

SENATE BILL No. 1112

February 4, 2010, Introduced by Senators CLARKE, BIRKHOLZ, BARCIA, CROPSEY, PAPPAGEORGE, BASHAM, HUNTER and KUIPERS and referred to the Committee on Commerce and Tourism.

A bill to amend 1978 PA 255, entitled "Commercial redevelopment act," by amending sections 9, 10, 11, and 12 (MCL 207.659, 207.660, 207.661, and 207.662), section 9 as amended by 1993 PA 340 and section 12 as amended by 2008 PA 227.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) A facility for which a commercial facilities
2 exemption certificate is in effect, but not the land on which the
3 facility is located or to be located, or personal property other
4 than personal property assessed pursuant to section 14(6) of the
5 general property tax act, ~~Act No. 206 of the Public Acts of 1893,~~
6 ~~as amended, being section 211.14 of the Michigan Compiled Laws 1893~~
7 **PA 206, MCL 211.14**, for the period on and after the effective date
8 of the certificate and continuing so long as the commercial

1 facilities exemption certificate is in force, is exempt from ad
2 valorem property taxes. A lessee, occupant, user, or person in
3 possession of the facility for the same period is exempt from ad
4 valorem taxes imposed under ~~Act No. 189 of the Public Acts of 1953,~~
5 ~~as amended, being sections 211.181 to 211.182 of the Michigan~~
6 ~~Compiled Laws 1953 PA 189, MCL 211.181 TO 211.182.~~

7 (2) Unless earlier revoked as provided in section 15, a
8 commercial facilities exemption certificate shall remain in force
9 and effect for a period to be determined by the legislative body of
10 the local governmental unit. The certificate may be issued for a
11 period of at least 1 year, but not to exceed 12 years. If the
12 number of years determined is less than 12, the certificate may be
13 subject to review by the legislative body of the local governmental
14 unit and the certificate may be extended. The total amount of time
15 determined for the certificate including any extensions shall not
16 exceed 12 years after the completion of the facility. The
17 certificate shall commence with its effective date and end on the
18 December 31 next following the last day of the number of years
19 determined. The date of issuance of a certificate of occupancy, if
20 required by appropriate authority, shall be the date of completion
21 of the facility. **FOR A LEED CERTIFIED FACILITY, THE DATE OF**
22 **ISSUANCE OF LEED CERTIFICATION SHALL BE THE DATE OF COMPLETION OF**
23 **THE FACILITY.**

24 (3) If the number of years determined by the legislative body
25 of the local governmental unit for the period a certificate remains
26 in force is less than 12 years, the review of the certificate for
27 the purpose of determining an extension shall be based upon

1 factors, criteria and objectives that shall be placed in writing,
2 approved at the time the certificate is approved by the legislative
3 body of the local governmental unit and sent to the applicant and
4 commission.

5 Sec. 10. (1) If the state equalized valuation of property
6 proposed to be exempt pursuant to an application under
7 consideration, considered together with the aggregate state
8 equalized valuation of property exempt under certificates
9 previously granted and currently in force under this act or ~~Act No.~~
10 ~~198 of the Public Acts of 1974, as amended, being sections 207.551~~
11 ~~to 207.571 of the Michigan Compiled Laws 1974 PA 198, MCL 207.551~~
12 **TO 207.572**, exceeds 5% of the state equalized valuation of the
13 local governmental unit, the legislative body of the local
14 governmental unit shall make a separate finding and shall include a
15 statement in its resolution approving the application that
16 exceeding that amount shall not have the effect of substantially
17 impeding the operation of the local government unit or impairing
18 the financial soundness of any affected taxing unit.

19 (2) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3), THE**
20 legislative body of the local governmental unit shall not approve
21 an application for an exemption certificate unless the applicant
22 complies with all of the following requirements:

23 (a) The commencement of the restoration, replacement, or
24 construction of the facility does not occur before the
25 establishment of the commercial redevelopment district. An
26 application for an exemption certificate shall be valid if filed
27 within 45 days after commencement of the restoration, replacement,

1 or construction.

2 (b) The application relates to a construction, restoration, or
3 replacement program which when completed constitutes a new,
4 replacement, or restored facility within the meaning of this act
5 and which shall be situated within a commercial redevelopment
6 district established in a local governmental unit eligible under
7 this act to establish such a district.

