

**SUBSTITUTE FOR
HOUSE BILL NO. 4369**

A bill to provide for the establishment of commercial rehabilitation districts in certain local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain qualified facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of certain local governmental officials; and to provide penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "commercial rehabilitation act".

3 Sec. 2. As used in this act:

1 (a) "Commercial property" means land improvements classified
2 by law for general ad valorem tax purposes as real property
3 including real property assessable as personal property pursuant to
4 sections 8(d) and 14(6) of the general property tax act, 1893 PA
5 206, MCL 211.8 and 211.14, the primary purpose and use of which is
6 the operation of a commercial business enterprise. Commercial
7 property shall also include facilities related to a commercial
8 business enterprise under the same ownership at that location,
9 including, but not limited to, office, engineering, research and
10 development, warehousing, parts distribution, retail sales, and
11 other commercial activities. Commercial property also includes a
12 building or group of contiguous buildings previously used for
13 industrial purposes that will be converted to the operation of a
14 commercial business enterprise. Commercial property does not
15 include any of the following:

16 (i) Land.

17 (ii) Property of a public utility.

18 (b) "Commercial rehabilitation district" or "district" means
19 an area not less than 75 acres in size of a qualified local
20 governmental unit established as provided in section 3.

21 (c) "Commercial rehabilitation exemption certificate" or
22 "certificate" means the certificate issued under section 6.

23 (d) "Commercial rehabilitation tax" means the specific tax
24 levied under this act.

25 (e) "Commission" means the state tax commission created by
26 1927 PA 360, MCL 209.101 to 209.107.

27 (f) "Department" means the department of treasury.

1 (g) "Qualified facility" means a building or group of
2 contiguous buildings of commercial property consisting of 1,000,000
3 or more square feet of space that is 40% or more vacant for 12 or
4 more consecutive months immediately preceding the date of
5 application for the certificate and that is 15 years old or older.
6 A qualified facility does not include property that is to be used
7 as a professional sports stadium. A qualified facility does not
8 include property that is to be used as a casino. As used in this
9 subdivision, "casino" means a casino or a parking lot, hotel,
10 motel, or retail store owned or operated by a casino, an affiliate,
11 or an affiliated company, regulated by this state pursuant to the
12 Michigan gaming control and revenue act, the Initiated Law of 1996,
13 MCL 432.201 to 432.226.

14 (h) "Qualified local governmental unit" means a city, village,
15 or township.

16 (i) "Rehabilitation" means changes to a qualified facility
17 that are required to restore or modify the property, together with
18 all appurtenances, to an economically efficient condition.
19 Rehabilitation includes major renovation and modification
20 including, but not necessarily limited to, the improvement of floor
21 loads, correction of deficient or excessive height, new or improved
22 fixed building equipment, including heating, ventilation, and
23 lighting, reducing multistory facilities to 1 or 2 stories,
24 improved structural support including foundations, improved roof
25 structure and cover, floor replacement, improved wall placement,
26 improved exterior and interior appearance of buildings, and other
27 physical changes required to restore or change the obsolete

1 property to an economically efficient condition. Rehabilitation
2 shall not include improvements aggregating less than 10% of the
3 true cash value of the property at commencement of the
4 rehabilitation of the qualified facility.

5 (j) "Taxable value" means the value determined under section
6 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

7 Sec. 3. (1) A qualified local governmental unit, by resolution
8 of its legislative body, may establish 1 or more qualified
9 rehabilitation districts that may consist of 1 or more parcels or
10 tracts of land or a portion of a parcel or tract of land, if at the
11 time the resolution is adopted, the parcel or tract of land or
12 portion of a parcel or tract of land within the district is a
13 qualified facility.

14 (2) The legislative body of a qualified local governmental
15 unit may establish a commercial rehabilitation district on its own
16 initiative or upon a written request filed by the owner or owners
17 of property comprising at least 50% of all taxable value of the
18 property located within a proposed commercial rehabilitation
19 district. The written request must be filed with the clerk of the
20 qualified local governmental unit.

