

# HOUSE BILL No. 4369

February 22, 2005, Introduced by Reps. Amos, Taub and Garfield and referred to the Committee on Commerce.

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 reimburse certain expenses; 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:

4           (a) "Commercial property" means land improvements classified

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

15 (i) Land.

16 (ii) Property of a public utility.

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

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

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

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

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

27 (g) "Qualified facility" means a building or group of

1 contiguous buildings of commercial property consisting of 1,000,000  
2 or more square feet of space which is 30% or more vacant. A  
3 qualified facility does not include property that is to be used as  
4 a professional sports stadium. A qualified facility does not  
5 include property that is to be used as a casino. As used in this  
6 subdivision, "casino" means a casino or a parking lot, hotel,  
7 motel, or retail store owned or operated by a casino, an affiliate,  
8 or an affiliated company, regulated by this state pursuant to the  
9 Michigan gaming control and revenue act, the Initiated Law of 1996,  
10 MCL 432.201 to 432.226.

11 (h) "Qualified facility expenses" means roof repair and  
12 replacement, HVAC repair and replacement, including boilers and  
13 chillers, and facade repairs and improvements. Qualified facility  
14 expenses do not include construction of new walls or facilities or  
15 the roof and operating systems required to service new facilities.

16 (i) "Qualified infrastructure expenses" means roads,  
17 utilities, parking lot repair and replacement, landscaping,  
18 exterior lighting, irrigation, sidewalks, traffic signals, curbs  
19 and gutters, storm drain systems, signage, and similar items.

20 (j) "Qualified local governmental unit" means a city, village,  
21 or township.

22 (k) "Rehabilitation" means changes to obsolete property other  
23 than replacement that are required to restore or modify the  
24 property, together with all appurtenances, to an economically  
25 efficient condition. Rehabilitation includes major renovation and  
26 modification including, but not necessarily limited to, the  
27 improvement of floor loads, correction of deficient or excessive

1 height, new or improved fixed building equipment, including  
2 heating, ventilation, and lighting, reducing multistory facilities  
3 to 1 or 2 stories, improved structural support including  
4 foundations, improved roof structure and cover, floor replacement,  
5 improved wall placement, improved exterior and interior appearance  
6 of buildings, and other physical changes required to restore or  
7 change the obsolete property to an economically efficient  
8 condition. Rehabilitation shall not include improvements  
9 aggregating less than 10% of the true cash value of the property at  
10 commencement of the rehabilitation of the obsolete property.

11 (l) "Taxable value" means the value determined under section  
12 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

13 Sec. 3. (1) A qualified local governmental unit, by resolution  
14 of its legislative body, may establish 1 or more qualified  
15 rehabilitation districts that may consist of 1 or more parcels or  
16 tracts of land or a portion of a parcel or tract of land, if at the  
17 time the resolution is adopted, the parcel or tract of land or  
18 portion of a parcel or tract of land within the district is a  
19 qualified facility:

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

27 (3) Before adopting a resolution establishing a commercial

1 rehabilitation district, the legislative body shall give written  
2 notice by certified mail to the county in which the proposed  
3 district is to be located and the owners of all real property  
4 within the proposed commercial rehabilitation district and shall  
5 afford an opportunity for a hearing on the establishment of the  
6 commercial rehabilitation district at which any of those owners and  
7 any other resident or taxpayer of the qualified local governmental  
8 unit may appear and be heard. The legislative body shall give  
9 public notice of the hearing not less than 10 days or more than 30  
10 days before the date of the hearing.

11 (4) The legislative body of the qualified local governmental  
12 unit, in its resolution establishing a commercial rehabilitation  
13 district, shall set forth a finding and determination that the  
14 district meets the requirements set forth in subsection (1) and  
15 shall provide a copy of the resolution by certified mail to the  
16 county in which the district is located.

17 (5) Within 28 days after receiving a copy of the resolution  
18 establishing a commercial rehabilitation district, the county may  
19 reject the establishment or the district by 1 of the following:

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

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

25 Sec. 4. (1) If a commercial rehabilitation district is  
26 established under section 3, the owner of a qualified facility may  
27 file an application for a commercial rehabilitation exemption

1 certificate with the clerk of the qualified local governmental unit  
2 that established the commercial rehabilitation district. The  
3 application shall be filed in the manner and form prescribed by the  
4 commission. The application shall contain or be accompanied by a  
5 general description of the qualified facility and a general  
6 description of the proposed use of the qualified facility, the  
7 general nature and extent of the rehabilitation to be undertaken, a  
8 descriptive list of the fixed building equipment that will be a  
9 part of the qualified facility, a time schedule for undertaking and  
10 completing the rehabilitation of the qualified facility, a  
11 statement of the economic advantages expected from the exemption,  
12 including the number of jobs to be retained or created as a result  
13 of rehabilitating the qualified facility, including expected  
14 construction employment, and information relating to the  
15 requirements in section 8.