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

13 **(3) THE REQUIREMENTS OF SUBSECTION (2) DO NOT APPLY TO A LEED**
14 **CERTIFIED FACILITY.**

15 Sec. 11. The assessor of each city or township in which there
16 is a ~~restored facility, a new facility or a replacement~~ facility
17 with respect to which 1 or more commercial facilities exemption
18 certificates are issued and in force shall determine annually as of
19 December 31 the value of each facility separately, having the
20 benefit of the certificates and upon receipt of notice of the
21 filing of an application for the issuance of a certificate, shall
22 determine and furnish to the local legislative body the value of
23 the property to which the application pertains and other
24 information as may be necessary to permit the local legislative
25 body to make the determinations required by section 10(1).

26 Sec. 12. (1) Except as provided in subsection (9), there is
27 levied upon every owner of a ~~new, replacement, or restored~~ facility

1 to which a commercial facilities exemption certificate is issued a
2 specific tax to be known as the commercial facilities tax.

3 (2) The amount of the commercial facilities tax, in each year,
4 for a restored facility shall be determined by multiplying the
5 total mills levied as ad valorem taxes for that year by all taxing
6 units within which the facility is situated by the taxable value of
7 the real property of the obsolete commercial property for the tax
8 year immediately preceding the effective date of the commercial
9 facilities exemption certificate after deducting the taxable value
10 of the land and of personal property other than personal property
11 assessed pursuant to section 14(6) of the general property tax act,
12 1893 PA 206, MCL 211.14.

13 (3) The amount of the commercial facilities tax, in each year,
14 for a new or replacement facility shall be determined by
15 multiplying the taxable value of the facility excluding the land
16 and personal property other than personal property assessed
17 pursuant to section 14(6) of the general property tax act, 1893 PA
18 206, MCL 211.14, by the sum of 1/2 of the total mills levied as ad
19 valorem taxes for that year by all taxing units within which the
20 facility is located other than mills levied under the state
21 education tax act, 1993 PA 331, MCL 211.901 to 211.906, plus,
22 subject to section 12a, the number of mills levied under the state
23 education tax act, 1993 PA 331, MCL 211.901 to 211.906.

24 **(4) THE AMOUNT OF THE COMMERCIAL FACILITIES TAX, IN EACH YEAR,**
25 **FOR A LEED CERTIFIED FACILITY SHALL BE DETERMINED BY ADDING THE**
26 **RESULTS OF BOTH OF THE FOLLOWING CALCULATIONS:**

27 **(A) MULTIPLYING THE TAXABLE VALUE OF THE LEED CERTIFIED**

1 FACILITY FOR THE TAX YEAR IMMEDIATELY PRECEDING THE COMMENCEMENT OF
2 LEED CONSTRUCTION ACTIVITIES, OR, IF REQUESTED BY THE OWNER, THE
3 TAXABLE VALUE OF THE LEED CERTIFIED FACILITY FOR THE TAX YEAR
4 DURING WHICH LEED CONSTRUCTION ACTIVITIES WERE COMMENCED, BY THE
5 TOTAL MILLS LEVIED AS AD VALOREM TAXES FOR THE CURRENT YEAR BY ALL
6 TAXING UNITS WITHIN WHICH THE LEED CERTIFIED FACILITY IS LOCATED.

7 (B) MULTIPLYING THE AMOUNT OF THE TAXABLE VALUE OF THE LEED
8 CERTIFIED FACILITY FOR THE CURRENT YEAR THAT EXCEEDS THE TAXABLE
9 VALUE USED TO CALCULATE THE TAX UNDER SUBDIVISION (A) BY THE
10 FOLLOWING PERCENTAGE OF THE TOTAL MILLS LEVIED AS AD VALOREM TAXES
11 FOR THE CURRENT YEAR BY ALL TAXING UNITS WITHIN WHICH THE LEED
12 CERTIFIED FACILITY IS LOCATED OTHER THAN MILLS LEVIED UNDER THE
13 STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906, PLUS,
14 SUBJECT TO SECTION 12A, THE NUMBER OF MILLS LEVIED UNDER THE STATE
15 EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906:

16 (i) FOR A FACILITY WITH BASIC LEED CERTIFICATION, 80%.
17 (ii) FOR A FACILITY WITH SILVER LEED CERTIFICATION, 70%.
18 (iii) FOR A FACILITY WITH GOLD LEED CERTIFICATION, 60%.
19 (iv) FOR A FACILITY WITH PLATINUM LEED CERTIFICATION, 50%.
20 (5) ~~(4)~~—The commercial facilities tax shall be collected,
21 disbursed, and assessed in accordance with this act.