21 (3) Before adopting a resolution establishing a commercial
22 rehabilitation district, the legislative body shall give written
23 notice by certified mail to the county in which the proposed
24 district is to be located and the owners of all real property
25 within the proposed commercial rehabilitation district and shall
26 afford an opportunity for a hearing on the establishment of the
27 commercial rehabilitation district at which any of those owners and

1 any other resident or taxpayer of the qualified local governmental
2 unit may appear and be heard. The legislative body shall give
3 public notice of the hearing not less than 10 days or more than 30
4 days before the date of the hearing.

5 (4) The legislative body of the qualified local governmental
6 unit, in its resolution establishing a commercial rehabilitation
7 district, shall set forth a finding and determination that the
8 district meets the requirements set forth in subsection (1) and
9 shall provide a copy of the resolution by certified mail to the
10 county in which the district is located.

11 (5) Within 28 days after receiving a copy of the resolution
12 establishing a commercial rehabilitation district, the county may
13 reject the establishment of the district by 1 of the following
14 methods:

15 (a) If the county has an elected county executive, by written
16 notification to the qualified local governmental unit.

17 (b) If the county does not have an elected county executive,
18 by a resolution of the county board of commissioners provided to
19 the qualified local governmental unit.

20 Sec. 4. (1) If a commercial rehabilitation district is
21 established under section 3, the owner of a qualified facility may
22 file an application for a commercial rehabilitation exemption
23 certificate with the clerk of the qualified local governmental unit
24 that established the commercial rehabilitation district. The
25 application shall be filed in the manner and form prescribed by the
26 commission. The application shall contain or be accompanied by a
27 general description of the qualified facility, a general

1 description of the proposed use of the qualified facility, the
2 general nature and extent of the rehabilitation to be undertaken, a
3 descriptive list of the fixed building equipment that will be a
4 part of the qualified facility, a time schedule for undertaking and
5 completing the rehabilitation of the qualified facility, a
6 statement of the economic advantages expected from the exemption,
7 including the number of jobs to be retained or created as a result
8 of rehabilitating the qualified facility, including expected
9 construction employment, and information relating to the
10 requirements in section 8.

11 (2) Upon receipt of an application for a commercial
12 rehabilitation exemption certificate, the clerk of the qualified
13 local governmental unit shall notify in writing the assessor of the
14 local tax collecting unit in which the qualified facility is
15 located, and the legislative body of each taxing unit that levies
16 ad valorem property taxes in the qualified local governmental unit
17 in which the qualified facility is located. Before acting upon the
18 application, the legislative body of the qualified local
19 governmental unit shall hold a public hearing on the application
20 and give public notice to the applicant, the assessor, a
21 representative of the affected taxing units, and the general
22 public. The hearing on each application shall be held separately
23 from the hearing on the establishment of the commercial
24 rehabilitation district.

25 Sec. 5. The legislative body of the qualified local
26 governmental unit, not more than 60 days after receipt of the
27 application by the clerk, shall by resolution either approve or

1 disapprove the application for a commercial rehabilitation
2 exemption certificate in accordance with section 8 and the other
3 provisions of this act. The clerk shall retain the original of the
4 application and resolution. If approved, the clerk shall forward a
5 copy of the application and resolution to the commission. If
6 disapproved, the reasons shall be set forth in writing in the
7 resolution, and the clerk shall send, by certified mail, a copy of
8 the resolution to the applicant and to the assessor. A resolution
9 is not effective unless approved by the commission as provided in
10 section 6.

11 Sec. 6. (1) Not more than 60 days after receipt of a copy of
12 the application and resolution adopted under section 5, the
13 commission shall approve or disapprove the resolution.

14 (2) Following approval of the application by the legislative
15 body of the qualified local governmental unit and the commission,
16 the commission shall issue to the applicant a commercial
17 rehabilitation exemption certificate in the form the commission
18 determines, which shall contain all of the following:

19 (a) A legal description of the real property on which the
20 qualified facility is located.

