REGIONAL CONVENTION AND TOURISM PROMOTION ACT

Act 254 of 2010

AN ACT relating to the promotion of convention business and tourism in this state; to provide for regional tourism and convention marketing and promotion programs in certain areas; to provide for imposition and collection of assessments on the owners of transient facilities to support tourism and convention marketing and promotion programs; to provide for the disbursement of the assessments; to establish the oversight functions and duties of certain state departments, state agencies, and state employees; and to prescribe penalties and remedies.

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010 ;-- Am. 2018, Act 465, Eff. Mar. 29, 2019

The People of the State of Michigan enact:

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141.1431 Short title.

Sec. 1.

This act shall be known and may be cited as the "regional convention and tourism promotion act".

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010

141.1431a Legislative findings.

Sec. 1a.

(1) The legislature finds all of the following:

(a) Tourism is a major source of employment, income, and tax revenues in this state, and the expansion of the tourism industry is vital to the growth of the state's economy.

(b) The tourism industry is important to this state, not only because of the number of people it serves and the vast human, financial, and physical resources it employs, but because of the benefits tourism and related activities confer on individuals and on society as a whole.

(c) State oversight and resources are needed to implement a coordinated and effective marketing program consistent with the master plan developed by this state to promote travel to, and within, this state under the Michigan tourism policy act, 1945 PA 106, MCL 2.101 to 2.103a, and to optimize the considerable investment of time, energy, capital, and resources being made by the tourism industry.

(d) This state can best undertake effective tourism marketing through the coordinated efforts of existing state government agencies in tourism promotion and private convention and tourism promotional bureaus who are better able than state agencies to market and promote their unique assessment districts, which will maximize the economic and employment benefits of the tourism industry to this state and its citizens.

(e) The coordinated efforts within this act to market and promote tourism represent a broader regulator scheme that does not impinge on an individual's First Amendment rights.

(2) Nothing in this act shall be construed to do 1 or more of the following:

(a) Restrain an owner or participant from communicating its own message or marketing plan.

(b) Require any owner or participant to adopt any actual or symbolic speech.
(c) Endorse or finance any political speech or ideological view.

History: Add. 2018, Act 465, Eff. Mar. 29, 2019

141.1432 Definitions.

Sec. 2.

As used in this act:

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

(b) "Assessment district" means a combination of 2 or more adjoining municipalities as described in a marketing program.

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

(d) "Board" means the board of directors of a bureau.

(e) "Bureau" means a nonprofit corporation incorporated under the laws of this state existing solely to promote convention business and tourism within this state or a portion of this state and that complies with all of the following:

(i) Has been actively engaged in promoting convention business and tourism for not less than 5 years.

(ii) Has a board of directors elected by its members.

(iii) Has a full-time chief executive officer and not fewer than 2 full-time equivalent employees.

(iv) Is a member of 1 or more nationally recognized associations of travel and convention bureaus.

(f) "Director" means the chief executive officer of the Michigan economic development corporation or his or her designee.

(g) "Marketing program" means a program established by a bureau to develop, encourage, solicit, and promote regional convention business and tourism within this state or a portion of this state within which the bureau operates. The encouragement and promotion of regional convention business and tourism shall include any service, function, or activity, whether or not performed, sponsored, or advertised by a bureau, that intends to attract transient guests to the assessment district.

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

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

(j) "Municipality" means a county with a population of more than 80,000 and less than 115,000 and that contains a city with a population of more than 35,000 and less than 45,000, at the time the marketing notice is filed with the director, and that shares a border with a county that levies a tax on accommodations under 1974 PA 263, MCL 141.861 to 141.867.

(k) "Owner" means the owner of a transient facility located within the assessment district or, if the transient facility is operated or managed by a person other than the owner, then the operator or manager of that transient facility.

(l) "Room" means a room or other space provided for sleeping, including the furnishings and other accessories in the room.

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(m) "Room charge" means the charge imposed for the use or occupancy of a room, excluding charges for food, beverages, state use tax, telephone service or like services paid in connection with the charge, and reimbursement of the assessment imposed by this act.

(n) "Transient facility" means a building that contains 2 or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership is required for the use of the rooms. A transient facility shall not include a hospital or nursing home.

(o) "Transient guest" means a natural person who occupies a room in a transient facility for less than 30 consecutive days regardless of who pays the room charge for the room.

(p) "Travel bureau" means the Michigan travel bureau created under section 2a of the Michigan tourism policy act, 1945 PA 106, MCL 2.102a.

