

COMMERCIAL REHABILITATION ACT

Public Act 210 of 2005 encourages the rehabilitation of commercial property by abating the property taxes generated from new investment for a period up to 10 years. As defined, commercial property is a facility that includes a building or group of contiguous buildings of commercial property that is 15 years or older, of which the primary purpose is the operation of a commercial business enterprise or multifamily residential use. Types of commercial business enterprises include office, engineering, research and development, warehousing, parts distribution, retail sales, and other commercial activities. Multifamily residential is housing that consists of five or more units. Commercial properties allocated new market tax credits are also considered a qualified facility.

Qualified retail food establishments are considered a qualified facility for purposes of granting the tax abatement. These establishments include a retail supermarket, grocery store, produce market, or delicatessen that offers unprocessed USDA-inspected meat and poultry products or meat products that carry the USDA organic seal, fresh fruits and vegetables, and dairy products for sale to the public. The qualified retail food establishment must be located in “Core Community” as defined in the Obsolete Property Rehabilitation Act (PA 146 of 2000) or an area designated as rural as defined by the United States Census Bureau and is located in an underserved area. The qualified retail food establishment must have been used as residential, commercial, or industrial property as allowed and conducted under the applicable zoning ordinance for the immediately preceding 30 years.

Commercial property does not include land or property of a public utility. Qualified facility does not include property that is to be used as a professional sports stadium or a casino. Land and personal property are not eligible for abatement under this act.

WHO IS ELIGIBLE?

“Qualified local government units” mean any city, village or township.

WHAT IS REHABILITATION?

Rehabilitation is defined as changes to qualified facilities that are required to restore or modify the property, together with all appurtenances, to an economically efficient condition. The new investment in the rehabbed property must result in improvements aggregating to more than 10 percent of the true cash value of the property at commencement of the rehabilitation of the qualified facility. Rehabilitation includes the following: improvement of floor loads, correction of deficient or excessive height, new or improved fixed building equipment including heating, ventilation, and lighting, reducing multistory facilities to one or two stories, improved structural support including foundations, improved roof structure and cover, floor replacement, improved wall placement, improved exterior and interior appearance of buildings, and other physical changes required to restore or change the property to an economically efficient condition.

Rehabilitation for a qualified retail food establishment also includes new construction.

WHAT IS THE PROCESS?

Before the Commercial Rehabilitation Exemption Certificate (i.e. property tax abatement) can be granted to the commercial property owner, the city, village or township by resolution of its legislative body, must establish a Commercial Rehabilitation District. The establishment of the district may be initiated by the local government unit or by owners of property comprising 50 percent of all taxable value or the property 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.

To establish the Commercial Rehabilitations District, 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.

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 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.

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 must 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.

DISCUSSION

In addition to the Commercial Rehabilitation Act (PA 210 of 2005), several other property tax abatements are available for the rehabilitation of commercial property in Michigan, including the **Commercial Redevelopment Act (PA 255 of 1978)** and the **Obsolete Property Rehabilitation Act (PA 146 of 2000)**. Each act has unique eligibility requirements, processes, and lengths and terms of the abatement. Please refer to the Michigan Economic Development Corporation Fact Sheet for more information on each program and consult the authorizing statute to determine the best fit for your project needs.

SUPPORTING STATUTES

PA 210 of 2005—Commercial Rehabilitation Act