

# HOUSE BILL NO. 5440

February 13, 2024, Introduced by Reps. Hill, Brixie, Arbit, McKinney, Paiz, Byrnes, Rheingans, Scott, Dievendorf, Grant, O'Neal, Neeley, Brabec, Conlin, Morgan, Wilson, Hope, Tyrone Carter, Price, Wegela and Aiyash and referred to the Committee on Regulatory Reform.

A bill to amend 1989 PA 244, entitled "Regional tourism marketing act," by amending the title and sections 2, 3, 4, 5, 8, and 9 (MCL 141.892, 141.893, 141.894, 141.895, 141.898, and 141.899), the title and section 2 as amended by 2018 PA 466.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 TITLE
- 2 An act to promote tourism in certain regions of this state; to
- 3 provide for the creation of tourism marketing programs; **to allow**

1 **certain activities as part of tourism marketing programs;** to  
2 provide for the imposition and collection of assessments on the  
3 owners of transient facilities, **including short-term rentals,** to  
4 support tourism marketing programs; to provide for the disbursement  
5 of the assessments; to prescribe the oversight powers and duties of  
6 certain state departments, state agencies, and state employees; and  
7 to prescribe remedies and penalties.

8 Sec. 2. As used in this act:

9 (a) "Assessment" means the amount levied against an owner  
10 under this act.

11 (b) "Assessment revenues" means the money collected by a  
12 regional marketing organization from the assessment, including any  
13 interest and penalties on the assessment, imposed under this act.

14 (c) "Board" means the board of directors elected by the  
15 members of a regional marketing organization.

16 (d) "Director" means the president of the Michigan strategic  
17 fund or ~~his or her~~ **the president of the Michigan strategic fund's**  
18 designee.

19 (e) "Master plan" means the comprehensive, long-range master  
20 plan developed by the Michigan travel commission and the travel  
21 bureau under section 2c of the Michigan tourism policy act, 1945 PA  
22 106, MCL 2.102c.

23 (f) "Owner" means the owner of a transient facility that is  
24 located within the regional assessment district or, if the  
25 transient facility is operated or managed by a person other than  
26 the owner, then the operator or manager of that transient facility.  
27 Owner includes a person electing to come under the provisions of  
28 this act pursuant to section 9.

29 (g) "Regional assessment district" means a region of this

1 state composed of a number of counties in which a regional  
 2 marketing organization operates. Regional assessment district does  
 3 not include a portion of the region that is a special charter,  
 4 fourth class city.

5 (h) "Regional marketing organization" means a nonprofit  
 6 corporation that promotes tourism within a region of this state.  
 7 Regional marketing organization includes only an organization that  
 8 has been operating for 10 or more years and that operates in a  
 9 region composed of 15 counties.

10 (i) "Room" means a room or other space provided for sleeping  
 11 that can be rented independently, including the furnishings and  
 12 other accessories in the room. Room includes, but is not limited  
 13 to, ~~a~~**both of the following:**

14 (i) **A condominium or time-sharing unit that, pursuant to a**  
 15 **management agreement, may be used to provide dwelling, lodging, or**  
 16 **sleeping quarters for a transient guest.**

17 (ii) **A dwelling offered as a short-term rental.**

18 (j) "Room charge" means the charge imposed for the use or  
 19 occupancy of a room, excluding charges for food, beverages, state  
 20 use tax, telephone service, or like services paid in connection  
 21 with the room charge, and reimbursement of the assessment as  
 22 allowed in section 6. **For a short-term rental, room charge means**  
 23 **the occupancy charge as that term is defined in section 2 of the**  
 24 **short-term rental regulation act.**

25 (k) **"Short-term rental" means that term as defined in section**  
 26 **2 of the short-term rental regulation act.**

27 (l) **"State use tax" means the tax levied under the use tax act,**  
 28 **1937 PA 94, MCL 205.91 to 205.111.**

29 (m) ~~(k)~~**"Transient facility" means, a**~~subject to subdivision~~

1 **(p), either of the following facilities:**

2 **(i) A building or combination of buildings under common**  
 3 **ownership, operation, or management that contains ~~10-1~~ or more**  
 4 **rooms used in the business of providing dwelling, lodging, or**  
 5 **sleeping to transient guests, whether or not membership is required**  
 6 **for the use of the rooms. ~~Transient facility includes a building or~~**  
 7 **~~combination of buildings, the owner of which has elected to come~~**  
 8 **~~under the provisions of this act pursuant to section 9.~~**

9 **(ii) A dwelling offered as a short-term rental.**

10 **(n) Transient facility does not include a-any of the**  
 11 **following:**

12 **(i) A college or school dormitory. ~~;-a~~**

13 **(ii) A hospital. ~~;-a~~**

14 **(iii) A nursing home. ~~;-a~~**

15 **(iv) A hospice. ~~;-a~~**

16 **(v) A building, ~~or~~ combination of buildings, or dwelling that**  
 17 **is otherwise a transient facility, but that is located within 1**  
 18 **mile of a ski lift as defined in section 2 of the ski area safety**  
 19 **act of 1962, 1962 PA 199, MCL 408.322. ~~;-or-a~~**

