



HOUSE BILL No. 5637

June 9, 1994, Introduced by Rep Willard and referred to the Committee on Taxation

A bill to amend sections 2, 5, 6, and 9 of Act No 395 of the Public Acts of 1980, entitled as amended "Community convention or tourism marketing act," section 2 as amended by Act No 224 of the Public Acts of 1993, section 5 as amended by Act No 245 of the Public Acts of 1989, and section 9 as added by Act No 59 of the Public Acts of 1984, being sections 141 872, 141 875, 141 876, and 141 879 of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 2, 5, 6, and 9 of Act No 395 of the
2 Public Acts of 1980, section 2 as amended by Act No 224 of the
3 Public Acts of 1993, section 5 as amended by Act No 245 of the
4 Public Acts of 1989, and section 9 as added by Act No 59 of the
5 Public Acts of 1984, being sections 141 872, 141 875, 141 876,

1 and 141 879 of the Michigan Compiled Laws are amended to read as
2 follows

3 Sec 2 As used in this act

4 (a) "Assessment" means the amount levied against an owner of
5 a transient facility within an assessment district, computed by
6 application of the applicable percentage against aggregate room
7 charges with respect to that transient facility during the appli-
8 cable assessment period

9 (b) "Assessment district" means a municipality or combina-
10 tion of municipalities as described in a marketing program A
11 combination of municipalities is not required to be contiguous

12 (c) "Assessment revenues" means the money derived from the
13 assessment, including any interest and penalties on the assess-
14 ment, imposed by this act

15 (d) "Board" means the board of directors elected by the mem-
16 bers of a bureau A majority of the members of a board shall be
17 owners of transient facilities

18 (e) Bureau means a nonprofit corporation existing to pro-
19 mote convention business or tourism within this state or a por-
20 tion of this state

21 (F) CERTIFIED REPORT MEANS A DETAILED REPORT CERTIFIED BY
22 THE CHIEF OPERATING OFFICER THAT CONTAINS ALL OF THE FOLLOWING

23 (1) SCHEDULE OF THE TIMES AND DATES OF ALL MEETINGS OF THE
24 BOARD HELD DURING THE PREVIOUS FISCAL YEAR

25 (2) AMOUNT OF REVENUE RECEIVED BY THE BUREAU IN THE PREVI-
26 OUS FISCAL YEAR

1 (iii) ITEMIZATION OF ALL EXPENDITURES MADE BY THE BUREAU IN
2 THE PREVIOUS FISCAL YEAR

3 (iv) A GENERAL PLAN OF THE GOALS AND ANTICIPATED ACTIVITIES
4 OF THE BOARD AND BUREAU FOR THE NEXT 5 FISCAL YEARS

5 (v) A SPECIFIC PLAN OF ACTION OF THE CURRENT FISCAL YEAR
6 INCLUDING THE GOALS OF THE BOARD AND BUREAU, ANTICIPATED REVENUES
7 AND EXPENDITURES OF THE BUREAU, AND THE MARKETING PROGRAM TO BE
8 IMPLEMENTED THAT FISCAL YEAR

9 (vi) AN ASSESSMENT OF THE MARKETING PROGRAM IN EFFECT FOR
10 THE LAST FISCAL YEAR

11 (G) "CHIEF OPERATING OFFICER" MEANS THE PERSON WHO IS THE
12 ADMINISTRATIVE HEAD OF THE BUREAU THE CHIEF OPERATING OFFICER
13 SHALL BE A MEMBER OF THE BOARD

14 (H) ~~(f)~~ "Director" means the director of commerce

15 (I) ~~(g)~~ "Marketing program" means a program established by
16 a bureau to develop, encourage, solicit, and promote convention
17 business or tourism within this state or a portion of this state
18 within which the bureau operates The encouragement and promo-
19 tion of convention business or tourism includes any service,
20 function, or activity, whether or not performed, sponsored, or
21 advertised by a bureau, that intends to attract transient guests
22 to the assessment district For a bureau described in
23 section 3(8), a marketing program includes a contract with a non-
24 profit organization formed to promote convention business or
25 tourism that receives funding from a tax levied under Act No 263
26 of the Public Acts of 1974, being sections 141 861 to 141 867 of

