Introduction

The Commercial Rehabilitation Act would allow certain rehabilitated commercial property to receive a reduction in property taxes.

Application of Act

The law applies only to a multifamily housing building or group of contiguous buildings of commercial property 15 years old or older that are located in a commercial rehabilitation district of at least 3 acres in size as established by the local unit of government, or if it is used by a grocery store or delicatessen in an underserved urban or rural area. An exemption is provided to the 3 acre requirement, though, if the business is located in a downtown as determined by the local government. An exemption is also provided to the 15 year requirement if the property has been allocated a federal New Markets Tax Credit.

Eligibility for Exemptions

A local unit would first have to create a rehabilitation district, then could entertain applications for tax exemptions. The tax exemption would require approval by the local unit of government. A "qualified facility" would be exempt from property taxes, although not the land on which the rehabilitated property is located or personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act. Instead, the facility would be subject to a newly created specific tax that would base the tax liability of the facility on its value prior to rehabilitation. The property tax exemption would last for one to ten years, as determined by the local unit of government.

To be eligible for an exemption, the facility rehabilitation could not begin more than six months before the application for the exemption certificate is filed. The abatement would not apply to local school operating taxes or the State Education Tax, and counties can reject establishment of the district. The tax exemption would also require the approval of the State Tax Commission.

A new exemption could not be granted under the act after December 31, 2015, but an exemption then in effect could continue until it expired. This act contains provisions very similar to those contained in Public Act 146 of 2000, known as the Obsolete Property Rehabilitation Act, which applies to blighted, functionally obsolete, and contaminated properties in core cities.

This law was originally created by PA 210 of 2005, but at that time was limited to the Summit Place Mall in Waterford. PA 554 of 2006 removed the limitation, and instead created the 3 acre (except for downtowns) and 15 year (except for New Market Tax Credit property) restrictions.

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Other Key Provisions:

Creation of a Commercial Rehabilitation District. The legislative body of a city, village, or township could create one or more districts. A district could be established by the local legislative body on its own initiative or upon the written request of property owners with more than 50 percent of the taxable value of the property within a proposed district. Before adopting a resolution establishing a district, the local legislative body would have to give written notice by certified mail to the owners of all real property within the proposed district and afford an opportunity for a hearing at which property owners and other residents and taxpayers could appear and be heard. Notice of the hearing would have to be provided not less than ten days or more than 30 days before the hearing.

County Action. Within 28 days of receiving a copy of the resolution establishing a district, the county could reject its establishment. If the county had an elected county executive, he or she could notify the local unit in writing of the rejection; otherwise, rejection would require a resolution passed by the county board of commissioners.

Commercial Rehabilitation Exemption Certificate. The owner of qualified property within a district could file an application for an exemption certificate with the local clerk. The application would have to contain or be accompanied by a general description of the facility and the proposed use of the rehabilitated facility, the general nature and extent of rehabilitation to be undertaken, a descriptive list of the fixed building equipment that was to be part of the rehabilitation, a time schedule for the proposed work and its completion, and a statement of the economic advantages expected from the exemption, including the number of jobs to be retained or created as a result of rehabilitation, as well as the construction jobs involved. Upon receipt of an application, the local clerk would have to notify in writing the assessor of the local tax collecting unit and the legislative body of each taxing unit levying ad valorem taxes where the facility was located. Before acting on the application, the local legislative body would have to hold a public hearing and give public notice to the assessor, representatives of affected taxing units, and the general public.

Action by Local Legislative Body/State Tax Commission. The local legislative body would have to approve or disapprove the application for an exemption certificate, by resolution, within 60 days after its receipt by the clerk. Within 60 days of receiving the resolution from the local unit, the state tax commission would have to approve or disapprove the resolution. If approved, the exemption certificate would be issued to the applicant containing, among other things, the period of time authorized by the legislative body in which the rehabilitation must be completed. If the certificate was for less than 10 years, it would have to contain the factors, criteria, and objectives for extending the period of time, if any. The effective date of an exemption certificate would be the December 31 immediately following its issuance. An exemption certificate could be transferred and assigned by its holder to a new owner of the rehabilitated facility with the approval of the local unit.

Approval Criteria. An exemption certificate could not be approved unless, among other things, the rehabilitation of the facility began no earlier than six months before the applicant filed the application for the certificate; the completion of the rehabilitation was likely to increase commercial activity, create employment, retain employment, prevent a loss of employment, revitalize urban areas, or increase the number of residents in the community in which the facility was situated; the applicant stated in writing that the rehabilitation would not be undertaken without the exemption certificate; and the applicant was not delinquent in the payment of any taxes related to the facility.

Override of Taxable Value Limit. If the taxable value of the property proposed for an exemption, considered together with exemptions previously granted, exceeded five percent of the taxable value of the local unit, the legislative body would have to make a separate finding and include a statement in its resolution that exceeding that amount would not have the effect of substantially impeding the operation of the local unit or impairing the financial soundness of an affected taxing unit.

Required Reports. Local units would be required to report annually to the State Tax Commission on the status of each exemption, including the current value of exempted property, the number of jobs retained or created, and new residents. The Department of Treasury would use this information in making an annual report to the committees in the Senate and the House responsible for tax policy and economic development issues. After the act had been in effect for three years, the department would have to submit to those committees an economic analysis of the costs and benefits of the new act in the three local units where the exemption had been used the most.

Commercial Rehabilitation Tax. The owner of a qualified facility that had received an exemption certificate would pay a new specific tax instead of standard property taxes. The act contains the formula for determining tax liability. Generally speaking, it freezes the taxable value of the buildings at the level prior to rehabilitation. The taxable value of land and personal property would remain unchanged. The new specific tax would be an annual tax paid in the same manner as the property tax and, generally speaking, disbursed in the same manner.

Qualified Facility. Property eligible for this program would be facilities devoted to such commercial activities as retail sales, office, engineering, research and development, warehousing, and parts distribution, and would include buildings previously used for industrial purposes that are to be converted to commercial business operations. Casino property and professional sports stadiums would not be eligible.