

**SUBSTITUTE FOR
SENATE BILL NO. 1419**

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".

3 Sec. 2. As used in this act:

4 (a) "Assessment" means the amount levied against an owner of a

1 transient facility within an assessment district computed by
2 application of the applicable percentage against aggregate room
3 charges with respect to that transient facility during the
4 applicable assessment period.

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

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

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

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

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

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

18 (iii) Has a full-time chief executive officer and not fewer than
19 2 full-time equivalent employees.

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

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

24 (g) "Marketing program" means a program established by a
25 bureau to develop, encourage, solicit, and promote regional
26 convention business and tourism within this state or a portion of
27 this state within which the bureau operates. The encouragement and

1 promotion of regional convention business and tourism shall include
2 any service, function, or activity, whether or not performed,
3 sponsored, or advertised by a bureau, that intends to attract
4 transient guests to the assessment district.

5 (h) "Marketing program notice" means the notice described in
6 section 3.

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

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

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

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

24 (m) "Transient facility" means a building that contains 2 or
25 more rooms used in the business of providing dwelling, lodging, or
26 sleeping to transient guests, whether or not membership is required
27 for the use of the rooms. A transient facility shall not include a

1 hospital or nursing home.

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

5 (o) "Use tax" means the tax imposed under the use tax act,
6 1937 PA 94, MCL 205.91 to 205.111.

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

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

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

23 (4) Simultaneously with the filing of the marketing program
24 notice with the director, the bureau shall cause a copy of the
25 notice to be mailed by registered or certified mail to each owner
26 of a transient facility located in the assessment district
27 specified in the notice in care of the respective transient

1 facility. In assembling the list of owners to whom the notices
2 shall be mailed, the bureau shall use any data that are reasonably
3 available to the bureau.

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

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

16 (7) If the director receives referendum requests in the time
17 and number set forth in subsection (6), the director shall cause a
18 written referendum to be held by mail or in person, as the director
19 chooses, among all owners of transient facilities in the assessment
20 district within 20 days after the expiration of the 40-day period.
21 For the purposes of the referendum, each owner of a transient
22 facility shall have 1 vote for each room in each of the owner's
23 transient facilities within the assessment district. If a majority
24 of votes actually cast at the referendum approve the assessment, as
25 proposed by the bureau in its marketing program notice, the
26 assessment shall become effective, except as otherwise provided in
27 subsection (8), as to all owners of transient facilities located in

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

13 (8) The assessment described in this act shall not be
14 effective before January 1, <<2010-2011>>.

15 Sec. 4. A marketing program may include all or any of the
16 following:

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

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

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

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

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

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

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

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

27 (3) Interest shall be paid by an owner to the bureau on any

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

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

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

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

bureau, describing the marketing programs implemented or, to the extent then known, to be implemented by the bureau.

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

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

Sec. 7. (1) At any time 3 years or more after the effective date of an assessment, and upon the written request of owners of

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

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

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