

SUBSTITUTE FOR
HOUSE BILL NO. 6206

A bill relating to the promotion of convention business and tourism in this state; to provide for regional tourism and convention marketing and promotion programs in certain areas; to provide for imposition and collection of assessments on the owners of transient facilities to support tourism and convention marketing and promotion programs; to provide for the disbursement of the assessments; to establish the functions and duties of certain state departments and employees; and to prescribe penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "regional convention and tourism promotion act".

1 Sec. 2. As used in this act:

2 (a) "Assessment" means the amount levied against an owner of a
3 transient facility within an assessment district computed by
4 application of the applicable percentage against aggregate room
5 charges with respect to that transient facility during the
6 applicable assessment period.

7 (b) "Assessment district" means a combination of 2 or more
8 adjoining municipalities as described in a marketing program.

9 (c) "Assessment revenues" means the money derived from the
10 assessment, including any interest and penalties on the assessment,
11 imposed by this act.

12 (d) "Board" means the board of directors of a bureau.

13 (e) "Bureau" means a nonprofit corporation incorporated under
14 the laws of this state existing solely to promote convention
15 business and tourism within this state or a portion of this state
16 and that complies with all of the following:

17 (i) Has been actively engaged in promoting convention business
18 and tourism for not less than 5 years.

19 (ii) Has a board of directors elected by its members.

20 (iii) Has a full-time chief executive officer and not fewer than
21 2 full-time equivalent employees.

22 (iv) Is a member of 1 or more nationally recognized
23 associations of travel and convention bureaus.

24 (f) "Director" means the chief executive officer of the
25 Michigan economic development corporation or his or her designee.

26 (g) "Marketing program" means a program established by a
27 bureau to develop, encourage, solicit, and promote regional

1 convention business and tourism within this state or a portion of
2 this state within which the bureau operates. The encouragement and
3 promotion of regional convention business and tourism shall include
4 any service, function, or activity, whether or not performed,
5 sponsored, or advertised by a bureau, that intends to attract
6 transient guests to the assessment district.

7 (h) "Marketing program notice" means the notice described in
8 section 3.

9 (i) "Municipality" means a county with a population of more
10 than 80,000 and less than 115,000 and that contains a city with a
11 population of more than 35,000 and less than 45,000, at the time
12 the marketing notice is filed with the director, and that shares a
13 border with a county that levies a tax on accommodations under 1974
14 PA 263, MCL 141.861 to 141.867.

15 (j) "Owner" means the owner of a transient facility located
16 within the assessment district or, if the transient facility is
17 operated or managed by a person other than the owner, then the
18 operator or manager of that transient facility.

19 (k) "Room" means a room or other space provided for sleeping,
20 including the furnishings and other accessories in the room.

21 (l) "Room charge" means the charge imposed for the use or
22 occupancy of a room, excluding charges for food, beverages, state
23 use tax, telephone service or like services paid in connection with
24 the charge, and reimbursement of the assessment imposed by this
25 act.

26 (m) "Transient facility" means a building that contains 2 or
27 more rooms used in the business of providing dwelling, lodging, or

1 sleeping to transient guests, whether or not membership is required
2 for the use of the rooms. A transient facility shall not include a
3 hospital or nursing home.

4 (n) "Transient guest" means a person who occupies a room in a
5 transient facility for less than 30 consecutive days regardless of
6 who pays the room charge for the room.

7 (o) "Use tax" means the tax imposed under the use tax act,
8 1937 PA 94, MCL 205.91 to 205.111.

9 Sec. 3. (1) A bureau that has its principal place of business
10 in an assessment district may file a marketing program notice with
11 the director. The notice shall state that the bureau proposes to
12 create a marketing program under this act and cause an assessment
13 to be collected from owners of transient facilities within the
14 assessment district to pay the costs of the program.

15 (2) The marketing program notice shall describe the structure,
16 history, membership, and activities of the bureau in sufficient
17 detail to enable the director to determine whether the bureau
18 satisfies all of the requirements of section 2(e).

19 (3) The marketing program notice shall describe the marketing
20 program to be implemented by the bureau with the assessment
21 revenues and specify the amount of the assessment proposed to be
22 levied, which shall not exceed 5% of the room charges in the
23 applicable payment period, and the municipality or municipalities
24 composing the assessment district.

