

**SUBSTITUTE FOR
SENATE BILL NO. 889**

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 266 (MCL 206.266), as added by 1998 PA 535.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 266. (1) ~~For the 1999 tax year through the 2002 tax~~
2 ~~year, a~~ A qualified taxpayer WITH A REHABILITATION PLAN CERTI-
3 FIED AFTER DECEMBER 31, 1998 AND BEFORE JANUARY 1, 2003 may
4 credit against the tax imposed by this act the amount determined
5 pursuant to subsection (2) for the qualified expenditures for the
6 rehabilitation of a historic resource pursuant to ~~a~~ THE reha-
7 bilitation plan in ~~1 of the following time periods:~~ THE YEAR IN
8 WHICH THE CERTIFICATION OF COMPLETED REHABILITATION OF THE HIS-
9 TORIC RESOURCE IS ISSUED PROVIDED THAT THE CERTIFICATION OF
10 COMPLETED REHABILITATION WAS ISSUED NOT MORE THAN 5 YEARS AFTER

1 THE REHABILITATION PLAN WAS CERTIFIED BY THE MICHIGAN HISTORICAL
2 CENTER.

3 ~~(a) The year in which the rehabilitated historic resource~~
4 ~~is placed in service.~~

5 ~~(b) The year in which a final payment of qualified expendi-~~
6 ~~tures is made if the project is a phased project and construction~~
7 ~~is planned for 2 to 5 years.~~

8 (2) The credit allowed under this section shall be 25% of
9 the qualified expenditures that are eligible for the credit under
10 section 47(a)(2) of the internal revenue code if the taxpayer is
11 eligible for the credit under section 47(a)(2) of the internal
12 revenue code or, IF THE TAXPAYER IS NOT ELIGIBLE FOR THE CREDIT
13 UNDER SECTION 47(a)(2) OF THE INTERNAL REVENUE CODE, 25% of the
14 qualified expenditures that ~~are eligible for the credit under~~
15 ~~this act if the taxpayer is not eligible for the credit under~~
16 ~~section 47(a)(2) of the internal revenue code~~ WOULD QUALIFY
17 UNDER SECTION 47(a)(2) OF THE INTERNAL REVENUE CODE EXCEPT THAT
18 THE EXPENDITURES ARE MADE TO A HISTORIC RESOURCE THAT IS NOT ELI-
19 GIBLE FOR THE CREDIT UNDER SECTION 47(a)(2) OF THE INTERNAL REVE-
20 NUE CODE, subject to both of the following:

21 (a) A taxpayer with qualified expenditures that are eligible
22 for the credit under section 47(a)(2) of the internal revenue
23 code may not claim a credit under this section for those quali-
24 fied expenditures unless the taxpayer has claimed and received a
25 credit for those qualified expenditures under section 47(a)(2) of
26 the internal revenue code.

1 (b) A credit under this section shall be reduced by the
2 amount of a credit received by the taxpayer for the same
3 qualified expenditures under section 47(a)(2) of the internal
4 revenue code.

5 (3) To be eligible for the credit under this section, the
6 taxpayer shall apply to and receive from the Michigan historical
7 center certification that the historic significance, the rehabil-
8 itation plan, and the completed rehabilitation of the historic
9 resource meet the criteria under subsection (6) and either of the
10 following:

11 (a) All of the following criteria:

12 (i) The historic resource contributes to the significance of
13 the historic district in which it is located.

14 (ii) Both the rehabilitation plan and completed rehabilita-
15 tion of the historic resource meet the federal secretary of the
16 interior's standards for rehabilitation and guidelines for reha-
17 bilitating historic buildings, 36 C.F.R. 67.

18 (iii) All rehabilitation work has been done to or within the
19 walls, boundaries, or structures of the historic resource or to
20 historic resources located within the property boundaries of the
21 resource.

22 (b) The taxpayer has received certification from the
23 national park service that the historic resource's significance,
24 the rehabilitation plan, and the completed rehabilitation qualify
25 for the credit allowed under section 47(a)(2) of the internal
26 revenue code.

1 (4) If a qualified taxpayer is eligible for the credit
2 allowed under section 47(a)(2) of the internal revenue code, the
3 qualified taxpayer shall file for certification with the center
4 to qualify for the credit allowed under section 47(a)(2) of the
5 internal revenue code. If the qualified taxpayer has previously
6 filed for certification with the center to qualify for the credit
7 allowed under section 47(a)(2) of the internal revenue code,
8 additional filing for the credit allowed under this section is
9 not required.

10 (5) The center may inspect a historic resource at any time
11 during the rehabilitation process and may revoke certification OF
12 COMPLETED REHABILITATION if the rehabilitation was not undertaken
13 as represented in the rehabilitation plan or if unapproved alter-
14 ations to the completed rehabilitation are made during the 5
15 years after the tax year in which the credit was claimed. The
16 center shall promptly notify the department of a revocation.

