

Frequently Asked Questions
Commercial Rehabilitation Act
(PA 210 of 2005, as amended)

The following frequently asked questions are being provided as a service to assessors and taxpayers to better inform them about the administration of Public Act 210 of 2005, as amended.

Note: The information contained in these frequently asked questions constitutes an analysis of one or more statutes and not legal advice. Since the analysis is limited to general statutory requirements, individual facts may result in different conclusions being reached. Therefore, individuals may wish to consult legal counsel.

1. What is a Commercial Rehabilitation Exemption?

The Commercial Rehabilitation Act, PA 210 of 2005, as amended provides a tax exemption for property of which the primary purpose and use is the operation of a commercial business enterprise, multifamily residential or qualified retail food establishments. Types of commercial business enterprises may include but are not limited to, office, engineering, research and development, warehousing, parts distribution, retail sales, and other commercial activities. Multifamily residential is housing that consists of 5 or more units. Qualified retail food establishments are primarily retail supermarkets, grocery stores, produce markets or delicatessens that offer fresh USDA inspected meat and poultry, fresh fruits and vegetables, and dairy products for sale. Applying for a Commercial Rehabilitation Exemption involves a multi-step process. First, completed applications are sent to the local governmental unit for review and approval. Qualified retail food establishment applicants must also submit an additional application at that time. If the local governmental unit approves the applications, they are forwarded to the State Tax Commission for further review and approval.

Commercial Rehabilitation Tax Exemption Certificate applications are available from the Michigan Department of Treasury at: www.michigan.gov/propertytaxexemptions.

2. Who establishes a Commercial Rehabilitation District?

The legislative body of a qualified local governmental unit may establish a commercial rehabilitation district on its own initiative or upon a written request filed by the owner or owners of property comprising at least 50% of all taxable value of the property located within a proposed commercial rehabilitation district.

3. Can a request to establish a Commercial Rehabilitation District be denied?

Yes. A hearing must be offered to all property owners within the proposed district and to the county, offering them an opportunity to appear and be heard. The local governmental unit may deny the establishment of the district but must put the denial into a resolution.

4. Who can file an application for a Commercial Rehabilitation Exemption Certificate and with whom is it filed?

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The owner of a qualified facility may file an application for a Commercial Rehabilitation Exemption Certificate with the clerk of the local governmental unit that established the Commercial Rehabilitation District.

5. How do I apply for a Commercial Rehabilitation Exemption Certificate?

Applications for Commercial Rehabilitation Exemption Certificates are filed with the local governmental unit by the owner of the property. The application must be accompanied by the following required documents:

- a. A general description of the facility (including year built, original use, most recent use, number of stories, square footage);
- b. A general description of the rehabilitated facility's proposed use;
- c. A detailed description of the general nature and extent of the rehabilitation to be undertaken;
- d. A descriptive list of the fixed building equipment that will be a part of the rehabilitated facility;
- e. A time schedule for undertaking and completing the facility's rehabilitation;
- f. A statement of economic advantages expected from the exemption;
- g. A legal description of the property outlined in the application;
- h. A copy of the resolution approved by the local unit establishing the eligible district;
- i. The local unit resolution, containing all the required statements, approving the application for the exemption; and
- j. If applicable, a completed Form 4753, Commercial Rehabilitation Exemption Certification for Qualified Retail Food Establishments.

The local governmental unit will review the application and, if all requirements are met, will forward the application to the State Tax Commission.

6. Are there provisions in the application process which are time sensitive?

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MCL 207.848 requires that the commencement of the rehabilitation of the qualified facility does not occur earlier than 6 months before the applicant files the application for the Commercial Rehabilitation Exemption Certificate.

7. Who determines if a facility qualifies for a Commercial Rehabilitation Exemption Certificate?

Initially, that determination is made when the application is filed and reviewed by the local governmental unit. However, the local governmental unit's determination is reviewed and either approved, modified, or denied by the State Tax Commission.

8. What requirements for a Commercial Rehabilitation Exemption Certificate must be met to gain approval at the local governmental unit level?

An applicant seeking a Commercial Rehabilitation Exemption Certificate must meet the following qualifications:

- a. The commencement of the rehabilitation of the qualified facility does not occur earlier than 6 months before the applicant files the application for the Commercial Rehabilitation Exemption Certificate.
- b. The application relates to a rehabilitation program that when completed constitutes a qualified facility within the meaning of the act and that shall be situated within a Commercial Rehabilitation District established in a qualified local governmental unit eligible under the act.
- c. Completion of the qualified facility is calculated to, and will at the time of issuance of the certificate, have the reasonable likelihood 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 qualified facility is situated.
- d. The applicant states, in writing, that the rehabilitation of the qualified facility would not be undertaken without the applicant's receipt of the exemption certificate.
- e. The applicant is not delinquent in the payment of any taxes related to the qualified facility.

