

Act No. 245  
Public Act of 1989  
December 28, 1989  
Filed by the Secretary of State  
December 28, 1989

**STATE OF MICHIGAN  
85TH LEGISLATURE  
REGULAR SESSION OF 1989**

Introduced by Reps. Gagliardi, Jacobetti, Stupak, and Sofio

# **ENROLLED HOUSE BILL No. 4478**

AN ACT to amend sections 3 and 5 of Act No. 395 of the Public Acts of 1980, entitled as amended "An act relating to the promotion of convention business or tourism in municipalities in this state; to provide for tourism or convention marketing programs in municipalities through nonprofit convention and tourist bureaus; to provide for the imposition and collection of assessments on the owners of transient facilities to support tourism or convention marketing programs; to provide for the disbursement of the assessments; to establish the functions and duties of the department of commerce; and to prescribe remedies and penalties," as amended by Act No. 59 of the Public Acts of 1984, being sections 141.873 and 141.875 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 3 and 5 of Act No. 395 of the Public Acts of 1980, as amended by Act No. 59 of the Public Acts of 1984, being sections 141.873 and 141.875 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 3. (1) A bureau that wishes to establish a marketing program and assessment district shall file a marketing program notice with the director. The marketing program 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 marketing program.

(2) The marketing program notice shall describe the structure, membership, and activities of the bureau.

(3) The marketing program notice shall describe the marketing program to be implemented by the bureau with the assessment revenues, specify the amount of the assessment proposed to be levied, which shall not exceed 2% of the room charges in the applicable payment period, and describe the municipalities comprising the assessment district.

(4) A part of a municipality shall not be included in the marketing program notice and the assessment district specified in the notice if on the date the notice is mailed the county in which that part is located is collecting a tax pursuant to Act No. 263 of the Public Acts of 1974, being sections 141.861 to 141.867 of the Michigan Compiled Laws. Except as provided in section 10, an area shall not be included in the marketing program notice filed under this act and the assessment district specified in the notice if the area is part of an existing assessment district under this act for which a marketing program is in effect.

(5) If on the date of the mailing of the marketing program notice under this act an excise tax or other tax based on a room charge is not being collected, a municipality included in the marketing program notice shall not be subject to the collection of an excise tax imposed under Act No. 263 of the Public Acts of 1974 or another tax based on a room charge.

(6) If a part of a municipality is subject to an assessment under the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws, that part of the municipality shall not be included in a marketing program notice or assessment district under this act.

(7) Simultaneously with the filing of the marketing program notice with the director, the bureau shall mail a copy of the notice, 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 is reasonably available to the bureau.

Sec. 5. (1) Upon the effective date of an assessment under section 3a, each owner of a transient facility in the assessment district shall be liable for payment of the assessment, computed by multiplying the percentage set forth in the marketing program notice by the aggregate room charges imposed by the transient facility during a calendar month. The assessment shall be paid by the owner of each such transient facility to the bureau or the person designated by the bureau within 30 days after the end of each calendar month, and shall be accompanied by a statement of room charges imposed by the transient facility for that calendar month. This act does not prohibit an owner from reimbursing the transient facility by adding the assessment imposed under this act to room charges payable by transient guests. However, the owner shall disclose that the transient facility has been reimbursed for the assessment imposed under this act on the bill presented to the transient guest.

(2) A bureau or person designated by the bureau may enter into an agreement with a regional tourism marketing organization established under the regional tourism marketing act to accept from owners subject to an assessment under this act the payment of assessments that are levied by a regional marketing organization under section 6 of the regional tourism marketing act. A bureau or the person designated by the bureau shall forward the money received in payment of an assessment levied by a regional marketing organization under the regional tourism marketing act to the person designated by the regional marketing organization to receive the payment of assessments under section 6 of the regional tourism marketing act. The bureau may withhold the portion of an assessment received on behalf of a regional marketing organization under this subsection and section 6 of the regional tourism marketing act as agreed upon between the bureau and the regional marketing organization to reimburse the bureau or person designated by the bureau for reasonable administrative costs to receive and forward assessments due a regional marketing organization.

(3) Within 30 days after the close of each calendar quarter, each owner within an assessment district shall forward to the independent certified public accountants who audit the financial statements of the bureau, copies of the state use tax returns of the transient facility for the preceding quarter. The copies of the state use tax returns shall be used solely by the certified public accountants to verify and audit the payment by the owner of the assessments under this act, and shall not be disclosed to the bureau except as the director determines necessary to enforce this act.

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

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

Section 2. This amendatory act shall not take effect unless House Bill No. 4477 of the 85th Legislature is enacted into law.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved .....

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Governor.