1 the Michigan Compiled Laws, in a contiguous county to provide for
2 the promotion of convention business or tourism

3 (J) ~~-(h)-~~ "Marketing program notice" means the notice
4 described in section 3

5 (K) ~~-(i)-~~ "Municipality" means a county with a population of
6 less than 650,000 or a city, village, or township within a county
7 with a population of less than 650,000 Municipality does not
8 include a special charter, fourth class city

9 (L) ~~-(j)-~~ "Owner" means the owner of a transient facility to
10 be served by the bureau or, if the transient facility is operated
11 or managed by a person other than the owner, then the operator or
12 manager of that transient facility

13 (M) ~~-(k)-~~ "Room" means a room or other space provided for
14 sleeping that can be rented independently, including the furnish-
15 ings and other accessories in the room Room includes, but is
16 not limited to, a condominium or time-sharing unit that, pursuant
17 to a management agreement, may be used to provide dwelling, lodg-
18 ing, or sleeping quarters for a transient guest

19 (N) ~~-(l)-~~ "Room charge" means the charge imposed for the use
20 or occupancy of a room, excluding charges for food, beverages,
21 state use tax, telephone service, or like services paid in con-
22 nection with the charge, and excluding reimbursement of the
23 assessment imposed by this act

24 (O) ~~-(m)-~~ "Transient facility" means a building or combina-
25 tion of buildings under common ownership, operation, or manage-
26 ment that contains 10 or more rooms used in the business of
27 providing dwelling, lodging, or sleeping to transient guests,

1 whether or not membership is required for the use of the rooms
2 Transient facility does not include a college or school dormito-
3 ry, a hospital, a nursing home, or a facility owned and operated
4 by an organization qualified for an exemption from federal taxa-
5 tion under section 501(c) of the internal revenue code OF 1986

6 (P) ~~-(n)-~~ "Transient guest" means a person who occupies a
7 room in a transient facility for less than 30 consecutive days

8 Sec 5 (1) Upon the effective date of an assessment under
9 section 3a, each owner of a transient facility in the assessment
10 district shall be liable for payment of the assessment, computed
11 by multiplying the percentage set forth in the marketing program
12 notice by the aggregate room charges imposed by the transient
13 facility during a calender month The assessment shall be paid
14 by the owner of each such transient facility to the bureau or the
15 person designated by the bureau within 30 days after the end of
16 each calendar month, and shall be accompanied by a statement of
17 room charges imposed by the transient facility for that calendar
18 month ~~This act does not prohibit an owner from reimbursing~~ AN
19 OWNER MAY REIMBURSE the transient facility by adding the assess-
20 ment imposed under this act to room charges payable by transient
21 guests However, the owner shall disclose IN WRITING, that the
22 transient facility has been reimbursed for the assessment imposed
23 under this act on the bill presented to the transient guest BY
24 LABELING THE ASSESSMENT IMPOSED UNDER THIS ACT AS A "LOCAL TOUR-
25 ISM ASSESSMENT PASSED ON TO CONSUMER"

26 (2) A bureau or person designated by the bureau may enter
27 into an agreement with a regional tourism marketing organization

1 established under the regional tourism marketing act, ACT NO 244
2 OF THE PUBLIC ACTS OF 1989, BEING SECTIONS 141 891 TO 141 900 OF
3 THE MICHIGAN COMPILED LAWS, to accept from owners subject to an
4 assessment under this act the payment of assessments that are
5 levied by a regional marketing organization under section 6 of
6 ~~the regional tourism marketing act~~ ACT NO 244 OF THE PUBLIC
7 ACTS OF 1989, BEING SECTION 141 896 OF THE MICHIGAN COMPILED
8 LAWS A bureau or the person designated by the bureau shall for-
9 ward the money received in payment of an assessment levied by a
10 regional marketing organization under ~~the regional tourism mar-~~
11 ~~keting act~~ ACT NO 244 OF THE PUBLIC ACTS OF 1989 to the person
12 designated by the regional marketing organization to receive the
13 payment of assessments under section 6 of ~~the regional tourism~~
14 ~~marketing act~~ ACT NO 244 OF THE PUBLIC ACTS OF 1989 The
15 bureau may withhold the portion of an assessment received on
16 behalf of a regional marketing organization under this subsection
17 and section 6 of ~~the regional tourism marketing act~~ ACT NO 244
18 OF THE PUBLIC ACTS OF 1989 as agreed upon between the bureau and
19 the regional marketing organization to reimburse the bureau or
20 person designated by the bureau for reasonable administrative
21 costs to receive and forward assessments due a regional marketing
22 organization

