

Act No. 224
Public Acts of 1993
Approved by the Governor
November 1, 1993
Filed with the Secretary of State
November 1, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Reps. Jondahl and Fitzgerald

ENROLLED HOUSE BILL No. 4460

AN ACT to amend sections 2, 3, and 3a of Act No. 395 of the Public Acts of 1980, entitled as amended "An act relating to the promotion of convention business or tourism in municipalities in this state; to provide for tourism or convention marketing programs in municipalities through nonprofit convention and tourist bureaus; to provide for the imposition and collection of assessments on the owners of transient facilities to support tourism or convention marketing programs; to provide for the disbursement of the assessments; to establish the functions and duties of the department of commerce; and to prescribe remedies and penalties," section 2 as amended and section 3a as added by Act No. 59 of the Public Acts of 1984 and section 3 as amended by Act No. 92 of the Public Acts of 1991, being sections 141.872, 141.873, and 141.873a of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 2, 3, and 3a of Act No. 395 of the Public Acts of 1980, section 2 as amended and section 3a as added by Act No. 59 of the Public Acts of 1984 and section 3 as amended by Act No. 92 of the Public Acts of 1991, being sections 141.872, 141.873, and 141.873a of the Michigan Compiled Laws, are amended to read as follows:

Sec. 2. As used in this act:

(a) "Assessment" means the amount levied against an owner of a transient facility within an assessment district, computed by application of the applicable percentage against aggregate room charges with respect to that transient facility during the applicable assessment period.

(b) "Assessment district" means a municipality or combination of municipalities as described in a marketing program. A combination of municipalities is not required to be contiguous.

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

(d) "Board" means the board of directors elected by the members of a bureau. A majority of the members of a board shall be owners of transient facilities.

(e) "Bureau" means a nonprofit corporation existing to promote convention business or tourism within this state or a portion of this state.

(f) "Director" means the director of commerce.

(g) "Marketing program" means a program established by a bureau to develop, encourage, solicit, and promote convention business or tourism within this state or a portion of this state within which the bureau operates. The encouragement and promotion of convention business or tourism includes any service, function, or activity, whether or not performed, sponsored, or advertised by a bureau, that intends to attract transient guests to the assessment district. For a bureau described in section 3(8), a marketing program includes a contract with a nonprofit organization formed

to promote convention business or tourism that receives funding from a tax levied under Act No. 263 of the Public Acts of 1974, being sections 141.861 to 141.867 of the Michigan Compiled Laws, in a contiguous county to provide for the promotion of convention business or tourism.

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

(i) "Municipality" means a county with a population of less than 650,000 or a city, village, or township within a county with a population of less than 650,000. Municipality does not include a special charter, fourth class city.

(j) "Owner" means the owner of a transient facility to be served by the bureau or, if the transient facility is operated or managed by a person other than the owner, then the operator or manager of that transient facility.

(k) "Room" means a room or other space provided for sleeping that can be rented independently, including the furnishings and other accessories in the room. Room includes, but is not limited to, a condominium or time-sharing unit that, pursuant to a management agreement, may be used to provide dwelling, lodging, or sleeping quarters for a transient guest.

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

(m) "Transient facility" means a building or combination of buildings under common ownership, operation, or management that contains 10 or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership is required for the use of the rooms. Transient facility does not include a college or school dormitory, a hospital, a nursing home, or a facility owned and operated by an organization qualified for an exemption from federal taxation under section 501(c) of the internal revenue code.

(n) "Transient guest" means a person who occupies a room in a transient facility for less than 30 consecutive days.

Sec. 3. (1) A bureau that wishes to establish a marketing program and assessment district shall file a marketing program notice with the director. The marketing program notice shall state that the bureau proposes to create a marketing program under this act and cause an assessment to be collected from owners of transient facilities within the assessment district to pay the costs of the marketing program.

(2) The marketing program notice shall describe the structure, membership, and activities of the bureau.

