

HOUSE BILL No. 4457

February 24, 2009, Introduced by Reps. Gregory, Durhal, Huckleberry and Leland and referred to the Committee on Tax Policy.

A bill to provide for the exemption of certain property from certain taxes; to levy and collect a specific tax upon the owners of certain property; to provide for the disposition of the tax; to prescribe the powers and duties of certain local government 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 rental property specific tax act".

3 Sec. 2. As used in this act:

4 (a) "Additions" and "losses" mean those terms as defined in
5 section 34d of the general property tax act, 1893 PA 206, MCL
6 211.34d.

7 (b) "Commercial rental property" means real property that
8 meets all of the following conditions:

1 (i) Is classified as commercial real property or industrial
2 real property under section 34c of the general property tax act,
3 1893 PA 206, MCL 211.34c.

4 (ii) All or a portion is subject to a lease or is offered for
5 lease.

6 (c) "Commission" means the state tax commission created by
7 1927 PA 360, MCL 209.101 to 209.107.

8 (d) "Net occupancy loss" means the sum of both of the
9 following:

10 (i) All prior losses attributable to that property pursuant to
11 section 34d(1)(h)(iii) of the general property tax act, 1893 PA 206,
12 MCL 211.34d, before the effective date of this act, minus all prior
13 additions attributable to that property pursuant to section
14 34d(1)(b)(vii) of the general property tax act, 1893 PA 206, MCL
15 211.34d, before January 1, 2005.

16 (ii) All prior occupancy losses minus all prior occupancy
17 additions.

18 (e) "Occupancy addition" means an increase in the value
19 attributable to commercial rental property's occupancy rate.

20 (f) "Occupancy loss" means an adjustment in value because of a
21 decrease in commercial rental property's occupancy rate.

22 (g) "Taxable value" means the taxable value as determined
23 under section 27a of the general property tax act, 1893 PA 206, MCL
24 211.27a.

25 (h) "Transfer of ownership" means that term as defined in
26 section 27a of the general property tax act, 1893 PA 206, MCL
27 211.27a.

1 Sec. 3. Commercial rental property is exempt from ad valorem
2 property taxes collected under the general property tax act, 1893
3 PA 206, MCL 211.1 to 211.155, as provided under section 7// of the
4 general property tax act, 1893 PA 206, MCL 211.7//.

5 Sec. 4. (1) The assessor of each local tax collecting unit in
6 which there is commercial rental property shall determine annually
7 as of December 31 the value and adjusted taxable value of each
8 parcel of commercial rental property located in that local tax
9 collecting unit.

10 (2) Except as otherwise provided in this section, commercial
11 rental property shall be assessed at 50% of its true cash value
12 under section 3 of article IX of the state constitution of 1963.

13 (3) Except as otherwise provided in subsection (4), for taxes
14 levied in 2010 and for each year after 2010, the adjusted taxable
15 value of each parcel of commercial rental property is the lesser of
16 the following:

17 (a) The property's adjusted taxable value in the immediately
18 preceding year minus any losses, adjusted by any occupancy loss,
19 multiplied by the lesser of 1.05 or the inflation rate, adjusted by
20 any occupancy addition, plus all additions. Adjusted taxable value
21 shall reflect an occupancy addition only if either an occupancy
22 loss had been previously allowed because of a decrease in the
23 commercial rental property's occupancy rate or if the value of
24 commercial rental property that was new construction was reduced
25 because of a below-market occupancy rate. The amount of any
26 occupancy addition shall not exceed the amount of any net occupancy
27 loss. For taxes levied in 2010, the commercial rental property's

1 adjusted taxable value in the immediately preceding year is the sum
2 of both of the following:

3 (i) The taxable value that property would have had in 2010 if
4 the property had been subject to the collection of taxes under the
5 general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

6 (ii) All additions that would have been attributable to that
7 property pursuant to section 34d(1)(b)(vii) of the general property
8 tax act, 1893 PA 206, MCL 211.34d, after January 1, 2005 and before
9 the effective date of this act, notwithstanding the opinion of the
10 Michigan supreme court in WPW Acquisition Company v City of Troy,
11 466 Mich 117 (2002) (Docket No. 118750).