23 (3) Within 30 days after the close of each calendar quarter,
24 each owner within an assessment district shall forward to the
25 independent certified public accountants who audit the financial
26 statements of the bureau, copies of the state use tax returns of
27 the transient facility for the preceding quarter The copies of

1 the state use tax returns shall be used ~~solely~~ by the certified
2 public accountants to verify and audit the payment by the owner
3 of the assessments under this act, and shall not be disclosed to
4 the bureau except as the director OF THE DEPARTMENT OF COMMERCE
5 determines necessary to enforce this act

6 (4) Interest shall be paid by an owner to the bureau on any
7 assessments not paid within the time required under this act
8 The interest shall accrue at the rate of 1 5% per month Owners
9 delinquent for more than 90 days in paying assessments, in addi-
10 tion to the 1 5% interest, shall pay a delinquency charge of 1 5%
11 per month or fraction of a month on the amount of the delinquent
12 assessments The bureau may sue in its own name to collect the
13 assessments, interest, and delinquency charges

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

18 Sec 6 (1) ~~The assessment revenues collected pursuant to~~
19 ~~this act shall not be state funds~~ The ~~money~~ ASSESSMENT REVE-
20 NUES COLLECTED PURSUANT TO THIS ACT shall be deposited in a bank
21 or other depository in this state, in the name of the bureau, and
22 shall be disbursed only for the expenses properly incurred by the
23 bureau with respect to the marketing programs developed by the
24 bureau under this act

25 (2) The financial statements of the bureau shall be audited
26 at least annually by a certified public accountant A copy of
27 the audited financial statements shall be mailed to each owner

1 not more than ~~+50~~ days after the close of the bureau's fiscal
2 year The financial statements shall include a statement of all
3 assessment revenues received by the bureau during the fiscal year
4 in question and shall be accompanied by a ~~detailed~~ CERTIFIED
5 report ~~, certified as correct by the chief operating officer of~~
6 ~~the bureau, describing the marketing programs implemented or, to~~
7 ~~the extent then known, to be implemented by the bureau~~

8 (3) ~~Copies~~ SIMULTANEOUSLY WITH THE MAILING UNDER
9 SUBSECTION (2), THE CHIEF OPERATING OFFICER SHALL FILE COPIES of
10 the audited financial statements and the certified report ~~shall~~
11 ~~simultaneously be mailed to~~ WITH the director OF THE DEPARTMENT
12 OF COMMERCE THE COPIES OF THE AUDITED FINANCIAL STATEMENTS AND
13 THE CERTIFIED REPORT MAY BE FILED BY MAIL

14 (4) IF COPIES OF THE AUDITED FINANCIAL STATEMENTS AND CERTI-
15 FIED REPORTS ARE NOT RECEIVED BY THE DIRECTOR WITHIN 60 DAYS
16 AFTER THE CLOSE OF THE BUREAU'S FISCAL YEAR PURSUANT TO SUBSEC-
17 TION (3), THE DIRECTOR SHALL SUSPEND THE AUTHORITY OF THE BUREAU
18 AND OWNERS TO COLLECT THE ASSESSMENT UNDER THIS ACT ANY ASSESS-
19 MENT COLLECTED DURING THE PERIOD THAT THE BUREAU'S AND OWNER'S
20 AUTHORITY TO COLLECT ASSESSMENTS HAS BEEN SUSPENDED SHALL BE
21 RETURNED TO THE PERSON WHO PAID THE ASSESSMENT

