

# HOUSE BILL No. 6606

November 9, 2006, Introduced by Rep. Hildenbrand and referred to the Committee on Commerce.

A bill relating to the promotion of convention business and tourism in this state and certain metropolitan areas of this state; to provide for tourism and convention marketing and promotion programs in certain metropolitan 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 functions and duties of certain state departments and employees; and to prescribe penalties and remedies.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2       "convention and tourism promotion act".

3       Sec. 2. As used in this act:

4       (a) "Assessment" means the amount levied against an owner of a

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1 transient facility within an assessment district computed by  
2 application of the applicable percentage against aggregate room  
3 charges with respect to that transient facility during the  
4 applicable assessment period.

5 <<(b) "Assessment district" means a municipality or a  
6 combination of municipalities as described in a marketing program.>>

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

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

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

15 (i) Has not less than 200 dues-paying members, of which not  
16 fewer than <<25>> are owners of transient facilities.

17 (ii) Has been actively engaged in promoting convention business  
18 and tourism for not less than 10 years.

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

20 (iv) Has a full-time chief executive officer and not fewer than  
21 10 full-time employees.

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

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

26 (g) "Marketing program" means a program established by a  
27 bureau to develop, encourage, solicit, and promote convention

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1 business and tourism within this state or a portion of this state  
2 within which the bureau operates. The encouragement and promotion  
3 of convention business and tourism shall include any service,  
4 function, or activity, whether or not performed, sponsored, or  
5 advertised by a bureau, that intends to attract transient guests to  
6 the assessment district.

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

<<(i) "Municipality" means a city, county, village, or township.

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

13 <<(k)>> "Room" means a room or other space provided for sleeping,  
14 including the furnishings and other accessories in the room.

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

20 <<(m)>> "Transient facility" means a building that contains 35 or  
21 more rooms used in the business of providing dwelling, lodging, or  
22 sleeping to transient guests, whether or not membership is required  
23 for the use of the rooms. A transient facility shall not include a  
24 hospital or nursing home.

25 <<(n)>> "Transient guest" means a person who occupies a room in a  
26 transient facility for less than 30 consecutive days.

27 <<(o)>> "Use tax" means the tax imposed under the use tax act,

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<<

composing the assessment district. >> and the <<municipality or municipalities>>

<<(4) A bureau may impose an assessment not to exceed 2% of the room charges in the applicable payment period if either of the following conditions is met:

(a) The assessment district includes a municipality having a population of more than 570,000 and less than 775,000.

(b) The assessment district includes a municipality within which is levied a 4% marketing assessment under 1980 PA 395, MCL 141.871 to 141.880.>>

<<(5)>> 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.

<<(6)>> The form of the marketing program notice, in addition to the information required by subsections (1), (2), and (3), shall

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1 set forth the right of referendum prescribed in subsection (6).

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

11       <<(8)>> If the director receives referendum requests in the time  
12 and number set forth in subsection (6), the director shall cause a  
13 written referendum to be held by mail or in person, as the director  
14 chooses, among all owners of transient facilities in the assessment  
15 district within 20 days after the expiration of the 40-day period.  
16 For the purposes of the referendum, each owner of a transient  
17 facility shall have 1 vote for each room in each of the owner's  
18 transient facilities within the assessment district. If a majority  
19 of votes actually cast at the referendum approve the assessment, as  
20 proposed by the bureau in its marketing program notice, the  
21 assessment shall become effective, except as otherwise provided in  
22 subsection (8), as to all owners of transient facilities located in  
23 the assessment district on the first day of the month following  
24 expiration of 30 days after certification of the results of the  
25 referendum by the director. If a majority of votes actually cast at  
26 the referendum are opposed to the assessment, the assessment shall  
27 not become effective. If the assessment is defeated by the

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1 referendum, the bureau may file and serve a new notice of intention  
2 if at least 60 days have elapsed from the date of certification of  
3 the results of the earlier referendum. Not more than 2 referenda or  
4 notices may be held pursuant to this subsection or filed pursuant  
5 to this section in any 1 calendar year. Only 1 assessment under  
6 this act may be in existence in an assessment district, or any part  
7 of an assessment district, at any 1 time.