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

1 from the hearing on the establishment of the commercial  
2 rehabilitation district.

3       Sec. 5. The legislative body of the qualified local  
4 governmental unit, not more than 60 days after receipt of the  
5 application by the clerk, shall by resolution either approve or  
6 disapprove the application for a commercial rehabilitation  
7 exemption certificate in accordance with section 8 and the other  
8 provisions of this act. The clerk shall retain the original of the  
9 application and resolution. If approved, the clerk shall forward a  
10 copy of the application and resolution to the commission. If  
11 disapproved, the reasons shall be set forth in writing in the  
12 resolution, and the clerk shall send, by certified mail, a copy of  
13 the resolution to the applicant and to the assessor. A resolution  
14 is not effective unless approved by the commission as provided in  
15 section 6.

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

19       (2) Following approval of the application by the legislative  
20 body of the qualified local governmental unit and the commission,  
21 the commission shall issue to the applicant a commercial  
22 rehabilitation exemption certificate in the form the commission  
23 determines, which shall contain all of the following:

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

26       (b) A statement that unless revoked as provided in this act  
27 the certificate shall remain in force for the period stated in the

1 certificate.

2 (c) A statement of the taxable value of the qualified  
3 facility, separately stated for real and personal property, for the  
4 tax year immediately preceding the effective date of the  
5 certificate after deducting the taxable value of the land and  
6 personal property other than personal property assessed pursuant to  
7 sections 8(d) and 14(6) of the general property tax act, 1893 PA  
8 206, MCL 211.8 and 211.14.

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

12 (e) If the period of time authorized by the legislative body  
13 of the qualified local governmental unit pursuant to subdivision  
14 (d) is less than 12 years, the exemption certificate shall contain  
15 the factors, criteria, and objectives, as determined by the  
16 resolution of the qualified local governmental unit, necessary for  
17 extending the period of time, if any.

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

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

27 Sec. 7. (1) A qualified facility for which a commercial



1 rehabilitation exemption certificate is in effect, but not the land  
2 on which the rehabilitated facility is located, or personal  
3 property other than personal property assessed pursuant to sections  
4 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL  
5 211.8 and 211.14, for the period on and after the effective date of  
6 the certificate and continuing so long as the commercial  
7 rehabilitation exemption certificate is in force, is exempt from ad  
8 valorem property taxes collected under the general property tax  
9 act, 1893 PA 206, MCL 211.1 to 211.157.

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

26 (3) If the number of years determined by the legislative body  
27 of the qualified local governmental unit for the period a

1 certificate remains in force is less than 10 years, the review of  
2 the certificate for the purpose of determining an extension shall  
3 be based upon factors, criteria, and objectives that shall be  
4 placed in writing, determined and approved at the time the  
5 certificate is approved by resolution of the legislative body of  
6 the qualified local governmental unit and sent, by certified mail,  
7 to the applicant, the assessor of the local tax collecting unit in  
8 which the qualified facility is located, and the commission.

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

21       (2) The legislative body of the qualified local governmental  
22 unit shall not approve an application for a commercial  
23 rehabilitation exemption certificate unless the applicant complies  
24 with all of the following requirements:

25       (a) The commencement of the rehabilitation of the qualified  
26 facility does not occur before the establishment of the commercial  
27 rehabilitation district.

1 (b) The application relates to a rehabilitation program that  
2 when completed constitutes a qualified facility within the meaning  
3 of this act and that shall be situated within a commercial  
4 rehabilitation district established in a qualified local  
5 governmental unit eligible under this act.

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

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

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

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

1 body to make the determinations required by section 8(2).

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

6       (2) The amount of the commercial rehabilitation tax, in each  
7 year, shall be determined by multiplying the total mills levied as  
8 ad valorem taxes for that year by all taxing units within which the  
9 qualified facility is located by the taxable value of the real and  
10 personal property of the qualified facility after deducting the  
11 taxable valuation of the land and of personal property other than  
12 personal property assessed pursuant to sections 8(d) and 14(6) of  
13 the general property tax act, 1893 PA 206, MCL 211.8 and 211.14.

14       (3) The commercial rehabilitation tax is an annual tax,  
15 payable at the same times, in the same installments, and to the  
16 same officer or officers as taxes imposed under the general  
17 property tax act, 1893 PA 206, MCL 211.1 to 211.157, are payable.  
18 Except as otherwise provided in this section, the officer or  
19 officers shall disburse the commercial rehabilitation tax payments  
20 received by the officer or officers each year as follows:

21       (a) Fifty percent to and among this state, cities, school  
22 districts, counties, and authorities, at the same times and in the  
23 same proportions as required by law for the disbursement of taxes  
24 collected under the general property tax act, 1893 PA 206, MCL  
25 211.1 to 211.157.