(q) "Use tax" means the tax imposed under the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010 ;-- Am. 2018, Act 465, Eff. Mar. 29, 2019

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141.1433 Marketing program notice; filing; contents; mailing to owners of transient facility owners; right of referendum; assessment contained in notice; effectiveness; written referendum; effect of approval or disapproval of assessment.

Sec. 3.

(1) A bureau that has its principal place of business in an assessment district may file a marketing program notice with the director. The notice shall state that the bureau proposes to create a marketing program under this act and cause an assessment to be collected from owners of transient facilities within the assessment district to pay the costs of the program.

(2) The marketing program notice shall describe the structure, history, membership, and activities of the bureau in sufficient detail to enable the director to determine whether the bureau satisfies all of the requirements of section 2(e).

(3) The marketing program notice shall describe the marketing program to be implemented by the bureau with the assessment revenues and specify the amount of the assessment proposed to be levied, which shall not exceed 5% of the room charges in the applicable payment period, and the municipality or municipalities composing the assessment district.

(4) Simultaneously with the filing of the marketing program notice with the director, the bureau shall cause a copy of the notice to be mailed by registered or certified mail to each owner of a transient facility located in the assessment district specified in the notice in care of the respective transient facility. In assembling the list of owners to whom the notices shall be mailed, the bureau shall use any data that are reasonably available to the bureau.

(5) The form of the marketing program notice, in addition to the information required by subsections (1), (2), and (3), shall set forth the right of referendum prescribed in subsection (6).

(6) Except as otherwise provided in subsection (8), the assessment set forth in the notice shall become effective on the first day of the month following the expiration of 40 days after the date the notice is mailed, unless the director, within the 40-day period, receives written requests for a referendum by owners of transient facilities located within the assessment district representing not less than 40% of the total number of owners or not less than 40% of the total number of rooms in all of the transient facilities.

(7) If the director receives referendum requests in the time and number set forth in subsection (6), the director shall cause a written referendum to be held by mail or in person, as the director chooses, among all owners of transient facilities in the assessment district within

20 days after the expiration of the 40-day period. For the purposes of the referendum, each owner of a transient facility shall have 1 vote for each room in each of the owner's transient facilities within the assessment district. If a majority of votes actually cast at the referendum approve the assessment, as proposed by the bureau in its marketing program notice, the assessment shall become effective, except as otherwise provided in subsection (8), as to all owners of transient facilities located in the assessment district on the first day of the month following expiration of 30 days after certification of the results of the referendum by the director. If a majority of votes actually cast at the referendum are opposed to the assessment, the assessment shall not become effective. If the assessment is defeated by the referendum, the bureau may file and serve a new notice of intention if at least 60 days have elapsed from the date of certification of the results of the earlier referendum. Not more than 2 referenda or notices may be held pursuant to this subsection or filed pursuant to this section in any 1 calendar year. Only 1 assessment under this act may be in existence in an assessment district, or any part of an assessment district, at any 1 time.

(8) The assessment described in this act shall not be effective before January 1, 2011.

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010

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141.1434 Marketing program; provisions.

Sec. 4.

A marketing program may include all or any of the following:

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

(b) Provisions for assisting transient facilities within the assessment district in promoting regional convention business and tourism.

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

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

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

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

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010

141.1435 Assessment payments; computation; statement of room charges; forwarding copies of use tax returns; use by certified public accountants; interest; delinquency charge; attorney fees and court costs; liability for payment after mailing of notice.

Sec. 5.

(1) Upon the effective date of an assessment, each owner of a transient facility in the assessment district shall be liable for payment of the assessment, computed using the percentage set forth in the marketing program notice. The assessment shall be paid by the owner of each such transient facility to the bureau within 30 days after the end of each calendar month and shall be accompanied by a statement of room charges imposed with respect to the transient facility for that month. This act shall not prohibit a transient facility

from reimbursing itself by adding the assessment imposed pursuant to this act to room charges payable by transient guests, provided that the transient facility discloses that it has done so on any bill presented to a transient guest.

(2) Within 30 days after the close of each calendar quarter, each owner within an assessment district shall forward to the independent certified public accountants who audit the financial statements of the bureau copies of its use tax returns for the preceding quarter. These copies of the use tax returns shall be used solely by the certified public accountants to verify and audit the owner's payment of the assessments and shall not be disclosed to the bureau except as necessary to enforce this act.

