

# SENATE BILL No. 1113

February 4, 2010, Introduced by Senators BIRKHOLZ, BARCIA, CROPSEY, ALLEN, PAPPAGEORGE, BASHAM, CLARKE, HUNTER and KUIPERS and referred to the Committee on Commerce and Tourism.

A bill to amend 1978 PA 255, entitled  
"Commercial redevelopment act,"  
by amending sections 3, 4, 6, and 8 (MCL 207.653, 207.654, 207.656,  
and 207.658), sections 3 and 4 as amended by 2008 PA 227 and  
section 6 as amended by 1980 PA 407.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 3. (1) "Commercial facilities tax" means the specific tax  
2       levied under this act.

3       (2) "Commercial facilities exemption certificate" means a  
4       certificate issued pursuant to section 8.

5       (3) "Commercial property" means land improvements classified  
6       by law for general ad valorem tax purposes as real property  
7       including real property assessable as personal property pursuant to  
8       sections 8(d) and 14(6) of the general property tax act, 1893 PA

206, MCL 211.8 and 211.14, whether completed or in the process of construction, the primary purpose and use of which is the operation of a commercial business enterprise and shall include office, engineering, research and development, warehousing parts distribution, retail sales, hotel or motel development, and other commercial facilities but shall not include any of the following:

(a) Land.

(b) Property of a public utility.

(c) Housing, except that portion of a building containing nonhousing commercial activity.

(d) Financial organization. As used in this subdivision, "financial organization" means a bank, industrial bank, trust company, building and loan or savings and loan association, bank holding company as defined in 12 USC 1841, credit union, safety and collateral deposit company, regulated investment company as defined in the internal revenue code, and any other association, joint stock company, or corporation at least 90% of whose assets consist of intangible personal property and at least 90% of whose gross receipts income consists of dividends or interest or other charges resulting from the use of money or credit. The exclusion of financial institutions shall not apply to the otherwise included property of financial institutions which is located in the designated area of a city that is either the largest city in population within the county, as determined by the latest federal census; or is a city that had more than the median percentage for all cities in this state of its residents below the poverty line as determined by the latest federal census. Each city qualified to not

1 be excluded under this subdivision shall designate only 1  
2 commercial area for purposes of this provision, which area may be  
3 conterminous with, or included within, a commercial redevelopment  
4 district and in which area a majority of the land must be zoned  
5 commercially.

6 Commercial property may be owned or leased. If, in the case of  
7 leased property, the lessee is liable for payment of ad valorem  
8 property taxes, and furnishes proof of that liability, the lessee  
9 is eligible for the exemption. If the lessor is liable for payment  
10 of ad valorem property taxes and furnishes proof of that liability,  
11 the lessor is eligible for the exemption.

12 (4) "Commercial redevelopment district" means an area of a  
13 local governmental unit established as provided in section 5.

14 (5) "Commission" means the state tax commission created by  
15 1927 PA 360, MCL 209.101 to 209.107.

16 (6) "Facility" means a restored facility, a replacement  
17 facility, ~~or~~ a new facility, **OR A LEED CERTIFIED FACILITY.**

18 Sec. 4. (1) **"LEED CONSTRUCTION ACTIVITIES" MEANS 1 OR MORE OF**  
19 **THE FOLLOWING:**

20 (A) **CONSTRUCTION OF A LEED CERTIFIED FACILITY.**

21 (B) **RENOVATING OR UPGRADING A LEED CERTIFIED FACILITY FOR THE**  
22 **PURPOSE OF ACHIEVING LEED CERTIFICATION OR MAINTAINING OR**  
23 **INCREASING THE LEVEL OF AN EXISTING LEED CERTIFICATION.**

24 (2) **"LEED CERTIFICATION" MEANS A CERTIFICATION ISSUED UNDER**  
25 **THE LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN GREEN BUILDING**  
26 **RATING SYSTEM DEVELOPED BY THE U.S. GREEN BUILDING COUNCIL.**