21 (b) A statement that unless revoked as provided in this act
22 the certificate shall remain in force for the period stated in the
23 certificate.

24 (c) A statement of the taxable value of the qualified
25 facility, separately stated for real and personal property, for the
26 tax year immediately preceding the effective date of the
27 certificate after deducting the taxable value of the land and

1 personal property other than personal property assessed pursuant to
2 sections 8(d) and 14(6) of the general property tax act, 1893 PA
3 206, MCL 211.8 and 211.14.

4 (d) A statement of the period of time authorized by the
5 legislative body of the qualified local governmental unit within
6 which the rehabilitation shall be completed.

7 (e) If the period of time authorized by the legislative body
8 of the qualified local governmental unit pursuant to subdivision
9 (b) is less than 10 years, the exemption certificate shall contain
10 the factors, criteria, and objectives, as determined by the
11 resolution of the qualified local governmental unit, necessary for
12 extending the period of time, if any.

13 (3) The effective date of the certificate is the December 31
14 immediately following the date of issuance of the certificate.

15 (4) The commission shall file with the clerk of the qualified
16 local governmental unit a copy of the commercial rehabilitation
17 exemption certificate, and the commission shall maintain a record
18 of all certificates filed. The commission shall also send, by
19 certified mail, a copy of the commercial rehabilitation exemption
20 certificate to the applicant and the assessor of the local tax
21 collecting unit in which the qualified facility is located.

22 Sec. 7. (1) A qualified facility for which a commercial
23 rehabilitation exemption certificate is in effect, but not the land
24 on which the rehabilitated facility is located, or personal
25 property other than personal property assessed pursuant to sections
26 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL
27 211.8 and 211.14, for the period on and after the effective date of

1 the certificate and continuing so long as the commercial
2 rehabilitation exemption certificate is in force, is exempt from ad
3 valorem property taxes collected under the general property tax
4 act, 1893 PA 206, MCL 211.1 to 211.157.

5 (2) Unless earlier revoked as provided in section 12, a
6 commercial rehabilitation exemption certificate shall remain in
7 force and effect for a period to be determined by the legislative
8 body of the qualified local governmental unit. The certificate may
9 be issued for a period of at least 1 year, but not to exceed 10
10 years. If the number of years determined is less than 10, the
11 certificate may be subject to review by the legislative body of the
12 qualified local governmental unit and the certificate may be
13 extended. The total amount of time determined for the certificate
14 including any extensions shall not exceed 10 years after the
15 completion of the qualified facility. The certificate shall
16 commence with its effective date and end on the December 31
17 immediately following the last day of the number of years
18 determined. The date of issuance of a certificate of occupancy, if
19 required by appropriate authority, shall be the date of completion
20 of the qualified facility.

21 (3) If the number of years determined by the legislative body
22 of the qualified local governmental unit for the period a
23 certificate remains in force is less than 10 years, the review of
24 the certificate for the purpose of determining an extension shall
25 be based upon factors, criteria, and objectives that shall be
26 placed in writing, determined and approved at the time the
27 certificate is approved by resolution of the legislative body of

1 the qualified local governmental unit and sent, by certified mail,
2 to the applicant, the assessor of the local tax collecting unit in
3 which the qualified facility is located, and the commission.

4 Sec. 8. (1) If the taxable value of the property proposed to
5 be exempt pursuant to an application under consideration,
6 considered together with the aggregate taxable value of property
7 exempt under certificates previously granted and currently in force
8 under this act or under 1974 PA 198, MCL 207.551 to 207.572,
9 exceeds 5% of the taxable value of the qualified local governmental
10 unit, the legislative body of the qualified local governmental unit
11 shall make a separate finding and shall include a statement in its
12 resolution approving the application that exceeding that amount
13 shall not have the effect of substantially impeding the operation
14 of the qualified local governmental unit or impairing the financial
15 soundness of an affected taxing unit.