20 **(vi) A facility owned and operated by an organization qualified**  
 21 **for an exemption from federal taxation under section 501(c) of the**  
 22 **internal revenue code of 1986, 26 USC 501.**

23 **(o) ~~(l)~~"Transient guest" means a natural person who occupies a**  
 24 **room in a transient facility for less than 30 consecutive days**  
 25 **regardless of who pays the room charge.**

26 **(p) ~~(m)~~"Tourism marketing program" means a program**  
 27 **established by a regional marketing organization to develop,**  
 28 **encourage, solicit, and promote tourism within a region of this**  
 29 **state. The encouragement and promotion of tourism includes a**

1 service, function, or activity, whether or not performed,  
 2 sponsored, or advertised by a regional marketing organization, that  
 3 intends to attract transient guests to the regional assessment  
 4 district.

5 (q) ~~(n)~~ "Tourism marketing program notice" means the notice  
 6 described in section 3.

7 (r) ~~(o)~~ "Travel bureau" means the Michigan travel bureau  
 8 created under section 2a of the Michigan tourism policy act, 1945  
 9 PA 106, MCL 2.102a, **and renamed Travel Michigan by Executive**  
 10 **Reorganization Order No. 1997-1, MCL 2.111.**

11 Sec. 3. (1) ~~In order to~~ **To** establish a tourism marketing  
 12 program within a regional assessment district, a regional marketing  
 13 organization shall file a tourism marketing program notice with the  
 14 director.

15 (2) The tourism marketing program notice ~~shall~~ **must** contain  
 16 all of the following:

17 (a) A statement that the regional marketing association  
 18 proposes to create a tourism marketing program under this act.

19 (b) A statement that the regional marketing association  
 20 proposes to levy and collect an assessment from owners to pay the  
 21 costs of the tourism marketing program.

22 (c) A description of the structure, membership, and activities  
 23 of the regional marketing organization, including a statement that  
 24 the regional marketing organization is governed by a board and that  
 25 a majority of the members of the board are owners. The description  
 26 ~~shall~~ **must** include the business name and address of the person  
 27 designated by the regional marketing organization to receive the  
 28 payment of assessments under section 6 and the independent  
 29 certified public accountants who audit the financial statements of

1 the regional marketing organization.

2 (d) A description of the tourism marketing program to be  
3 implemented by the regional marketing organization with the  
4 assessment revenues.

5 (e) A statement specifying the amount of the assessment  
6 proposed to be levied. The assessment ~~shall~~**must** not exceed 1% of  
7 the room charges in the applicable payment period.

8 (f) A list of the counties comprising the regional assessment  
9 district.

10 (g) Other information considered necessary by the director.

11 (3) On the same day the tourism marketing program notice is  
12 filed under subsection (1), the regional marketing organization  
13 shall mail a copy of the tourism marketing program notice to each  
14 owner of a transient facility located in the regional assessment  
15 district. The tourism marketing program notice ~~shall~~**must** be mailed  
16 by registered or certified mail to the owner at the last known  
17 address of the transient facility. The regional marketing  
18 organization shall use any information that is reasonably available  
19 to the regional marketing organization, **including, but not limited**  
20 **to, the short-term rental database as that term is defined in**  
21 **section 2 of the short-term rental regulation act**, to establish the  
22 list of all transient facilities within the regional assessment  
23 district.

24 Sec. 4. (1) The director shall approve or disapprove a tourism  
25 marketing program within 30 days after a tourism marketing program  
26 notice is filed. The director shall not disapprove a tourism  
27 marketing program unless the tourism marketing program violates  
28 this act.

29 (2) Within 40 days after approval of a tourism marketing

1 program under subsection (1), the director shall conduct among all  
2 owners a written referendum by mail on whether the tourism  
3 marketing program should be approved. For the purpose of the  
4 referendum and except as provided in section 9, each owner has 1  
5 vote for each room in the owner's transient facility. **For purposes**  
6 **of this subsection, a dwelling offered as a short-term rental is**  
7 **considered 1 room.**

8 (3) If the tourism marketing program is approved by a majority  
9 of the votes actually cast in the regional assessment district, the  
10 tourism marketing program and assessment set forth in the tourism  
11 marketing program notice become effective on the first day of the  
12 month that is more than 30 days after certification by the director  
13 of the results of the referendum. A regional marketing organization  
14 may file and serve another tourism marketing program notice under  
15 section 3 no sooner than 1 year after certification by the director  
16 of the results of a referendum if the referendum failed.