22 (5) THE DIRECTOR OF THE DEPARTMENT OF COMMERCE SHALL INVES-
23 TIGATE A BUREAU IF THE DIRECTOR HAS REASON TO BELIEVE THAT A VIO-
24 LATION OF THIS ACT HAS OCCURRED IF THE DIRECTOR OF THE DEPART-
25 MENT OF COMMERCE COMMENCES AN INVESTIGATION UNDER THIS SECTION,
26 THE DIRECTOR SHALL MAKE HIS OR HER FINDINGS AVAILABLE TO THE
27 PUBLIC

1 (6) UPON WRITTEN REQUEST, THE BUREAU SHALL PROVIDE COPIES OF
2 THE AUDITED FINANCIAL STATEMENTS AND CERTIFIED REPORTS TO A
3 PERSON WHO REQUESTS THEM THE BUREAU MAY CHARGE A FEE FOR PRO-
4 VIDING THE AUDITED FINANCIAL STATEMENTS OR CERTIFIED REPORTS
5 THE FEE IS LIMITED TO THE ACTUAL MAILING, DUPLICATION, AND LABOR
6 COSTS THE BUREAU SHALL PROVIDE THE REQUESTED COPIES WITHIN 30
7 DAYS AFTER RECEIPT OF THE WRITTEN REQUEST IF THE BUREAU FAILS
8 TO PROVIDE THE REQUESTED COPIES WITHIN THE 30-DAY TIME FRAME, THE
9 PERSON WHO REQUESTED THE COPIES MAY FILE A COMPLAINT TO COMPEL
10 THE BUREAU TO PROVIDE THE REQUESTED COPIES THE COMPLAINT SHALL
11 BE FILED IN THE CIRCUIT COURT OF THE COUNTY IN WHICH THAT PERSON
12 RESIDES OR HAS HIS OR HER PRINCIPAL PLACE OF BUSINESS THE COURT
13 SHALL ORDER THE BUREAU TO PROVIDE THE REQUESTED COPIES AND AWARD
14 REASONABLE ATTORNEY FEES AND COSTS TO THE PERSON WHO REQUESTED
15 THE COPIES

16 (7) A CHIEF OPERATING OFFICER WHO FAILS TO FILE COPIES OF
17 THE AUDITED FINANCIAL STATEMENTS AND THE CERTIFIED REPORT WITH
18 THE DIRECTOR WITHIN 60 DAYS AFTER THE CLOSE OF THE BUREAU'S
19 FISCAL YEAR IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT
20 FOR NOT MORE THAN 90 DAYS OR BY A FINE OF NOT MORE THAN \$500 00,
21 OR BOTH

22 Sec 9 (1) The owner of a building or combination of
23 buildings, which is within an assessment district, has less than
24 10 rooms, and otherwise meets the definition of transient facili-
25 ty, may agree in writing to be subject to the assessment If an
26 owner agrees to be subject to the assessment, the building or
27 combination of buildings shall be considered a transient facility

1 for the purposes of this act The owner and transient facility
2 DESCRIBED IN THIS SECTION shall participate in the marketing pro-
3 gram for that assessment district

4 (2) A building or combination of buildings which becomes a
5 transient facility under this section shall remain subject to the
6 assessment unless ~~the~~ EITHER OF THE FOLLOWING OCCURS

7 (A) THE assessment is discontinued as provided in section
8 8

9 (B) THE OWNER OF THE TRANSIENT FACILITY GIVES 30 DAYS' WRIT-
10 TEN NOTICE TO THE BUREAU OF THE OWNER'S INTENT TO TERMINATE THE
11 AGREEMENT DESCRIBED IN SUBSECTION (1) UPON 30 DAYS' WRITTEN
12 NOTICE TO THE BUREAU, THAT OWNER IS NO LONGER SUBJECT TO THIS ACT
13 AND SHALL NOT PARTICIPATE IN THE MARKETING PROGRAM FOR THE
14 ASSESSMENT DISTRICT OR COLLECT ANY FEE AUTHORIZED UNDER THIS ACT