25 (4) Simultaneously with the filing of the marketing program
26 notice with the director, the bureau shall cause a copy of the
27 notice to be mailed by registered or certified mail to each owner

1 of a transient facility located in the assessment district
2 specified in the notice in care of the respective transient
3 facility. In assembling the list of owners to whom the notices
4 shall be mailed, the bureau shall use any data that are reasonably
5 available to the bureau.

6 (5) The form of the marketing program notice, in addition to
7 the information required by subsections (1), (2), and (3), shall
8 set forth the right of referendum prescribed in subsection (6).

9 (6) Except as otherwise provided in subsection (8), the
10 assessment set forth in the notice shall become effective on the
11 first day of the month following the expiration of 40 days after
12 the date the notice is mailed, unless the director, within the 40-
13 day period, receives written requests for a referendum by owners of
14 transient facilities located within the assessment district
15 representing not less than 40% of the total number of owners or not
16 less than 40% of the total number of rooms in all of the transient
17 facilities.

18 (7) If the director receives referendum requests in the time
19 and number set forth in subsection (6), the director shall cause a
20 written referendum to be held by mail or in person, as the director
21 chooses, among all owners of transient facilities in the assessment
22 district within 20 days after the expiration of the 40-day period.
23 For the purposes of the referendum, each owner of a transient
24 facility shall have 1 vote for each room in each of the owner's
25 transient facilities within the assessment district. If a majority
26 of votes actually cast at the referendum approve the assessment, as
27 proposed by the bureau in its marketing program notice, the

1 assessment shall become effective, except as otherwise provided in
2 subsection (8), as to all owners of transient facilities located in
3 the assessment district on the first day of the month following
4 expiration of 30 days after certification of the results of the
5 referendum by the director. If a majority of votes actually cast at
6 the referendum are opposed to the assessment, the assessment shall
7 not become effective. If the assessment is defeated by the
8 referendum, the bureau may file and serve a new notice of intention
9 if at least 60 days have elapsed from the date of certification of
10 the results of the earlier referendum. Not more than 2 referenda or
11 notices may be held pursuant to this subsection or filed pursuant
12 to this section in any 1 calendar year. Only 1 assessment under
13 this act may be in existence in an assessment district, or any part
14 of an assessment district, at any 1 time.

15 (8) The assessment described in this act shall not be
16 effective before January 1, 2011.

17 Sec. 4. A marketing program may include all or any of the
18 following:

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

22 (b) Provisions for assisting transient facilities within the
23 assessment district in promoting regional convention business and
24 tourism.

25 (c) Provisions for the acquisition of personal property
26 considered appropriate by the bureau in furtherance of the purposes
27 of the marketing program.

1 (d) Provisions for the hiring of and payment for personnel
2 employed by the bureau to implement the marketing program.

3 (e) Provisions for contracting with organizations, agencies,
4 or persons for carrying out activities in furtherance of the
5 purposes of the marketing program.

6 (f) Programs for establishing and paying the costs of research
7 designed to encourage convention business and tourism in the
8 assessment district.

9 Sec. 5. (1) Upon the effective date of an assessment, each
10 owner of a transient facility in the assessment district shall be
11 liable for payment of the assessment, computed using the percentage
12 set forth in the marketing program notice. The assessment shall be
13 paid by the owner of each such transient facility to the bureau
14 within 30 days after the end of each calendar month and shall be
15 accompanied by a statement of room charges imposed with respect to
16 the transient facility for that month. This act shall not prohibit
17 a transient facility from reimbursing itself by adding the
18 assessment imposed pursuant to this act to room charges payable by
19 transient guests, provided that the transient facility discloses
20 that it has done so on any bill presented to a transient guest.

21 (2) Within 30 days after the close of each calendar quarter,
22 each owner within an assessment district shall forward to the
23 independent certified public accountants who audit the financial
24 statements of the bureau copies of its use tax returns for the
25 preceding quarter. These copies of the use tax returns shall be
26 used solely by the certified public accountants to verify and audit
27 the owner's payment of the assessments and shall not be disclosed

1 to the bureau except as necessary to enforce this act.

