-term rentals.**

25 Sec. 8. (1) At any time 2 years or more after the effective
26 date of an assessment, and ~~upon~~**on** the written request of owners of
27 transient facilities located within an assessment district
28 representing not less than 40% of the total number of owners or not
29 less than 40% of the total number of rooms in all of the transient

1 facilities in the assessment district, the bureau shall conduct a
2 referendum on whether the assessment shall be discontinued. The
3 bureau shall cause a written referendum to be held by mail or in
4 person, as the bureau chooses, among all owners of transient
5 facilities in the petitioning assessment district within 60 days of
6 the receipt of the requests. For the purposes of the referendum,
7 each owner ~~shall have~~**has** 1 vote for each room in each of the
8 owner's transient facilities within the petitioning assessment
9 district. If a majority of the votes actually cast at the
10 referendum for the assessment district supports discontinuance of
11 the assessment, the assessment ~~shall be~~**is** discontinued for that
12 area or county on the first day of the month following expiration
13 of 60 days after the certification of the results of the referendum
14 by the bureau. **For purposes of this subsection, a dwelling offered**
15 **as a short-term rental is considered 1 room.**

16 (2) Passage of a resolution discontinuing the assessment ~~shall~~
17 **does** not prevent a bureau from proposing a new marketing program
18 notice during or after the 60-day period, in which case the
19 procedures set forth in section 3 ~~shall~~**must** be followed.

20 (3) If a referendum is conducted under subsection (1) and if a
21 resolution to discontinue the assessment is not adopted, a further
22 referendum on the discontinuation of that assessment for the
23 assessment district for which the referendum was held ~~shall~~**must**
24 not be held for a period of 2 years.

25 Enacting section 1. Section 9 of the community convention or
26 tourism marketing act, 1980 PA 395, MCL 141.879, is repealed.

27 Enacting section 2. This amendatory act does not take effect
28 unless Senate Bill No.____ or House Bill No. 5438 (request no.
29 03372'23 **) of the 102nd Legislature is enacted into law.