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BILL ANALYSIS

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House Bill 5123 (Substitute H-1 as reported without amendment)  
Sponsor: Representative Steve Bieda  
House Committee: New Economy and Quality of Life  
Senate Committee: Economic Development and Regulatory Reform

Date Completed: 12-14-07

### **RATIONALE**

The Commercial Rehabilitation Act was enacted in 2005 to allow a city, village, or township to establish a redevelopment district consisting of a qualified facility (a building or group of buildings that is commercial property and meets criteria in the Act). The owner of a qualified facility may apply for a commercial rehabilitation exemption certificate, which essentially will freeze the property taxes on the facility for up to 10 years. The local legislative body, by resolution, must approve or deny the application, but a resolution approving an application will not take effect without the approval of the State Tax Commission. Because the Act's definition of "rehabilitation" contains a reference to "obsolete" property, the Commission evidently will not grant its approval unless a facility meets the definition of "obsolete property" in the Obsolete Property Rehabilitation Act (although the Commercial Rehabilitation Act does not refer to that statute).

Apparently, a number of local units would like to grant tax abatements under the Commercial Rehabilitation Act in order to revitalize commercial areas, but the facilities in question are not technically obsolete, according to the State Tax Commission's interpretation. To address this situation, it has been suggested that the term "obsolete" be deleted.

### **CONTENT**

The bill would amend the definition of "rehabilitation" in the Commercial Rehabilitation Act. Under the Act, "rehabilitation" means changes to a qualified

facility that are required to restore or modify the property, together with all appurtenances, to an economically efficient condition. Rehabilitation includes major renovations and modifications specified in the Act and other physical changes required to restore or change "the obsolete property" to an economically efficient condition. The bill would delete "obsolete" from that provision.

MCL 207.842

### **BACKGROUND**

#### Commercial Rehabilitation Act

Under the Act, the legislative body of a qualified local governmental unit (a city, village, or township) may adopt a resolution establishing one or more qualified rehabilitation districts that consist of one or more parcels or tracts of land, or a portion of a parcel or tract. The legislative body may adopt the resolution on its own initiative or upon a written request filed by the owner or owners of property comprising at least 50% of all taxable value of the property located within the proposed district.

Before adopting the resolution, the legislative body must notify the county containing the proposed district, and the owners of all real property within the district, and provide an opportunity for a public hearing. Within 28 days after receiving a copy of the resolution, the county may reject the establishment of the district.

A commercial rehabilitation district must be at least three acres in size, unless it is located in a downtown or business area. The parcel or tract, or portion of a parcel or tract, in a rehabilitation district must be a "qualified facility", i.e., a building or group of contiguous buildings of commercial property that is at least 15 years old or has been allocated a new markets credit under the Internal Revenue Code. "Commercial property" means land improvements classified as real property, whose primary purpose and use are the operation of a commercial business enterprise or multifamily residential use; the term does not include land.

If a district is established, the owner of a qualified facility may apply for a commercial rehabilitation certificate. Before acting on the application, the local legislative body must hold a public hearing, and notify the applicant, the assessor, the affected taxing units, and the public. The legislative body must approve or disapprove the application by resolution. If approved, the resolution is not effective unless approved by the State Tax Commission.

A qualified facility for which a certificate is in effect is exempt from ad valorem property taxes and is subject to the commercial rehabilitation tax, which essentially freezes the taxable value of the property for the duration of the certificate. A certificate must be in effect for at least one year but not more than 10, as determined by the local legislative body.

New certificates may not be granted under the Act after December 31, 2015, but an exemption in effect at that time will continue until it expires.

#### Obsolete Property

The Obsolete Property Rehabilitation Act defines "obsolete property" as commercial property or commercial housing property that is one or more of the following:

- Blighted.
- Functionally obsolete.
- A facility.

The Act defines "blighted" and "functionally obsolete" with reference to the definitions in the Brownfield Redevelopment Financing

Act. "Blighted" means property that meets any of the following criteria:

- It has been declared a public nuisance in accordance with a local code or ordinance.
- It is an attractive nuisance to children because of physical condition, use, or occupancy.
- It is a fire hazard or is otherwise dangerous to the safety of people or property.
- The utilities, plumbing, heating, or sewerage has been permanently disconnected, destroyed, removed, or rendered ineffective so the property is unfit for its intended use.
- It is tax reverted property owned by a local unit or the State.
- It is owned by or under the control of a land bank fast track authority.

"Functionally obsolete" means that the property is unable to be used adequately to perform the function for which it was intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or superadequacies in design, or other similar factors that affect the property itself or the property's relationship with other surrounding property.

The term "facility" is defined as it is in Section 20101 of the Natural Resources and Environmental Protection Act, i.e., an area, place, or property where a hazardous substance in excess of the concentrations that satisfy cleanup criteria has been released, deposited, or disposed of, or otherwise comes to be located.

#### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

According to testimony on behalf of the Michigan Municipal League, that organization has been contacted by 19 communities that are interested in using the economic development tool offered by the Commercial Rehabilitation Act, and three local units in particular—Grosse Pointe, Madison Heights, and Zeeland—are delaying projects until the requirement that property be "obsolete" is removed. Evidently, because this statute

was modeled after the Obsolete Property Rehabilitation Act (OPRA) and contains a reference to "the obsolete property", the State Tax Commission will not approve an exemption certificate for a facility that does not qualify as obsolete property under OPRA. While many of the facilities in question might be run-down or deteriorated, they evidently are not obsolete under the definition used by the Commission, which essentially requires the property to be useless. Apparently, an application from the City of Sterling heights was rejected for this reason.

The bill would give the Commission the latitude to approve exemption certificates for commercial property that does not qualify as "obsolete". This would enable communities to offer tax abatements in order to spur private sector redevelopment of commercial buildings, allowing the Commercial Rehabilitation Act to be fully implemented.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill could reduce local unit revenue to the extent that it increased the number of commercial redevelopment districts. The amount of the reduction would depend upon the specific characteristics of the property affected by the bill. On the other hand, the bill could possibly reduce the revenue loss to some local units relative to current law if the change would allow districts to be drawn more compactly by eliminating the requirement for districts to contain obsolete property.

The bill would have no fiscal impact on State government.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.