2 (3) Interest shall be paid by an owner to the bureau on any
3 assessments not paid within the time called for under this act. The
4 interest shall accrue at the rate of 1.5% per month. Owners
5 delinquent for more than 90 days in paying assessments, in addition
6 to the 1.5% interest, shall pay a delinquency charge of 10% per
7 month or fraction of a month on the amount of the delinquent
8 assessments and shall pay the costs of reasonable attorney fees and
9 court costs incurred in collecting delinquent assessments. The
10 bureau may sue in its own name to collect the assessments,
11 interest, and delinquency charges.

12 (4) The owner of a transient facility shall not be liable for
13 payment of an assessment until a notice has been mailed to the
14 transient facility of the owner pursuant to section 3(4).

15 Sec. 6. (1) The assessment revenues collected pursuant to this
16 act shall not be state funds. The money shall be deposited in a
17 bank or other depository in this state, in the name of the bureau,
18 and disbursed only for the expenses properly incurred by the bureau
19 with respect to the marketing programs developed by the bureau
20 under this act.

21 (2) The financial statements of the bureau shall be audited at
22 least annually by a certified public accountant. A copy of the
23 audited financial statements shall be mailed to each owner not more
24 than 150 days after the close of the bureau's fiscal year. The
25 financial statements shall include a statement of all assessment
26 revenues received by the bureau during the fiscal year in question
27 and include the amount of wages and benefits for each full-time

1 employee of the bureau and shall be accompanied by a detailed
2 report, certified as correct by the chief operating officer of the
3 bureau, describing the marketing programs implemented or, to the
4 extent then known, to be implemented by the bureau.

5 (3) Copies of the audited financial statements and the
6 certified report shall simultaneously be mailed to the director,
7 who shall make it available to the public on the internet. If the
8 bureau fails to submit copies of the audited financial statements
9 and the certified report to the director as provided in this
10 subsection, the director shall mail a demand letter to the bureau
11 requesting copies of the audited financial statements and the
12 certified report with a copy of that demand letter forwarded to the
13 attorney general. If the director does not receive copies of the
14 audited financial statement and the certified report described in
15 this subsection within 90 days of the demand letter, upon notice by
16 the director or the attorney general, for the period of
17 noncompliance with this subsection, the bureau shall not expend any
18 portion of the assessment collected during the period of
19 noncompliance with this subsection. The attorney general may assist
20 the director in enforcing the provisions of this act.

21 (4) If the bureau fails to provide the copies of the audited
22 financial statement and the certified report within 90 days of the
23 demand letter as provided in subsection (3), the bureau is
24 responsible for a state civil infraction and may be ordered to pay
25 a civil fine of not more than \$10,000.00 and, in addition, the
26 attorney general may bring action to dissolve the bureau as
27 provided by law.

1 Sec. 7. (1) At any time 3 years or more after the effective
2 date of an assessment, and upon the written request of owners of
3 transient facilities located within the assessment district
4 representing not less than 40% of the total number of owners or not
5 less than 40% of the total number of rooms in all the transient
6 facilities, the bureau shall conduct a referendum on whether the
7 assessment shall be discontinued. The bureau shall cause a written
8 referendum to be held by mail or in person, as the bureau chooses,
9 among all owners of transient facilities in the assessment district
10 within 60 days of the receipt of the requests. For the purposes of
11 the referendum, each owner shall have 1 vote for each room in each
12 of the owner's transient facilities within the assessment district.
13 If a majority of the total votes eligible to be cast at the
14 referendum supports discontinuance of the assessment, the
15 assessment shall be discontinued on the first day of the month
16 following expiration of 90 days after the certification of the
17 results of the referendum by the bureau.

18 (2) Passage of a resolution discontinuing the assessment shall
19 not prevent a bureau from proposing a new marketing program notice
20 during or after the 90-day period, in which case the procedures set
21 forth in section 3 shall be followed.

22 (3) If a referendum is conducted under subsection (1) and if a
23 resolution to discontinue the assessment is not adopted, a further
24 referendum on the discontinuation of that assessment shall not be
25 held for a period of 2 years.