8 <<(9)>> The assessment described in this act shall not be  
9 effective before January 1, 2007.

10 Sec. 4. A marketing program may include all or any of the  
11 following:

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

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

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

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

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

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

1       Sec. 5. (1) Upon the effective date of an assessment, each  
2 owner of a transient facility in the assessment district shall be  
3 liable for payment of the assessment, computed using the percentage  
4 set forth in the marketing program notice. The assessment shall be  
5 paid by the owner of each such transient facility to the bureau  
6 within 30 days after the end of each calendar month and shall be  
7 accompanied by a statement of room charges imposed with respect to  
8 the transient facility for that month. This act shall not prohibit  
9 a transient facility from reimbursing itself by adding the  
10 assessment imposed pursuant to this act to room charges payable by  
11 transient guests, provided that the transient facility discloses  
12 that it has done so on any bill presented to a transient guest.

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

21       (3) Interest shall be paid by an owner to the bureau on any  
22 assessments not paid within the time called for under this act. The  
23 interest shall accrue at the rate of 1.5% per month. Owners  
24 delinquent for more than 90 days in paying assessments, in addition  
25 to the 1.5% interest, shall pay a delinquency charge of 10% per  
26 month or fraction of a month on the amount of the delinquent  
27 assessments. The bureau may sue in its own name to collect the

1 assessments, interest, and delinquency charges.

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

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

11 (2) The financial statements of the bureau shall be audited at  
12 least annually by a certified public accountant. A copy of the  
13 audited financial statements shall be mailed to each owner not more  
14 than 150 days after the close of the bureau's fiscal year. The  
15 financial statements shall include a statement of all assessment  
16 revenues received by the bureau during the fiscal year in question  
17 and shall be accompanied by a detailed report, certified as correct  
18 by the chief operating officer of the bureau, describing the  
19 marketing programs implemented or, to the extent then known, to be  
20 implemented by the bureau.

21 (3) Copies of the audited financial statements and the  
22 certified report shall simultaneously be mailed to the director.

23 Sec. 7. (1) Upon the effective date of the establishment of an  
24 assessment under this act, the bureau shall cause an advisory  
25 committee to be elected consisting of representatives of the owners  
26 of transient facilities located within the assessment district,  
27 together with the director or the director's designated



1 representative.

2 (2) The advisory committee shall consist of not fewer than 5  
3 or more than 9 persons, at least 1 of whom shall not be affiliated  
4 with a bureau member. The advisory committee shall include at least  
5 1 member who is affiliated with a transient facility of 120 rooms  
6 or fewer. Procedures for the election and terms of the office of  
7 the members of the advisory committee shall be established by the  
8 bureau.

9 (3) The bureau at regular intervals, but not less than  
10 quarterly, shall cause a formal meeting of the advisory committee  
11 to be held at which the bureau shall present its current and  
12 proposed marketing programs. At these formal meetings the advisory  
13 committee shall review and either approve or reject any proposed  
14 marketing programs. An approved marketing program shall be  
15 instituted by the bureau. A rejected marketing program shall not be  
16 instituted by the bureau.

17 (4) The advisory committee may make recommendations to the  
18 bureau and the board from time to time with respect to current or  
19 proposed marketing programs.

20 Sec. 8. (1) At any time 2 years or more after the effective  
21 date of an assessment, and upon the written request of owners of  
22 transient facilities located within the assessment district  
23 representing not less than 40% of the total number of owners or not  
24 less than 40% of the total number of rooms in all the transient  
25 facilities, the bureau shall conduct a referendum on whether the  
26 assessment shall be discontinued. The bureau shall cause a written  
27 referendum to be held by mail or in person, as the bureau chooses,

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

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

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