26       (b) Fifty percent to the qualified local governmental unit in  
27 which a qualified facility is located to reimburse qualified

1 infrastructure expenses and qualified facility expenses.

2 (4) For intermediate school districts receiving state aid  
3 under sections 56, 62, and 81 of the state school aid act of 1979,  
4 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, of the amount of  
5 obsolete property tax that would otherwise be disbursed to an  
6 intermediate school district, all or a portion, to be determined on  
7 the basis of the tax rates being utilized to compute the amount of  
8 state aid, shall be paid to the state treasury to the credit of the  
9 state school aid fund established by section 11 of article IX of  
10 the state constitution of 1963.

11 (5) The amount of commercial rehabilitation tax described in  
12 subsection (2) that would otherwise be disbursed to a local school  
13 district for school operating purposes shall be paid instead to the  
14 state treasury and credited to the state school aid fund  
15 established by section 11 of article IX of the state constitution  
16 of 1963.

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

20 (7) A qualified facility located in a renaissance zone under  
21 the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
22 125.2696, is exempt from the commercial rehabilitation tax levied  
23 under this act to the extent and for the duration provided pursuant  
24 to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
25 125.2696, except for that portion of the commercial rehabilitation  
26 tax attributable to a special assessment or a tax described in  
27 section 7ff(2) of the general property tax act, 1893 PA 206, MCL

1 211.7ff. The commercial rehabilitation tax calculated under this  
2 subsection shall be disbursed proportionately to the taxing unit or  
3 units that levied the special assessment or the tax described in  
4 section 7ff(2) of the general property tax act, 1893 PA 206, MCL  
5 211.7ff.

6 Sec. 11. The amount of the tax applicable to real property,  
7 until paid, is a lien upon the real property to which the  
8 certificate is applicable. Proceedings upon the lien as provided by  
9 law for the foreclosure in the circuit court of mortgage liens upon  
10 real property may commence only upon the filing by the appropriate  
11 collecting officer of a certificate of nonpayment of the commercial  
12 rehabilitation tax applicable to real property, together with an  
13 affidavit of proof of service of the certificate of nonpayment upon  
14 the owner of the qualified facility by certified mail, with the  
15 register of deeds of the county in which the qualified facility is  
16 situated.

17 Sec. 12. The legislative body of the qualified local  
18 governmental unit may, by resolution, revoke the commercial  
19 rehabilitation exemption certificate of a facility if it finds that  
20 the completion of rehabilitation of the qualified facility has not  
21 occurred within the time authorized by the legislative body in the  
22 exemption certificate or a duly authorized extension of that time,  
23 or that the holder of the commercial rehabilitation exemption  
24 certificate has not proceeded in good faith with the operation of  
25 the qualified facility in a manner consistent with the purposes of  
26 this act and in the absence of circumstances that are beyond the  
27 control of the holder of the exemption certificate.

1           Sec. 13. A commercial rehabilitation exemption certificate may  
2 be transferred and assigned by the holder of the certificate to a  
3 new owner of the qualified facility if the qualified local  
4 governmental unit approves the transfer after application by the  
5 new owner.

6           Sec. 14. Not later than October 15 each year, each qualified  
7 local governmental unit granting a commercial rehabilitation  
8 exemption shall report to the commission on the status of each  
9 exemption. The report must include the current value of the  
10 property to which the exemption pertains, the value on which the  
11 commercial rehabilitation tax is based, and a current estimate of  
12 the number of jobs retained or created by the exemption.

13           Sec. 15. (1) The department annually shall prepare and submit  
14 to the committees of the house of representatives and senate  
15 responsible for tax policy and economic development issues a report  
16 on the utilization of commercial rehabilitation districts, based on  
17 the information filed with the commission.

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

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

27           Sec. 17. (1) Within 60 days after the granting of a commercial

1 rehabilitation exemption certificate under section 6 for a  
2 qualified facility, the state treasurer may, for a period not to  
3 exceed 6 years, exclude up to 1/2 of the number of mills levied for  
4 school operating purposes under the revised school code, 1976 PA  
5 451, MCL 380.1 to 380.1852, and under the state education tax act,  
6 1993 PA 331, MCL 211.901 to 211.906, from the specific tax  
7 calculation on the qualified facility under section 10(2)(b) if the  
8 state treasurer determines that reducing the number of mills used  
9 to calculate the specific tax under section 10(2)(b) is necessary  
10 to reduce unemployment, promote economic growth, and increase  
11 capital investment in qualified local governmental units.

12 (2) The state treasurer shall not grant more than 25  
13 exclusions under this section each year.