

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 705

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
by amending section 38c (MCL 208.38c), as amended by 1994 PA  
231.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 38c. (1) For the 1989 ~~through 1997 tax years~~ TAX  
2 YEAR AND EACH TAX YEAR AFTER THE 1989 TAX YEAR and subject to the  
3 limitations in ~~subsections (2), (3), and (5),~~ THIS SECTION, a  
4 taxpayer who does not claim a credit under section 261 of the  
5 income tax act of 1967, ~~Act No. 281 of the Public Acts of 1967,~~  
6 ~~being section 206.261 of the Michigan Compiled Laws~~ 1967 PA 281,  
7 MCL 206.261, may credit against the tax imposed by this act 50%  
8 of the amount the taxpayer contributes during the taxable year to  
9 an endowment fund of a community foundation. ~~or, for the 1992~~  
10 ~~through 1997 tax years and subject to the limitations in~~

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1 subsections (2) and (4), a taxpayer may credit against the tax  
2 imposed by this act 50% of the cash amount the taxpayer contrib-  
3 utes during the taxable year to a shelter for homeless persons,  
4 food kitchen, food bank, or other entity, the primary purpose of  
5 which is to provide overnight accommodation, food, or meals to  
6 persons who are indigent if a contribution to that entity is tax  
7 deductible for the donor under the internal revenue code.

8 (2) The credit allowed by this section ~~for a contribution~~  
9 ~~to a community foundation~~ shall not exceed 5% of the taxpayer's  
10 tax liability for the tax year before claiming any credits  
11 allowed by this act or \$5,000.00, whichever is less. ~~For tax~~  
12 ~~years beginning after December 31, 1991, a taxpayer may claim an~~  
13 ~~additional credit under this section not to exceed 5% of the~~  
14 ~~taxpayer's tax liability for the tax year before claiming any~~  
15 ~~credits allowed by this act or \$5,000.00, whichever is less, for~~  
16 ~~total cash contributions made in the tax year to shelters for~~  
17 ~~homeless persons, food kitchens, food banks, and, except for com-~~  
18 ~~munity foundations, other entities allowed under subsection (1).~~

19 (3) The ~~credits~~ CREDIT allowed by this section ~~are~~ IS  
20 nonrefundable so that a taxpayer shall not claim under this sec-  
21 tion a total credit amount that reduces the taxpayer's tax  
22 liability to less than zero.

23 (4) ~~(3)~~ As used in this section, "community foundation"  
24 means an organization that applies for certification on or before  
25 April 1 of the tax year for which the taxpayer is claiming the  
26 credit and that the department certifies for that tax year as  
27 meeting all of the following requirements:

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1 (a) Qualifies for exemption from federal income taxation  
2 under section 501(c)(3) of the internal revenue code. ~~—, 26~~  
3 ~~U.S.C. 501.~~

4 (b) Supports a broad range of charitable activities within  
5 the specific geographic area of this state that it serves, such  
6 as a municipality or county.

7 (c) Maintains an ongoing program to attract new endowment  
8 funds by seeking gifts and bequests from a wide range of poten-  
9 tial donors in the community or area served.

10 (d) Is publicly supported as defined by the regulations of  
11 the United States department of treasury, 26  
12 C.F.R. 1.170A-9(e)(10).

13 (e) Is not a supporting organization as defined under sec-  
14 tion 509(a)(3) of the internal revenue code and the regulations  
15 of the United States department of treasury, 26 C.F.R. 1.509(a)-4  
16 and 1.509(a)-5.

17 (f) Meets the requirements for treatment as a single entity  
18 contained in the regulations of the United States department of  
19 treasury, 26 C.F.R. 1.170A-9(e)(11).

20 (g) Is incorporated or established as a trust before  
21 September 1 of the year immediately preceding the tax year for  
22 which the credit is claimed.

23 ~~—(4) An entity other than a community foundation may request~~  
24 ~~that the department determine if a contribution to that entity~~  
25 ~~qualifies for the credit under this section. The department~~  
26 ~~shall make a determination and respond to a request no later than~~  
27 ~~30 days after the department receives the request.~~

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1 (5) On or before July 1 of each year, the department shall  
2 report to the house of representatives committee on taxation and  
3 the senate committee on finance the total amount of tax credits  
4 claimed under this section and under section 261 of the income  
5 tax act of 1967, ~~Act No. 281 of the Public Acts of 1967~~ 1967 PA  
6 281, MCL 206.261, for the immediately preceding tax year.

7 Enacting section 1. This amendatory act does not take  
8 effect unless House Bill No. 4091 of the 89th Legislature is  
9 enacted into law.