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Senate Bill 393 (Substitute S-1 as reported)  
Sponsor: Senator Kevin Daley  
Committee: Finance

### **CONTENT**

The bill would amend Parts 1 and 2 of the Income Tax Act to specify that, for the 2020 and 2021 tax years, a qualified taxpayer who owned or operated an afflicted business that was negatively affected by a COVID-19 order (i.e., was closed to ingress, egress, use, and occupancy by members of the public or involved assemblages of people that were prohibited by a COVID-19 order) and had a certified loss in gross receipts of 25% or more during the tax year could claim a tax credit against the income tax equal to the business's total property tax collected during that calendar year or a portion of the business's rent if it leased property subject to property tax.

If the amount of the credit exceeded the taxpayer's tax liability for the tax year, the excess would have to be refunded.

The bill would apply retroactively to tax years that begin on and after January 1, 2020.

Proposed MCL 206.279 & 206.679

Legislative Analyst: Christian Schmidt

### **FISCAL IMPACT**

The bill would reduce State corporate and individual income tax revenue to the General Fund and School Aid Fund by an unknown and potentially significant amount that would depend on the number of eligible taxpayers affected, as well as the property taxes and rent paid by those taxpayers. Any revenue reduction would occur during fiscal years (FYs) 2020-21 and 2021-22, with the relative impact between the two years depending on when firms filed returns or amended returns and any growth in taxable value of affected property.

It is impossible to estimate the number of taxpayers forced (or who could be forced) to close because of a COVID-19 order and who experienced a reduction in gross receipts revenue of 25% or more. The bill would not require the 25% loss of revenue to occur only during the time period for which a business was closed. Many taxpayers could meet the 25% threshold whether or not they were closed (either under the terms identified in the bill or from other circumstances).

Furthermore, the bill references "afflicted business" entities that were not directly closed because of a COVID-19 order, such as hotels, which were allowed to remain open subject to restrictions (such as eliminating on-premises dining), although some hotels could qualify under the bill if they hosted convention activities that would have been impossible under the restrictions on assemblages. Data indicate most hotels experienced revenue reduction in excess of 25% during 2020, but most reductions would have reflected a reduction in the number of travelers, not that a COVID-19 order required the business to close.

The 2020 taxable value for all commercial real property (all of the firm categories listed in the definition of afflicted businesses would represent commercial property) in Michigan is \$54.4 billion, plus another \$9.5 billion in commercial personal property. The average millage rate on commercial real property is about 53.5 mills, while personal property pays 12 mills less (assuming it is not exempt because of personal property tax reform provisions). If the bill affected 10% of commercial real property, at the average millage rate, the bill would reduce revenue \$290.9 million. If the bill also affected 10% of commercial personal property, the provisions would exempt an additional \$39.5 million, bringing the total revenue loss per year to \$330.4 million for commercial property, excluding any credits based on gross rent. If 1% of commercial real and personal property were affected, the credit would reduce revenue by approximately \$33.0 million per year, excluding the impact of credits based on gross rent.

Between the impact of rising taxable values and the likely timing of any filings of amended returns for tax year 2020 (generally due either April 30, 2021, or May 15, 2021), the bill likely would reduce revenue in FY 2021-22 by more than in FY 2020-21. Credits claimed under the corporate income tax would reduce General Fund revenue. The distribution across funds for any credits claimed under the individual income tax would depend on whether the credit lowered annual payments or increased a refund. If annual payments are lowered, 23.8% of any revenue reduction would lower School Aid Fund revenue, with the remaining amount lowering General Fund revenue. Credits, or the portion of credits, paid as refunds would lower only General Fund revenue.

Date Completed: 6-1-21

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