27 (3) **"LEED CERTIFIED FACILITY" MEANS LAND IMPROVEMENTS**

1 CLASSIFIED BY LAW FOR GENERAL AD VALOREM TAX PURPOSES AS REAL  
2 PROPERTY INCLUDING REAL PROPERTY ASSESSABLE AS PERSONAL PROPERTY  
3 PURSUANT TO SECTIONS 8(D) AND 14(6) OF THE GENERAL PROPERTY TAX  
4 ACT, 1893 PA 206, MCL 211.8 AND 211.14, AND WHICH HAVE EITHER  
5 RECEIVED LEED CERTIFICATION OR FOR WHICH LEED CERTIFICATION WILL BE  
6 SOUGHT, BUT SHALL NOT INCLUDE LAND. A LEED CERTIFIED FACILITY IS  
7 NOT REQUIRED TO BE DEDICATED TO ANY PRIMARY PURPOSE OR USE AND MAY  
8 INCLUDE, BUT IS NOT LIMITED TO, COMMERCIAL, INDUSTRIAL, OR  
9 RESIDENTIAL USES OR MULTIPLE USES.

10 (4) ~~(1)~~—"Local governmental unit" means, except as otherwise  
11 provided in this subsection, a city, village, or township. For  
12 local governmental units designating a commercial redevelopment  
13 district after June 30, 2008, local governmental unit means a city  
14 or village. **FOR PURPOSES OF LEED CERTIFIED FACILITIES, LOCAL**  
15 **GOVERNMENTAL UNIT INCLUDES A CITY OR VILLAGE AND ALSO INCLUDES A**  
16 **TOWNSHIP THAT HAS A POPULATION OF 20,000 OR MORE.**

17 (5) ~~(2)~~—"New facility" means 1 of the following:

18 (a) Through June 30, 2008, new commercial property other than  
19 a replacement facility to be built in a redevelopment district.

20 (b) Beginning July 1, 2008, new commercial property other than  
21 a replacement facility to be built in a redevelopment district that  
22 meets all of the following:

23 (i) Is located on property that is zoned to allow for mixed use  
24 that includes high-density residential use.

25 (ii) Is located in a qualified downtown revitalization district  
26 as defined in section 2 of the neighborhood enterprise zone act,  
27 1992 PA 147, MCL 207.772.

1           (iii) The local governmental unit in which the new facility is  
2 to be located does all of the following:

3           (A) Establishes and implements an expedited local permitting  
4 and inspection process in the commercial redevelopment district.

5           (B) By resolution provides for walkable nonmotorized  
6 interconnections, including sidewalks and streetscapes throughout  
7 the commercial redevelopment district.

8           (6) ~~(3)~~—"Obsolete commercial property" means commercial  
9 property the condition of which is impaired due to changes in  
10 design, construction, technology, or improved production processes,  
11 or damage due to fire, natural disaster, or general neglect.

12           (7) ~~(4)~~—"Replacement" means the complete or partial demolition  
13 of obsolete commercial property and the complete or partial  
14 reconstruction or installation of new property of similar utility.

15           (8) ~~(5)~~—"Replacement facility" means 1 of the following:

16           (a) Through June 30, 2008, commercial property on the same or  
17 contiguous land within the district which land is or is to be  
18 acquired, constructed, altered, or installed for the purpose of  
19 being substituted for obsolete commercial property together with  
20 any part of the old altered property that remains for use as  
21 commercial property after the replacement.

22           (b) Beginning July 1, 2008, commercial property on the same or  
23 contiguous land within the district which land is or is to be  
24 acquired, constructed, altered, or installed for the purpose of  
25 being substituted for obsolete commercial property and any part of  
26 the old altered property that remains for use as commercial  
27 property after the replacement, that meets all of the following:

1           (i) Is located on property that is zoned to allow for mixed use  
2 that includes high-density residential use.

3           (ii) Is located in a qualified downtown revitalization district  
4 as defined in section 2 of the neighborhood enterprise zone act,  
5 1992 PA 147, MCL 207.772.

6           (iii) The local governmental unit in which the replacement  
7 facility is to be located does all of the following:

8           (A) Establishes and implements an expedited local permitting  
9 and inspection process in the commercial redevelopment district.

10           (B) By resolution provides for walkable nonmotorized  
11 interconnections, including sidewalks and streetscapes throughout  
12 the commercial redevelopment district.