9. Can a decision of the State Tax Commission (STC) regarding a Commercial Rehabilitation Exemption Certificate be appealed?

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Yes. A party aggrieved by the issuance, refusal to issue, revocation, transfer or modification of a Commercial Rehabilitation exemption may appeal a final decision of the State Tax Commission by filing a petition with the Michigan Tax Tribunal, www.michigan.gov/taxtrib, within 35 days. MCL 205.735a (6).

10. What is the term of a Commercial Rehabilitation Exemption Certificate?

A certificate may be issued for a period to be determined by the legislative body of the local governmental unit of at least 1 year but not to exceed 10 years. If the number of years determined is less than 10, the certificate may be subject to review by the legislative body of the qualified local governmental unit and the certificate may be extended. The total amount of time determined for the certificate, including any extensions, shall not exceed 10 years after the completion of the qualified facility.

11. What determines the starting date of a Commercial Rehabilitation Exemption Certificate?

The effective date of the certificate is December 31st immediately following the date of issuance of the certificate by the State Tax Commission.

12. How is the Commercial Rehabilitation Tax computed for a rehabilitated facility?

Calculating the commercial rehabilitation tax is a two-step process. First, multiply the total mills levied as ad valorem taxes for that year by all taxing units by the taxable value of the real property (excluding land) for the tax year immediately preceding the effective date of the commercial rehabilitation exemption.

Second, multiply the local school district operating and state education tax mills by the difference between the taxable value of the real property (excluding land) for the current tax year and the taxable value of the real property (excluding land) for the year immediately preceding the effective date of the exemption.

For a qualified retail food establishment that was issued a certificate on or before December 31, 2009, the tax is the sum of the product computed by multiplying the total mills levied as ad valorem taxes for that year by all taxing units (including local school district operating and the state education tax) by the taxable value of the real property (excluding land) for the tax year immediately preceding the rehabilitation and the product computed by multiplying the local school district operating and state education tax mills by the difference between the taxable value of the real property (excluding land) for the current tax year and the taxable value of the real property (excluding land) for the tax year immediately preceding the rehabilitation.

13. Are special assessment millage rates impacted by the granting of a Commercial Rehabilitation Act exemption?

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Special assessment millage rates may be impacted. Millage-based special assessments levied under Public Act 33 of 1951 do not apply to property with a Commercial Rehabilitation Act exemption. However, the special assessments would still be applicable to the land on which the Commercial Rehabilitation Act exemption property is located. Conversely, for millage-based special assessments levied under public acts other than Public Act 33 of 1951, property with a Commercial Rehabilitation Act exemption pays on the full special assessment millage rate, the same as any “ad valorem” property.

14. What happens when an incomplete application for a Commercial Rehabilitation Exemption Certificate is received?

The applicant will be contacted to submit the required items.

15. For Qualified Retail Food Establishments, how do you determine if you are located in an “underserved area?”

Visit the Property Tax Exemption Section website at www.michigan.gov/propertytaxexemptions. Under “Commercial Rehabilitation Act,” click on “Qualified Retail Food Establishments.” Then click on “Eligibility Requirements,” which describes how to find the census tract that you are located in. Last, click on “Census Tracts Regarding Underserved Areas” for a listing of qualifying census tracts.

16. Can a Commercial Rehabilitation Exemption Certificate be transferred or amended?

Yes. MCL 207.853 allows a certificate to be transferred and assigned by the holder to a new owner of the qualified facility. The new owner must first apply and be approved by the qualified local governmental unit before the transfer may occur. A certificate may also be amended if the number of years initially exempted is less than 10. The certificate may then be subject to review by the legislative body of the qualified local governmental unit and be extended.

17. Can a Commercial Rehabilitation Exemption Certificate be revoked? If yes, who holds the authority to do so?

Yes. Pursuant to MCL 207.852, the legislative body of the qualified local governmental unit may, by resolution, revoke the Commercial Rehabilitation Exemption Certificate of a facility if it finds that the completion of rehabilitation of the qualified facility has not occurred within the time authorized by the legislative body in the exemption certificate or a duly authorized extension of that time, or that the holder of the Commercial Rehabilitation Exemption Certificate has not proceeded in good faith with the operation of the qualified facility in a manner consistent with the purposes of the act and in the absence of circumstances that are beyond control of the holder of the exemption certificate.