(3) Interest shall be paid by an owner to the bureau on any assessments not paid within the time called for under this act. The interest shall accrue at the rate of 1.5% per month. Owners delinquent for more than 90 days in paying assessments, in addition to the 1.5% interest, shall pay a delinquency charge of 10% per month or fraction of a month on the amount of the delinquent assessments and shall pay the costs of reasonable attorney fees and court costs incurred in collecting delinquent assessments. The bureau may sue in its own name to collect the assessments, interest, and delinquency charges.

(4) The owner of a transient facility shall not be liable for payment of an assessment until a notice has been mailed to the transient facility of the owner pursuant to section 3(4).

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010
Compiler's Notes: In subsection (4), "mailed to the transient facility of the owner" evidently should read "mailed to the owner of the transient facility."

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141.1436 Assessment revenues; deposit; disbursement; mailing audited financial statements and report; failure of bureau to provide copies within certain time limit; penalty.

Sec. 6.

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

(2) The financial statements of the bureau shall be audited at least annually by a certified public accountant. A copy of the audited financial statements shall be mailed to each owner not more than 150 days after the close of the bureau's fiscal year. The financial statements shall include a statement of all assessment revenues received by the bureau during the fiscal year in question and include the amount of wages and benefits for each full-time employee of the bureau and shall be accompanied by a detailed report, certified as correct by the chief operating officer of the bureau, describing the marketing programs implemented or, to the extent then known, to be implemented by the bureau.

(3) Copies of the audited financial statements and the certified report shall simultaneously be mailed to the director, who shall make it available to the public on the internet. If the bureau fails to submit copies of the audited financial statements and the certified report to the director as provided in this subsection, the director shall mail a demand letter to the bureau requesting copies of the audited financial statements and the certified report with a copy of that demand letter forwarded to the attorney general. If the director does not receive copies of the audited financial statement and the certified report described in this subsection within 90 days of the demand letter, upon notice by the director or the attorney general, for the period of noncompliance with this subsection, the bureau shall not expend any portion of the assessment

collected during the period of noncompliance with this subsection. The attorney general may assist the director in enforcing the provisions of this act.

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

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010

141.1436a Board meeting; annual marketing plan.

Sec. 6a.

The board at regular intervals, but not less than twice per year, shall convene a formal meeting at which the board shall review its current annual marketing plan and its proposed annual marketing plan for the succeeding 1-year period. Once a year at these formal meetings, the board shall review and either approve or reject the proposed annual marketing plan. Subject to section 6b, an approved annual marketing plan shall be instituted by the bureau. A rejected marketing plan shall not be instituted by the bureau.

History: Add. 2018, Act 465, Eff. Mar. 29, 2019

141.1436b Master plan; travel bureau; disapproval of annual marketing plan.

Sec. 6b.

(1) The vice-president of the travel bureau and the president or chief administrative officer of the bureau shall meet periodically, but at least once each year, to discuss the master plan and the annual marketing plan approved by the board.

(2) The bureau and the travel bureau shall coordinate their marketing program activities and annual marketing plan activities with the master plan with a goal of maximizing the impact of tourism and convention business on the economy of this state.

(3) The director shall disapprove of the bureau's annual marketing plan within 30 days of the meeting provided for in subsection (1) upon finding that it is detrimental to the master plan or the travel bureau's promotional programs. The bureau shall not implement an annual marketing plan that is disapproved by the travel bureau. If the director does not disapprove of an annual marketing plan within the 30-day period, the annual marketing plan shall be considered approved and may be implemented by the bureau.

History: Add. 2018, Act 465, Eff. Mar. 29, 2019

141.1437 Referendum to discontinue assessment.

Sec. 7.

(1) At any time 3 years or more after the effective date of an assessment, and upon the written request of owners of transient facilities located within the assessment district representing not less than 40% of the total number of owners or not less than 40% of the total number of rooms in all the transient facilities, the bureau shall conduct a referendum on whether the assessment shall be discontinued. The bureau shall cause a written referendum to be held by mail or in person, as the bureau chooses, among all owners of transient facilities in

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the assessment district within 60 days of the receipt of the requests. For the purposes of the referendum, each owner shall have 1 vote for each room in each of the owner's transient facilities within the assessment district. If a majority of the total votes eligible to be cast at the referendum supports discontinuance of the assessment, the assessment shall be discontinued on the first day of the month following expiration of 90 days after the certification of the results of the referendum by the bureau.

(2) Passage of a resolution discontinuing the assessment shall not prevent a bureau from proposing a new marketing program notice during or after the 90-day period, in which case the procedures set forth in section 3 shall be followed.

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

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010

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