

REVOCATION OPTION FOR CERTAIN ECONOMIC DEVELOPMENT CERTIFICATES

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House Bill 5435 (H-2) as reported from committee
Sponsor: Rep. Eric Leutheuser

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5436 (H-2) as reported from committee
Sponsor: Rep. Ben Frederick

Committee: Commerce and Trade
Complete to 2-21-18

BRIEF SUMMARY: House Bills 5435 and 5436 would amend the Commercial Rehabilitation Act and the Obsolete Property Rehabilitation Act, respectively, to introduce a process for a certificate holder under either act to revoke, and potentially have reinstated, a rehabilitation certificate.

FISCAL IMPACT: House Bills 5435 and 5436 would have an unknown, but likely negligible, fiscal impact on state and local government. Presumably, the provisions of the bill authorizing a certificate holder to request revocation of the certificate would be beneficial only in a situation where a certificate holder would pay a higher tax rate with the certificate than without. According to committee testimony, this condition appears to apply to a single certificate holder in Hillsdale County. Any additional fiscal impact would depend on changes to the use of the commercial rehabilitation exemption certificate or obsolete property rehabilitation exemption certificate as a result of the provisions of the bills.

THE APPARENT PROBLEM:

The Commercial Rehabilitation Act and the Obsolete Property Rehabilitation Act offer tax benefits for the redevelopment of certain types of property in specific areas. Generally, the tax benefit is that the taxable value of the property is “frozen” at the level prior to rehabilitation for the duration of the certificate. With the assumption that redevelopment will increase taxable value and therefore property taxes, the benefit is that taxpayers pay lower property taxes than they otherwise would without the economic development program. This could serve as an incentive for a project that might not otherwise occur.

However, the tax incentive program is not effective when property values have fall below the “frozen” value prior to redevelopment. In this instance, the taxpayer is actually locked in to paying higher taxes than he or she otherwise would without the economic development program. This has occurred in at least one known instance. Legislation has been introduced to allow an individual taxpayer to revoke a commercial rehabilitation certificate or obsolete property rehabilitation certificate, and potentially apply to have it reinstated or transferred.

THE CONTENT OF THE BILLS:

Currently under each act, the legislative body of the qualified local governmental unit can revoke a certificate if it finds that the project has not occurred within the time authorized or that the holder has not proceeded in good faith with the project.

A certificate holder can also transfer and assign the certificate to a new owner, if the local governmental approves the transfer after application by the new owner.

Under each bill, the following would additionally apply:

- Upon receipt of a request by the holder to revoke the certificate, the legislative body of the local governmental unit could, by resolution, revoke the certificate in whole or revoke the certificate.
- Upon the request of the holder of a revoked certificate to the legislative body and the state tax commission, *or* upon the application to the legislative body of a subsequent owner to transfer the revoked exemption certificate to a subsequent owner, along with the submission to the state tax commission of a resolution of concurrence by the legislative body, the commission could reinstate a revoked certificate for the holder or a subsequent owner that has applied for the transfer (as long as the property continued to qualify under each respective act).

BACKGROUND INFORMATION:

The Commercial Rehabilitation Act (Public Act 210 of 2005) and the Obsolete Property Rehabilitation Act (Public Act 146 of 2000) contain similar provisions for the rehabilitation of commercial districts and obsolete property, respectively, in certain jurisdictions.

Generally speaking, the owner of a qualified facility or obsolete property can apply for and receive an exemption certificate. The exemption certificate allows for the exemption from ad valorem property taxes for a specific amount of time. The certificate owner instead pays a specific tax, which is generally the property's applicable mills applied to the frozen taxable value of the property before rehabilitation. School operating mills are applied and assessed on the difference between the taxable value of the property for the current tax year and the tax year prior to rehabilitation. (The state treasurer can abate a portion of school operating mills for obsolete property under certain circumstances.)

ARGUMENTS:

For:

Supporters note that the bills are a commonsense solution to a reality that was simply not addressed when the original acts passed: that property values could fall, and that the incentive would not work as intended. The bills create a more comprehensive statute to give flexibility to taxpayers and local units of government with regards to rehabilitation certificates. Further, a similar economic development statute designed for industrial facilities, Public Act 198 of 1974, has nearly identical language to address this situation.

The bills will harmonize the statutes that provide property tax benefits for redevelopment and rehabilitation, providing clarity for taxpayers and local governmental units.

Against:

No arguments were offered in opposition to the bills.

POSITIONS:

Representatives of Hillsdale County testified in support of the bills. (2-13-18)

A representative of the Michigan Municipal League indicated support for the bills as substituted. (2-20-18)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.