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18. When does the revocation of a Commercial Rehabilitation Exemption Certificate take effect?

The revocation of a Commercial Rehabilitation Exemption Certificate is effective the December 31st of the year in which the local governmental unit resolves to revoke the certificate.

19. What is the definition of a “Qualified Facility?”

A “Qualified Facility” is defined by MCL 207.842(h) as:

“A qualified retail food establishment or a building or group of contiguous buildings of commercial property that is 15 years old or older or has been allocated for a new market tax credit under section 45d of the internal revenue code, 26 USE 45d. Qualified facility also includes a building or a group of contiguous buildings, a portion of a building or group of contiguous buildings previously used for commercial or industrial purposes, obsolete industrial property, and vacant property which within the immediately preceding 15 years, was commercial property as defined in subdivision (a). Qualified facility shall also include vacant property located within a city with a population of more than 500,000 according to the most recent federal decennial census and from which a previous structure has been demolished and on which commercial property is or will be newly constructed provided an application for a certificate has been filed with that city before July 1, 2010. A qualified facility also includes a hotel or motel that has additional meeting or convention space that is attached to a convention and trade center that is over 250,000 square feet in size and that is located within a county with a population of more than 1,100,000 and less than 1,600,000 as of the most recent decennial census. A qualified facility **does not** include property that is to be used as a casino or a professional sports stadium. As used in this subdivision, “casino” means a casino or a parking lot, hotel, motel, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.” (Emphasis added)

20. How is “rehabilitation” defined as it pertains to the Commercial Rehabilitation Act?

MCL 207.842(j) defines rehabilitation as changes to qualified facilities that are required to restore or modify the property, together with all appurtenances, to an economically efficient condition. Rehabilitation includes major renovation and modification including, but not necessarily limited to, the improvement of floor loads, correction of deficient or

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excessive height, new or improved fixed building equipment including heating, ventilation, and lighting, reducing multistory facilities to 1 or 2 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. Rehabilitation also includes new construction of a qualified facility that is a hotel or motel that has additional meeting or convention space that is attached to a convention or trade center that is over 250,000 square feet in size, located within a county with a population of more than 1,100,000 and less than 1,600,000 as of the most recent decennial census, if that new construction is an economic benefit to the local community as determined by the qualified local governmental unit. Rehabilitation also includes new construction on vacant property from which a previous structure has been demolished and if that new construction is an economic benefit to the local community as determined by the qualified local governmental unit. Rehabilitation shall not include improvements aggregating less than 10% of the true cash value of the property at commencement of the rehabilitation of the qualified facility.

21. What is the definition of “Commercial Property?”

MCL 207.842(a) defines “Commercial Property” as:

“Land improvements classified by law for general ad valorem tax purposes as real property including real property assessable as personal property pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206; MCL 211.8 and 211.14, the primary purpose and use of which is the operation of a commercial business enterprise or multifamily residential use. Commercial property shall also include facilities related to a commercial business enterprise under the same ownership at that location, including, but not limited to, office, engineering, research and development, warehousing, parts distribution, retail sales, and other commercial activities. Commercial property also includes a building or group of contiguous buildings previously used for industrial purposes that will be converted to the operation of a commercial business enterprise. Commercial property **does not** include any of the following: land or property of a public utility.”
(Emphasis added)

22. What is a “Commercial Rehabilitation District?”

A “Commercial Rehabilitation District” or “district” is defined by MCL 207.842(b) as:

“an area not less than 3 acres in size of a qualified local governmental unit established as provided in section 3. However, if the commercial

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rehabilitation district is located in a downtown or business area or contains a qualified retail food establishment, as determined by the legislative body of the qualified local governmental unit, the district may be less than 3 acres in size.”

23. What is required of the Local Governmental Unit regarding the yearly status reporting of Commercial Rehabilitation Exemptions to the State Tax Commission?

MCL 207.854 provides that not later than October 15 of each year, each qualified local governmental unit granting a Commercial Rehabilitation Exemption shall report to the State Tax Commission on the status of each exemption. The report must include the current value of the property to which the exemption pertains, the value on which the commercial rehabilitation tax is based, and a current estimate of the number of jobs retained or created by the exemption, and the number of new residents.

24. Where can I obtain copies of previously issued Commercial Rehabilitation Exemption Certificates?

Copies of certificates acted upon by the State Tax Commission after January 1, 2013 are available on the Department of Treasury website at: www.michigan.gov/propertytaxexemptions. Choose the exemption program under which the certificate was issued. Within the “Certificate Activity” link, the certificates are listed according to the date they were acted upon.