13           (9) ~~(6)~~—"Restoration" means changes to obsolete commercial  
14 property other than replacement as may be required to restore the  
15 property, together with all appurtenances thereto, to an  
16 economically efficient condition. Restoration includes major  
17 renovation including but not limited to the improvement of floor  
18 loads, correction of deficient or excessive height, new or improved  
19 fixed building equipment, including heating, ventilation, and  
20 lighting, reducing multistory facilities to 1 or 2 stories,  
21 improved structural support including foundations, improved roof  
22 structure and cover, floor replacement, improved wall placement,  
23 improved exterior and interior appearance of buildings, and other  
24 physical changes required to restore the commercial property to an  
25 economically efficient condition. Restoration does not include  
26 improvements aggregating less than 10% of the true cash value of  
27 the property at commencement of the restoration of the commercial

1 property.

2 (10) ~~(7)~~ "Restored facility" means a facility that has  
3 undergone restoration.

4 (11) ~~(8)~~ "State equalized valuation" means the valuation  
5 determined under 1911 PA 44, MCL 209.1 to 209.8.

6 Sec. 6. (1) The owner or lessee of a facility may file an  
7 application for a commercial facilities exemption certificate with  
8 the clerk of the local governmental unit that established the  
9 commercial redevelopment district. The application shall be filed  
10 in the manner and form prescribed by the commission. The  
11 application shall contain or be accompanied by a general  
12 description of the facility and a general description of the  
13 proposed use of the facility, the general nature and extent of the  
14 restoration, replacement, or construction to be undertaken, a  
15 descriptive list of the fixed building equipment which will be a  
16 part of the facility, a time schedule for undertaking and  
17 completing the restoration, replacement, or construction of the  
18 facility, a statement of the economic advantages expected from the  
19 exemption, including the number of jobs retained or created because  
20 of the exemption, including expected construction employment, and  
21 information relating to the requirements in section 10.

22 (2) Upon receipt of an application for a commercial facilities  
23 exemption certificate, the clerk of the local governmental unit  
24 shall notify in writing the assessor of the assessing unit in which  
25 the facility is located or to be located, and to the legislative  
26 body of each taxing unit which levies ad valorem property taxes in  
27 the local governmental unit in which the facility is located or to

1 be located. Before acting upon the application, the legislative  
2 body of the local governmental unit shall hold a public hearing on  
3 the application and give public notice to the applicant, the  
4 assessor, a representative of the affected taxing jurisdictions,  
5 and the general public. The hearing on the application shall be  
6 held separately from the hearing on the establishment of the  
7 commercial redevelopment district.

8 (3) Upon receipt of an application for a commercial facility  
9 exemption certificate for a facility located on property which was  
10 owned by a local governmental unit on June 21, 1978, and  
11 subsequently conveyed to a private owner and zoned commercial, the  
12 clerk of the local governmental unit, in addition to the other  
13 requirements of this section, shall request the assessor of the  
14 assessing unit in which the facility is located or is to be located  
15 to determine the state equalized valuation of the property. This  
16 determination shall be made prior to the hearing on the application  
17 for a commercial facilities exemption certificate held pursuant to  
18 subsection (2).

19 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, AN OWNER  
20 OR LESSEE OF A LEED CERTIFIED FACILITY, OR ANOTHER PERSON WITH THE  
21 WRITTEN APPROVAL OF AN OWNER OR LESSEE, MAY FILE AN APPLICATION FOR  
22 A COMMERCIAL FACILITIES EXEMPTION CERTIFICATE WITH THE CLERK OF THE  
23 LOCAL GOVERNMENTAL UNIT WITHIN WHICH THE LEED CERTIFIED FACILITY IS  
24 LOCATED. IF AN EXCLUSION OF THE STATE EDUCATION TAX IS REQUESTED  
25 UNDER SECTION 12A(2), A COPY OF THE APPLICATION SHALL BE SUBMITTED  
26 TO THE COMMISSION. THE APPLICATION MAY BE FOR ALL OR A PORTION, OR  
27 MULTIPLE PORTIONS, OF A LEED CERTIFIED FACILITY. THE APPLICATION



