

Resources

Legislation Introduced to Implement Special Rules Applicable to the Grant of a Commercial Facilities Property Tax Exemption for a LEED® Certified Facility

March 23, 2010

A package of bills sponsored by state Senators Jason Allen, Hansen Clarke and Patricia Birkholz, Senate Bills Nos. 1111, 1112 and 1113 was recently introduced in the Michigan Senate, which if enacted will implement special rules applicable to the grant of a commercial facilities property tax exemption under 1978 PA 255 for a LEED® certified facility. Under the bills, "LEED certified facility" means improvements to land (but not the land itself) classified by the general property tax act as real property, including certain real property assessable as personal property, for which a LEED certification has been received or for which LEED certification is being sought.

Major benefits of this proposed legislation for LEED certified facilities include:

- Exempting LEED certified facilities from the existing limitation that no more than 25 State Education Tax exclusions may be granted by the state treasurer under 1978 PA 255 in any year.
- Providing that a facilities exemption certificate issued for a LEED certified facility may be revoked only if the local governmental unit finds that the applicant submitted fraudulent evidence of LEED certification.
- Exempting LEED certified facilities from the otherwise applicable and potentially onerous requirements that (i) commencement of facility restoration, replacement or construction not occur before establishment of the commercial redevelopment district; and (ii) completion of the facility is calculated to and will have the reasonable likelihood to increase commercial activity, create employment, retain employment or prevent loss of employment in the community.
- Exempting LEED certified facilities from the limited facility uses that qualify for the commercial facilities exemption, specifically providing that a LEED certified facility is not required to be dedicated to any primary use or purpose and may include, without limitation, commercial, industrial, residential or mixed uses.
- Providing that a lease or title transfer of the facility will not affect a facilities exemption certificate issued for a LEED certified facility, providing that formal transfer or assignment of the facilities exemption certificate is not required to maintain the effectiveness of the certificate in the event of a facility lease or title transfer, and eliminating any requirement that approval of the local governmental unit be obtained in the event of a facility lease or title transfer.
- Providing a greater percentage millage reduction as the LEED certification level increases (i.e., lowest millage reduction for a LEED certified facility, and highest millage reduction for a LEED Platinum certified facility).

Authorizing a township with a population of 20,000 or more, in addition to a city or village as is currently the case, to issue a facilities exemption certificate for a LEED certified facility.

These bills were referred to the Senate Committee on Commerce and Tourism, chaired by Senator Allen. We will continue to monitor this legislation. In the meantime, for more information or if you have questions, please contact **Brian J. Page** at 616-776-7509, resident in Dykema's Grand Rapids office.

Read the text of these bills and follow their progress at the following links:
<http://www.legislature.mi.gov/doc.aspx/ma45xuz49z45/mileg.aspx?page=getObject&objectname=2010-SB-1111>

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