16 (2) The legislative body of the qualified local governmental
17 unit shall not approve an application for a commercial
18 rehabilitation exemption certificate unless the applicant complies
19 with all of the following requirements:

20 (a) The commencement of the rehabilitation of the qualified
21 facility does not occur earlier than 6 months before the applicant
22 files the application for the commercial rehabilitation exemption
23 certificate.

24 (b) The application relates to a rehabilitation program that
25 when completed constitutes a qualified facility within the meaning
26 of this act and that shall be situated within a commercial
27 rehabilitation district established in a qualified local

1 governmental unit eligible under this act.

2 (c) Completion of the qualified facility is calculated to, and
3 will at the time of issuance of the certificate have the reasonable
4 likelihood to, increase commercial activity, create employment,
5 retain employment, prevent a loss of employment, revitalize urban
6 areas, or increase the number of residents in the community in
7 which the qualified facility is situated.

8 (d) The applicant states, in writing, that the rehabilitation
9 of the qualified facility would not be undertaken without the
10 applicant's receipt of the exemption certificate.

11 (e) The applicant is not delinquent in the payment of any
12 taxes related to the qualified facility.

13 Sec. 9. The assessor of each qualified local governmental unit
14 in which there is a qualified facility with respect to which 1 or
15 more commercial rehabilitation exemption certificates have been
16 issued and are in force shall determine annually as of December 31
17 the value and taxable value, both for real and personal property,
18 of each qualified facility separately, having the benefit of a
19 certificate and upon receipt of notice of the filing of an
20 application for the issuance of a certificate, shall determine and
21 furnish to the local legislative body the value and the taxable
22 value of the property to which the application pertains and other
23 information as may be necessary to permit the local legislative
24 body to make the determinations required by section 8(2).

25 Sec. 10. (1) There is levied upon every owner of a qualified
26 facility to which a commercial rehabilitation exemption certificate
27 is issued a specific tax to be known as the commercial

1 rehabilitation tax.

2 (2) The amount of the commercial rehabilitation tax, in each
3 year, shall be determined by adding the results of both of the
4 following calculations:

5 (a) Multiplying the total mills levied as ad valorem taxes for
6 that year by all taxing units within which the qualified facility
7 is located by the taxable value of the real and personal property
8 of the qualified facility on the December 31 immediately preceding
9 the effective date of the commercial rehabilitation exemption
10 certificate after deducting the taxable valuation of the land and
11 of personal property other than personal property assessed pursuant
12 to sections 8(d) and 14(6) of the general property tax act, 1893 PA
13 206, MCL 211.8 and 211.14, for the tax year immediately preceding
14 the effective date of the commercial rehabilitation exemption
15 certificate.

16 (b) Multiplying the mills levied for school operating purposes
17 for that year under the revised school code, 1976 PA 451, MCL 380.1
18 to 380.1852, and the state education tax act, 1993 PA 331, MCL
19 211.901 to 211.906, by the taxable value of the real and personal
20 property of the qualified facility, after deducting all of the
21 following:

22 (i) The taxable value of the land and of the personal property
23 other than personal property assessed pursuant to sections 8(d) and
24 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and
25 211.14.

26 (ii) The taxable value used to calculate the tax under
27 subdivision (a).

1 (3) The commercial rehabilitation tax is an annual tax,
2 payable at the same times, in the same installments, and to the
3 same officer or officers as taxes imposed under the general
4 property tax act, 1893 PA 206, MCL 211.1 to 211.157, are payable.
5 Except as otherwise provided in this section, the officer or
6 officers shall disburse the commercial rehabilitation tax payments
7 received by the officer or officers each year to and among this
8 state, cities, school districts, counties, and authorities, at the
9 same times and in the same proportions as required by law for the
10 disbursement of taxes collected under the general property tax act,
11 1893 PA 206, MCL 211.1 to 211.157.

