

## COMMERCIAL REHABILITATION ACT

Public Act 210 of 2005, encourages the rehabilitation of commercial property that is 15 years or older by abating the taxes on new investment. As defined, 'commercial property' is a qualified facility which is primarily used in the operation of a commercial business. Certain residential development improvements are also eligible for abatement under this Act. Land and personal property is not eligible for abatement under this act.

A 'qualified facility' means any of the following:

- A building or group of contiguous buildings of commercial property that is 15 years or older;
- Has been allocated for a new markets tax credit; or
- A qualified retail food establishment, as defined in Section 207.842 (j).

It does not include property that is to be used as a professional sports stadium or a casino.

### WHO IS ELIGIBLE?

Any city, village or township may grant this abatement.

### WHAT IS THE PROCESS?

The abatement process is similar to PA 146, the Obsolete Property Rehabilitation Act. The city, village or township must first hold a hearing to establish a Commercial Rehabilitation District. Notification of the hearing must be given to the county board of commissioners and all real property owners in the proposed district. The district must be at least three acres in size unless it is located in a downtown or business area or contains a qualified retail food establishment.

After the hearing is held and the local unit of government determines the district meets the requirements of the Act, a copy of the resolution adopting the district shall be provided to the county where the district is established. Within 28 days, the county may accept or reject the establishment of the district. In a county with a county executive, the executive can write a letter rejecting the establishment of the

district. In all other counties, the county board of commissioners can pass a resolution rejecting the establishment of the district. The difference from PA 146 is this act does not require obsolescence or eligible distressed area, but does give county executives or county boards the ability to reject the establishment of the district, thereby, prohibiting the tax abatement.

Once the district is established, the property owners may file an application with the local clerk for a Commercial Rehabilitation Exemption Certificate. Applications are available from the Michigan Department of Treasury. The local clerk shall provide written notification to the assessor of the local unit of government and each taxing jurisdiction that levies ad valorem property taxes of the application hearing. The city, village or township has 60 days after receipt of the application to either approve or disapprove the application. If denied, a reason must be given in the resolution. The assessor and applicant shall be sent a copy of the unapproved resolution by certified mail. If approved, the application and resolution must be sent to the State Tax Commission, which will certify or deny the application within 60 days. A resolution is not effective unless approved by the State Tax Commission.

### COMMERCIAL REHABILITATION EXEMPTION CERTIFICATE

Upon approval by the State Tax Commission, a Commercial Rehabilitation Certificate is issued. The property owner must pay a Commercial Rehabilitation Tax rather than the normal property tax. The certificate may be issued for a period of at least one year, but cannot exceed 10 years. Certificates initially issued for less than 10 years may be extended, but shall not exceed 10 years. The criteria for extensions must be included in the resolution approving the abatement.

The Commercial Rehabilitation Tax freezes the taxable value of the building and exempts the new investment from local taxes. The school operating tax and the State Education Tax (SET) are still levied on the new investment. Land and personal property cannot be abated under this act.

The applicant has six months after starting construction to file an application for the certificate. It is recommended that the applicant files before starting construction.

The local unit of government may revoke the certificate if the rehabilitation does not occur within the time authorized, or if the certificate holder has not proceeded in good faith with the operation of the facility. The certificate may

be transferred to a new owner upon application and approval by the local unit of government. No new exemptions can be granted after December 31, 2015.

### **SUPPORTING STATUTE**

Public Act 210 of 2005