12 (b) The commercial rental property's current state equalized
13 valuation.

14 (4) In 2010 and each year after 2010, not later than January
15 15, if the adjusted taxable value of commercial rental property is
16 adjusted under subsection (3) due to an occupancy loss, an owner of
17 that commercial rental property shall file a copy of a rent roll
18 for that commercial rental property or a sworn statement of the
19 square foot percentage of occupancy of that commercial rental
20 property as of the immediately preceding December 31 with the
21 assessor of the local tax collecting unit in which that commercial
22 rental property is located.

23 (5) Upon a transfer of ownership of commercial rental property
24 after 2010, the commercial rental property's adjusted taxable value
25 for the calendar year following the year of the transfer is the
26 commercial rental property's state equalized valuation for the
27 calendar year following the transfer.

1 (6) If the adjusted taxable value of commercial rental
2 property is adjusted under subsection (5), a subsequent increase in
3 the commercial rental property's adjusted taxable value is subject
4 to the limitation set forth in subsection (3) until a subsequent
5 transfer of ownership occurs.

6 (7) An owner of commercial rental property may appeal the
7 determination of the commercial rental property's adjusted taxable
8 value at the same time and in the same manner as appeals under the
9 general property tax act, 1893 PA 206, MCL 211.1 to 211.155. This
10 subsection shall not limit a commercial rental property owner's
11 appeal rights under the tax tribunal act, 1973 PA 186, MCL 205.701
12 to 205.779, the general property tax act, 1893 PA 206, MCL 211.1 to
13 211.155, or 1941 PA 122, MCL 205.1 to 205.31.

14 Sec. 5. (1) There is levied upon the owner of every commercial
15 rental property a specific tax to be known as the commercial rental
16 property specific tax.

17 (2) The amount of the commercial rental property specific tax
18 in each year shall be determined by multiplying the number of mills
19 that would be assessed in the local tax collecting unit if the
20 property were subject to the collection of taxes under the general
21 property tax act, 1893 PA 206, MCL 211.1 to 211.155, by the
22 commercial rental property's adjusted taxable value.

23 (3) The commercial rental property specific tax is an annual
24 tax, payable at the same times, in the same installments, and to
25 the same collecting officer or officers as taxes collected under
26 the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

27 (4) The collecting officer or officers shall disburse the

1 commercial rental property specific tax to and among this state and
2 cities, townships, villages, school districts, counties, or other
3 taxing units, at the same times and in the same proportions as
4 required by law for the disbursement of taxes collected under the
5 general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

6 (5) The collecting officer or officers shall send a copy of
7 the amount of disbursement made to each taxing unit under this
8 section to the commission on a form provided by the commission.

9 (6) Commercial rental property located in a renaissance zone
10 under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681
11 to 125.2696, is exempt from the commercial rental property specific
12 tax levied under this act to the extent and for the duration
13 provided pursuant to the Michigan renaissance zone act, 1996 PA
14 376, MCL 125.2681 to 125.2696, except for that portion of the
15 commercial rental property specific tax attributable to a tax
16 described in section 7ff(2) of the general property tax act, 1893
17 PA 206, MCL 211.7ff. The commercial rental property specific tax
18 calculated under this subsection shall be disbursed proportionately
19 to the taxing unit or units that levied the tax described in
20 section 7ff(2) of the general property tax act, 1893 PA 206, MCL
21 211.7ff.

22 Sec. 6. Unpaid commercial rental property specific taxes are
23 subject to forfeiture, foreclosure, and sale in the same manner and
24 at the same time as taxes returned as delinquent under the general
25 property tax act, 1893 PA 206, MCL 211.1 to 211.155.

26 Sec. 7. This act is repealed if the adjustment for any
27 occupancy addition or any occupancy loss required under section

1 4(3)(a) is determined to be invalid by a court of competent
2 jurisdiction and that determination is not under appeal.

3 Enacting section 1. This act does not take effect unless
4 Senate Bill No. ____ or House Bill No. 4456(request no. 01286'09) of
5 the 95th Legislature is enacted into law.