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BILL ANALYSIS

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Senate Bill 223 (as enacted)
Sponsor: Senator Mike Kowall
Senate Committee: Economic Development
House Committee: Commerce

PUBLIC ACT 82 of 2011

Date Completed: 9-23-13

RATIONALE

The Commercial Rehabilitation Act provides an incentive for developers to rehabilitate commercial property. The Act allows a city, village, or township to establish a redevelopment district consisting of a qualified facility. 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 application must contain specific information, including the nature and extent of the rehabilitation to be undertaken. 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. If an exemption is to be approved, the structure must meet the Act's definition of "qualified facility", the project must be a "rehabilitation" under the Act, and the application to the local unit must meet certain conditions.

Generally, the Act applies only to the rehabilitation of existing facilities, and not to new construction. Public Act 118 of 2008 amended the Act's definition of "qualified facility", however, to include vacant property from which a previous structure had been demolished and on which new commercial property was to be constructed in Bay City. Subsequently, developers in Detroit and city officials wanted to secure an exemption certificate for a project to build new student housing near Wayne State University, but the project did not meet the Act's application and definition requirements for a qualified facility. Also, developers and local officials in Oakland County wanted an exemption certificate for the construction of a new hotel attached to an existing convention facility. It was suggested that exceptions be enacted to accommodate those projects.

CONTENT

The bill amended the Commercial Rehabilitation Act to include the following in the definition of "qualified facility":

- **Vacant property located in Detroit, from which a previous structure has been demolished and on which commercial property is or will be newly constructed, if an application for a commercial rehabilitation exemption certificate was filed before July 1, 2010.**
- **A hotel or motel located in Oakland County, that is attached to a convention and trade center meeting specific criteria.**
- **A building or group of contiguous buildings previously used for commercial or industrial purposes, obsolete industrial property, and vacant property that, within the preceding 15 years, was commercial property.**

The bill also excused the rehabilitation of a particular qualified facility from certain requirements for approval of a certificate.

The bill took effect on July 12, 2011.

Qualified Facility & Rehabilitation

The Act defines "qualified facility" as a qualified retail food establishment or a building or group of contiguous buildings of commercial property that is 15 years old or older or has been allocated for a new markets tax credit under Section 45D of the Internal Revenue Code (26 USC 45D).

Under the bill, "qualified facility" also includes vacant property located in a city with a population of more than 500,000 according to the most recent Federal decennial census, from which a previous structure has been demolished and on which commercial property is or will be newly constructed, provided an application for a certificate was filed with that city before July 1, 2010. (Detroit is the only Michigan city with a population of more than 500,000.)

In addition, the bill includes in the definition of "qualified facility" a hotel or motel that has additional meeting or convention space and that is attached to a convention and trade center that is larger than 250,000 square feet in size and is located in a county with a population of more than 1.1 million and less than 1.6 million as of the most recent Federal census. (Oakland County is the only Michigan county of that size.) The bill also includes this project in the Act's definition of "rehabilitation".

Further, under the bill, "qualified facility" includes a building or a group of contiguous buildings, or a portion of a building or group of contiguous buildings previously used for commercial or industrial purposes, obsolete industrial property, and vacant property that, within the immediately preceding 15 years, was commercial property as defined in the Act.

Previously, the term "qualified facility" included vacant property located in a city with a population of more than 36,000 and less than 37,000 according to the 2000 Federal decennial census, from which a previous structure had been demolished on which commercial property would be newly constructed. The bill deleted that provision.

Approval of an Application

The Act prohibits the legislative body of a city, village, or township from approving an application for a commercial rehabilitation exemption certificate unless the applicant complies with certain requirements. Both of the following are among those requirements:

-- The rehabilitation of the qualified facility does not begin earlier than six months before the applicant files the application for the exemption certificate.
-- The applicant states, in writing, that the rehabilitation of the qualified facility would not be undertaken without the applicant's receipt of the exemption certificate.

In addition, a district must be established before an application is filed.

Under the bill, those provisions do not apply to the rehabilitation of a qualified facility located in a commercial rehabilitation district established by the legislative body of the local unit in 2011, for construction or rehabilitation that began in August 2010 and for which an application for a commercial rehabilitation exemption certificate was filed in June 2010.

MCL 207.842 & 207.848

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

The Commercial Rehabilitation Act encourages developers to rehabilitate commercial property whose primary purpose is the operation of a commercial business enterprise or multifamily residential use. The City of Detroit wanted to issue an exemption certificate under the Act to developers who demolished property near Wayne State University in July 2010 in order to build a new student housing project. With the exception of a provision enacted in 2008 for a particular project in Bay City, however, the Act's definition of "qualified facility" did not include vacant land from which a previous structure has been demolished and on which new commercial property will be constructed.

Also, developers and local officials in Novi, in Oakland County, wanted to add a hotel containing additional meeting space to the Suburban Collection Showplace. In order to spur the development and benefit from the Act's incentives, the project needed to be included in the Act's definitions of "qualified facility" and "rehabilitation".

In addition, the Act prohibits a local unit from approving an application for a commercial rehabilitation exemption certificate if rehabilitation of the facility began more than six months before the applicant files the application for the certificate. The Act also requires a district to be established before an application is filed. The housing project near Wayne State did not meet these conditions.

By expanding the Act's definitions of "qualified facility" and "rehabilitation" and excusing the housing project near Wayne State from the application criteria, the bill allowed property developers to benefit from having an exemption certificate under the Act. In turn, the Cities of Detroit and Novi benefit from the construction of much-needed new developments.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

To the extent that property would have been rehabilitated absent the bill, the bill reduces local unit revenue by an unknown amount, depending upon the value of the property affected by the bill.

The bill has no fiscal impact on State government.

Fiscal Analyst: David Zin

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