1 SHALL BE FILED IN THE MANNER AND FORM PRESCRIBED BY THE COMMISSION.  
2 UNTIL THE COMMISSION PRESCRIBES THE MANNER AND FORM OF APPLICATION,  
3 THE OWNER OR LESSEE OF A LEED CERTIFIED FACILITY MAY APPLY UNDER  
4 THIS SUBSECTION BY SUBMITTING INFORMATION SPECIFIED IN THIS  
5 SUBSECTION. THE APPLICATION SHALL CONTAIN OR BE ACCOMPANIED BY A  
6 GENERAL DESCRIPTION OF THE FACILITY AND A GENERAL DESCRIPTION OF  
7 THE USE OF THE FACILITY, THE GENERAL NATURE AND EXTENT OF THE LEED  
8 CONSTRUCTION ACTIVITIES, INCLUDING THE ACTIVITIES THAT WERE OR WILL  
9 BE CONDUCTED FOR THE PURPOSE OF ACHIEVING LEED CERTIFICATION, AND,  
10 IF THE APPLICATION IS FILED AFTER LEED CERTIFICATION IS OBTAINED,  
11 EVIDENCE OF LEED CERTIFICATION. THE LOCAL GOVERNMENTAL UNIT SHALL  
12 HOLD A PUBLIC HEARING ON THE APPLICATION AS PROVIDED IN SUBSECTION  
13 (2).

14 Sec. 8. (1) Following approval of the application by the  
15 legislative body of the local governmental unit, the clerk of the  
16 local governmental unit shall issue to the applicant a commercial  
17 facilities exemption certificate in the form the commission  
18 determines which shall contain **ALL OF THE FOLLOWING:**

19 (a) A legal description of the real property on which the  
20 facility is or is to be located.

21 (b) A statement that unless revoked as provided in this act  
22 the certificate shall remain in force for the period stated in the  
23 certificate.

24 (c) In the case of a restored facility a statement of the  
25 state equalized valuation of the obsolete commercial property,  
26 separately stated for real and personal property, for the tax year  
27 immediately preceding the effective date of the certificate after

1 deducting the state equalized valuation of the land and personal  
2 property other than personal property assessed pursuant to section  
3 14(6) of ~~Act No. 206 of the Public Acts of 1893, as amended~~ **THE**  
4 **GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.14.**

5 (D) IN THE CASE OF A LEED CERTIFIED FACILITY, THE PERCENTAGE  
6 OF PROPERTY TAX APPLICABLE TO THE FACILITY PURSUANT TO SECTION 12.

7 (2) A CERTIFICATE SHALL NOT BE ISSUED UNDER SUBSECTION (1) FOR  
8 A LEED CERTIFIED FACILITY UNTIL THE APPLICANT HAS SUBMITTED  
9 EVIDENCE OF LEED CERTIFICATION TO THE LOCAL GOVERNMENTAL UNIT,  
10 ALONG WITH INFORMATION SUFFICIENT TO DETERMINE THE STARTING DATE OF  
11 LEED CONSTRUCTION ACTIVITIES FOR PURPOSES OF CALCULATING THE  
12 COMMERCIAL FACILITIES TAX UNDER SECTION 12(4). THE INFORMATION  
13 REQUIRED UNDER THIS SUBSECTION SHALL BE SUBMITTED TO THE LOCAL  
14 GOVERNMENTAL UNIT NO LATER THAN 5 YEARS AFTER THE DATE THE  
15 CERTIFICATE APPLICATION IS APPROVED BY THE LOCAL GOVERNMENTAL UNIT  
16 OR A GREATER TIME AS AUTHORIZED BY THE LEGISLATIVE BODY OF THE  
17 LOCAL GOVERNMENTAL UNIT.

18 (3) ~~(2)~~—The effective date of the certificate shall be the  
19 December 31 next following the date of issuance of the certificate.

20 (4) ~~(3)~~—The clerk of the local governmental unit shall file  
21 with the commission a copy of the commercial facilities exemption  
22 certificate and the commission shall maintain a record of all  
23 certificates filed.