(3) The marketing program notice shall describe the marketing program to be implemented by the bureau with the assessment revenues, specify the amount of the assessment proposed to be levied, which, except as provided in this subsection, shall not exceed 2% of the room charges in the applicable payment period, and describe the municipalities comprising the assessment district. A bureau described in subsection (8) may impose an assessment of 4% if the assessment and marketing program are approved by a majority of the transient facilities located within a township described in subsection (8) at a written referendum held by the director pursuant to section 3a by mail or in person for the purpose of which each owner shall have 1 vote for each room in an owner's transient facility.

(4) Except as provided in this subsection, a municipality or a part of a municipality shall not be included in the marketing program notice and the assessment district specified in the notice if, on the date the notice is mailed, the county in which that part is located is collecting a tax pursuant to Act No. 263 of the Public Acts of 1974, being sections 141.861 to 141.867 of the Michigan Compiled Laws. A municipality or a part of a municipality may be included in a marketing program notice and the assessment district specified in the notice and, after September 30, 1991, may be assessed under this act if the county in which the municipality or part is located collects an excise tax pursuant to Act No. 263 of the Public Acts of 1974 and the authority to collect that excise tax terminates not later than October 1, 1991. Except as provided in section 10, an area shall not be included in the marketing program notice filed under this act and the assessment district specified in the notice if the area is part of an existing assessment district under this act for which a marketing program is in effect.

(5) If on the date of the mailing of the marketing program notice under this act an excise tax or other tax based on a room charge is not being collected, a municipality included in the marketing program notice shall not be subject to the collection of an excise tax imposed under Act No. 263 of the Public Acts of 1974 or another tax based on a room charge.

(6) If a part of a municipality is subject to an assessment under the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws, that part of the municipality shall not be included in a marketing program notice or assessment district under this act.

(7) Simultaneously with the filing of the marketing program notice with the director, the bureau shall mail a copy of the notice, by registered or certified mail, to each owner of a transient facility located in the assessment district specified in the notice, in care of the respective transient facility. In assembling the list of owners to whom the notices shall be mailed, the bureau shall use any data that is reasonably available to the bureau.

(8) A bureau that is located within a township that is a municipality and, except for the assessment made under this subsection, that does not assess a room charge on the owners of a transient facility may impose an assessment of 4% if it meets all of the following:

(a) The assessment district is a township that is contiguous to a county that levies an excise tax of 5% under Act No. 263 of the Public Acts of 1974.

(b) The owners representing not less than 80% of the rooms in the assessment district are members of a nonprofit organization formed to promote convention business or tourism that receives funding from a tax levied under Act No. 263 of the Public Acts of 1974, in the contiguous county.

(c) The bureau contracts with the nonprofit organization formed to promote convention business or tourism that receives funding from a tax levied under Act No. 263 of the Public Acts of 1974, in the contiguous county to promote convention business or tourism and pays that nonprofit organization all of the assessment revenues collected under this act for the promotion of convention business or tourism.

(d) The owners representing not less than 80% of the rooms in the assessment district voluntarily contributed during the nonprofit organization's preceding fiscal year to the nonprofit organization formed to promote convention business or tourism that receives funding from a tax levied under Act No. 263 of the Public Acts of 1974, in the contiguous county, an amount equivalent to the 2% assessment permitted under this act for the promotion of convention business or tourism.

Sec. 3a. (1) Within 30 days after a marketing program notice is filed, the director shall approve or disapprove the marketing program. The director shall not disapprove a marketing program unless the program violates this act.

(2) Within 40 days after approval of a marketing program, the director shall require a written referendum to be held by mail or in person, as determined by the director, among all owners of transient facilities in each municipality in the proposed assessment district. For the purpose of the referendum, each owner shall have 1 vote for each room in an owner's transient facility.

(3) The marketing program and assessment set forth in the notice shall become effective on the first day of the month that is more than 30 days after certification by the director that the program was approved by a majority of the votes actually cast in each municipality in the assessment district. If a majority of the votes actually cast in any municipality counted separately is not in favor of the program and assessment, the program and assessment shall not go into effect in the assessment district. However, for purposes of tabulating the votes in the referendum for a marketing program proposed on or after April 12, 1984, each municipality in the proposed assessment district requiring a majority of votes cast in favor of the proposed assessment district shall be defined in the marketing program notice required under section 3. A bureau may file and serve another marketing program notice not less than 60 days after certification of the results of a referendum.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.