17 Sec. 5. A tourism marketing program may include 1 or more of  
18 the following:

19 (a) A provision for establishing and paying the costs of  
20 advertising, marketing, and promotional programs to encourage  
21 tourism in the regional assessment district.

22 (b) A provision for assisting a transient facility within the  
23 regional assessment district to promote tourism.

24 (c) A provision for the acquisition of personal property  
25 considered appropriate by the regional marketing organization to  
26 achieve the purpose of the tourism marketing program.

27 (d) A provision for the hiring of and payment for personnel  
28 employed by the regional marketing organization to implement the  
29 tourism marketing program.

1 (e) A provision for contracting with organizations, agencies,  
2 or persons to carry out activities to achieve the purpose of the  
3 tourism marketing program.

4 (f) A program to establish and pay for the costs of research  
5 designed to encourage tourism in the regional assessment district.

6 **(g) Provisions or programs to assist with or provide child**  
7 **care.**

8 **(h) Housing activities.**

9 **(i)** ~~(g)~~—A provision to incur any other expense or cost that  
10 the board, in the exercise of its reasonable business judgment,  
11 considers reasonably related to the promotion of tourism within the  
12 regional assessment district.

13 **(j)** ~~(h)~~—A procedure for election of the board that requires  
14 that a majority of the members of the board are owners.

15 **(k) Provisions clarifying the assessment on room charges for**  
16 **short-term rentals.**

17 Sec. 8. (1) A regional marketing organization shall conduct a  
18 referendum on whether an assessment levied under a tourism  
19 marketing program shall be discontinued if both of the following  
20 requirements are met:

21 (a) The tourism marketing program levying the assessment has  
22 been in effect for 2 years or more.

23 (b) Forty percent or more of the total number of owners in the  
24 regional assessment district, or owners representing 40% or more of  
25 the total number of rooms in transient facilities within the  
26 regional assessment district, file with the regional marketing  
27 organization a written request for a referendum under this section.

28 **For purposes of this subdivision and subsection (2), a dwelling**  
29 **offered as a short-term rental is considered 1 room.**



1           (2) The regional marketing organization shall conduct a  
2 written referendum, by mail or in person, among all owners within  
3 60 days after receipt of the written request for a referendum under  
4 subsection (1). For the purpose of the referendum, each owner has 1  
5 vote for each room in the owner's transient facility.

6           (3) If a majority of the votes actually cast at the referendum  
7 approves the discontinuance of the assessment, the assessment under  
8 a tourism marketing program ~~shall be~~**is** discontinued on the first  
9 day of the month that is more than 60 days after certification by  
10 the regional marketing organization of the results of the  
11 referendum.

12           (4) The discontinuance of an assessment under this section  
13 does not prevent a regional marketing organization from filing and  
14 serving a new tourism marketing program notice under section 3  
15 during or after the 60-day period under subsection (3).

16           (5) If a referendum held under this section does not result in  
17 the discontinuance of the assessment under a tourism marketing  
18 program, a further referendum on the discontinuance of that  
19 assessment ~~shall~~**must** not be held until the expiration of 1 year  
20 after the date of the referendum under this section.

21           Sec. 9. (1) An owner of ~~a building or combination of buildings~~  
22 ~~that is within a regional assessment district, that has less than~~  
23 ~~10 rooms or is located within 1 mile of a ski lift, and that~~  
24 ~~otherwise meets the definition of a transient facility under this~~  
25 ~~act~~**an exempt facility** may agree in writing to be subject to a  
26 tourism marketing program under this act. If an owner of ~~a building~~  
27 ~~or combination of buildings~~**an exempt facility** agrees to be subject  
28 to the tourism marketing program, the ~~building or combination of~~  
29 ~~buildings~~**exempt facility** is considered a transient facility for

1 the purposes of this act. The owner of the ~~building or combination~~  
2 ~~of buildings~~ **exempt facility** is considered an owner for the  
3 purposes of this act except that the owner is not eligible to vote  
4 in the referendum on the tourism marketing program. The owner shall  
5 otherwise participate in the tourism marketing program for that  
6 regional assessment district.

7 (2) ~~A building or combination of buildings~~ **An exempt facility**  
8 that is considered a transient facility under subsection (1) ~~shall~~  
9 ~~remain~~ **remains** subject to an assessment imposed under this act  
10 until the assessment is discontinued as provided in section 8.

11 (3) **As used in this section, "exempt facility" means a**  
12 **building, combination of buildings, or dwelling that is within a**  
13 **regional assessment district, that is located within 1 mile of a**  
14 **ski lift, and that otherwise meets the definition of a transient**  
15 **facility.**

16 Enacting section 1. This amendatory act does not take effect  
17 unless Senate Bill No. \_\_\_\_ or House Bill No. 5438 (request no.  
18 03372'23 \*\*) of the 102nd Legislature is enacted into law.