12 (4) For intermediate school districts receiving state aid
13 under sections 56, 62, and 81 of the state school aid act of 1979,
14 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, of the amount of
15 commercial rehabilitation tax that would otherwise be disbursed to
16 an intermediate school district, all or a portion, to be determined
17 on the basis of the tax rates being utilized to compute the amount
18 of state aid, shall be paid to the state treasury to the credit of
19 the state school aid fund established by section 11 of article IX
20 of the state constitution of 1963.

21 (5) The amount of commercial rehabilitation tax described in
22 subsection (2)(a) that would otherwise be disbursed to a local
23 school district for school operating purposes, and all of the
24 amount described in subsection (2)(b), shall be paid instead to the
25 state treasury and credited to the state school aid fund
26 established by section 11 of article IX of the state constitution
27 of 1963.

1 (6) The officer or officers shall send a copy of the amount of
2 disbursement made to each unit under this section to the commission
3 on a form provided by the commission.

4 (7) A qualified facility located in a renaissance zone under
5 the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
6 125.2696, is exempt from the commercial rehabilitation tax levied
7 under this act to the extent and for the duration provided pursuant
8 to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
9 125.2696, except for that portion of the commercial rehabilitation
10 tax attributable to a special assessment or a tax described in
11 section 7ff(2) of the general property tax act, 1893 PA 206, MCL
12 211.7ff. The commercial rehabilitation tax calculated under this
13 subsection shall be disbursed proportionately to the taxing unit or
14 units that levied the special assessment or the tax described in
15 section 7ff(2) of the general property tax act, 1893 PA 206, MCL
16 211.7ff.

17 Sec. 11. The amount of the tax applicable to real property,
18 until paid, is a lien upon the real property to which the
19 certificate is applicable. Proceedings upon the lien as provided by
20 law for the foreclosure in the circuit court of mortgage liens upon
21 real property may commence only upon the filing by the appropriate
22 collecting officer of a certificate of nonpayment of the commercial
23 rehabilitation tax applicable to real property, together with an
24 affidavit of proof of service of the certificate of nonpayment upon
25 the owner of the qualified facility by certified mail, with the
26 register of deeds of the county in which the qualified facility is
27 situated.

1 Sec. 12. The legislative body of the qualified local
2 governmental unit may, by resolution, revoke the commercial
3 rehabilitation exemption certificate of a facility if it finds that
4 the completion of rehabilitation of the qualified facility has not
5 occurred within the time authorized by the legislative body in the
6 exemption certificate or a duly authorized extension of that time,
7 or that the holder of the commercial rehabilitation exemption
8 certificate has not proceeded in good faith with the operation of
9 the qualified facility in a manner consistent with the purposes of
10 this act and in the absence of circumstances that are beyond the
11 control of the holder of the exemption certificate.

12 Sec. 13. A commercial rehabilitation exemption certificate may
13 be transferred and assigned by the holder of the certificate to a
14 new owner of the qualified facility if the qualified local
15 governmental unit approves the transfer after application by the
16 new owner.

17 Sec. 14. Not later than October 15 each year, each qualified
18 local governmental unit granting a commercial rehabilitation
19 exemption shall report to the commission on the status of each
20 exemption. The report must include the current value of the
21 property to which the exemption pertains, the value on which the
22 commercial rehabilitation tax is based, and a current estimate of
23 the number of jobs retained or created by the exemption.

24 Sec. 15. (1) The department annually shall prepare and submit
25 to the committees of the house of representatives and senate
26 responsible for tax policy and economic development issues a report
27 on the utilization of commercial rehabilitation districts, based on

1 the information filed with the commission.

2 (2) After this act has been in effect for 3 years, the
3 department shall prepare and submit to the committees of the house
4 of representatives and senate responsible for tax policy and
5 economic development issues an economic analysis of the costs and
6 benefits of this act in the 3 qualified local governmental units in
7 which it has been most heavily utilized.

8 Sec. 16. A new exemption shall not be granted under this act
9 after December 31, 2015, but an exemption then in effect shall
10 continue until the expiration of the exemption certificate.