22 (6) ~~(5)~~—The commercial facilities tax is an annual tax,
23 payable at the same times, in the same installments, and to the
24 same officer or officers as taxes imposed under the general
25 property tax act, 1893 PA 206, MCL 211.1 to 211.155, are payable.
26 Except as otherwise provided in this section, the officer or
27 officers shall disburse the commercial facilities tax payments

1 received each year to and among the state, cities, townships,
2 villages, school districts, counties, and authorities, at the same
3 times and in the same proportions as required by law for the
4 disbursement of taxes collected under the general property tax act,
5 1893 PA 206, MCL 211.1 to 211.155.

6 (7) ~~(6)~~—Except as provided in subsection ~~(7)~~—(8), for
7 intermediate school districts receiving state aid under sections
8 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL
9 388.1656, 388.1662, and 388.1681, of the amount that would
10 otherwise be disbursed to or retained by the intermediate school
11 district, all or a portion, to be determined on the basis of the
12 tax rates being utilized to compute the amount of state school aid,
13 shall be paid instead to the state treasury to the credit of the
14 state school aid fund established by section 11 of article IX of
15 the state constitution of 1963. If the sum of any industrial
16 facility taxes prescribed by 1974 PA 198, 207.551 to 207.572, and
17 the commercial facilities taxes paid to the state treasury to the
18 credit of the state school aid fund that would otherwise be
19 disbursed to the local or intermediate school district, under
20 section 11 of 1974 PA 198, MCL 207.561, and this section, exceeds
21 the amount received by the local or intermediate school district
22 under sections 56, 62, and 81 of the state school aid act of 1979,
23 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, the department of
24 treasury shall allocate to each eligible local or intermediate
25 school district an amount equal to the difference between the sum
26 of the industrial facility taxes and the commercial facilities
27 taxes paid to the state treasury to the credit of the state school

1 aid fund and the amount the local or intermediate school district
2 received under sections 56, 62, and 81 of the state school aid act
3 of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681. This
4 subsection does not apply to taxes levied for either of the
5 following:

6 (a) Mills allocated to an intermediate school district for
7 operating purposes as provided for under the property tax
8 limitation act, 1933 PA 62, MCL 211.201 to 211.217a.

9 (b) An intermediate school district that is not receiving
10 state aid under section 56 or 62 of the state school aid act of
11 1979, 1979 PA 94, MCL 388.1656 and 388.1662.

12 (8) ~~(7)~~—For commercial facilities taxes levied after 1993 for
13 school operating purposes, the amount that would otherwise be
14 disbursed to a local school district shall be paid instead to the
15 state treasury and credited to the state school aid fund
16 established by section 11 of article IX of the state constitution
17 of 1963.

18 (9) ~~(8)~~—The officer or officers shall send a copy of the
19 amount of disbursement made to each unit under this section to the
20 commission on a form provided by the commission.

21 (10) ~~(9)~~—A new, replacement, or restored facility located in a
22 renaissance zone under the Michigan renaissance zone act, 1996 PA
23 376, MCL 125.2681 to 125.2696, is exempt from the commercial
24 facilities tax levied under this act to the extent and for the
25 duration provided pursuant to the Michigan renaissance zone act,
26 1996 PA 376, MCL 125.2681 to 125.2696, except for that portion of
27 the commercial facilities tax attributable to a special assessment

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

7 (11) ~~(10)~~—As used in this act, facility does not include a
8 casino. As used in this subsection, "casino" means a casino or a
9 parking lot, hotel, motel, or retail store owned or operated by a
10 casino, an affiliate, or an affiliated company, regulated by this
11 state pursuant to the Michigan gaming control and revenue act, 1996
12 IL 1, MCL 432.201 to 432.226.