17 (6) Qualified expenditures for the rehabilitation of a his-
18 toric resource may be used to calculate the credit under this
19 section if the historic resource meets 1 of the criteria listed
20 in subdivision (a) and 1 of the criteria listed in subdivision
21 (b):

22 (a) The resource is 1 of the following during the tax year
23 in which a credit under this section is claimed for those quali-
24 fied expenditures:

25 (i) Individually listed on the national register of historic
26 places or state register of historic sites.

1 (ii) A contributing resource located within a historic
2 district listed on the national register of historic places or
3 the state register of historic sites.

4 (iii) A contributing resource located within a historic dis-
5 trict designated by a local unit pursuant to an ordinance adopted
6 under the local historic districts act, 1970 PA 169, MCL 399.201
7 to 399.215.

8 (b) The resource meets 1 of the following criteria during
9 the tax year in which a credit under this section is claimed for
10 those qualified expenditures:

11 (i) The historic resource is located in a designated his-
12 toric district in a local unit of government with an existing
13 ordinance under the local historic districts act, 1970 PA 169,
14 MCL 399.201 to 399.215.

15 (ii) The historic resource is located in an incorporated
16 local unit of government that does not have an ordinance under
17 the local historic districts act, 1970 PA 169, MCL 399.201 to
18 399.215, and has a population of less than 5,000.

19 (iii) The historic resource is located in an unincorporated
20 local unit of government.

21 (7) A CREDIT AMOUNT ASSIGNED UNDER SECTION 39C(7) OF THE
22 SINGLE BUSINESS TAX ACT, 1975 PA 228, MCL 208.39C, MAY BE CLAIMED
23 AGAINST THE PARTNER'S, MEMBER'S, OR SHAREHOLDER'S TAX LIABILITY
24 UNDER THIS ACT AS PROVIDED IN SECTION 37C(7) OF THE SINGLE BUSI-
25 NESS TAX ACT, 1975 PA 228, MCL 208.39C.

26 (8) ~~—(7)—~~ If the credit allowed under this section for the
27 tax year and any unused carryforward of the credit allowed by

1 this section exceed the taxpayer's tax liability for the tax
2 year, that portion that exceeds the tax liability for the tax
3 year shall not be refunded but may be carried forward to offset
4 tax liability in subsequent tax years for 10 years or until used
5 up, whichever occurs first. A CARRYFORWARD UNDER THIS SUBSECTION
6 MAY BE CLAIMED IN TAX YEARS AFTER THE 2002 TAX YEAR FOR A CREDIT
7 BASED ON A REHABILITATION PLAN CERTIFIED BEFORE JANUARY 1, 2003.

8 (9) ~~-(8)-~~ If the taxpayer sells a historic resource for
9 which a credit under this section was claimed less than 5 years
10 after the year in which the credit was claimed, the following
11 percentage of the credit amount previously claimed relative to
12 that HISTORIC resource shall be added back to the tax liability
13 of the taxpayer in the year of the sale:

14 (a) If the sale is less than 1 year after the year in which
15 the credit was claimed, 100%.

16 (b) If the sale is at least 1 year but less than 2 years
17 after the year in which the credit was claimed, 80%.

18 (c) If the sale is at least 2 years but less than 3 years
19 after the year in which the credit was claimed, 60%.

20 (d) If the sale is at least 3 years but less than 4 years
21 after the year in which the credit was claimed, 40%.

22 (e) If the sale is at least 4 years but less than 5 years
23 after the year in which the credit was claimed, 20%.

24 (f) If the sale is 5 years or more after the year in which
25 the credit was claimed, an addback to the taxpayer's tax liabil-
26 ity shall not be made.

1 (10) IF A CERTIFICATION OF COMPLETED REHABILITATION IS
2 REVOKED UNDER SUBSECTION (5) LESS THAN 5 YEARS AFTER THE YEAR IN
3 WHICH A CREDIT WAS CLAIMED, THE FOLLOWING PERCENTAGE OF THE
4 CREDIT AMOUNT PREVIOUSLY CLAIMED RELATIVE TO THAT HISTORIC
5 RESOURCE SHALL BE ADDED BACK TO THE TAX LIABILITY OF THE TAXPAYER
6 IN THE YEAR OF THE REVOCATION:

7 (A) IF THE REVOCATION IS LESS THAN 1 YEAR AFTER THE YEAR IN
8 WHICH THE CREDIT WAS CLAIMED, 100%.

9 (B) IF THE REVOCATION IS AT LEAST 1 YEAR BUT LESS THAN 2
10 YEARS AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED, 80%.

11 (C) IF THE REVOCATION IS AT LEAST 2 YEARS BUT LESS THAN 3
12 YEARS AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED, 60%.

13 (D) IF THE REVOCATION IS AT LEAST 3 YEARS BUT LESS THAN 4
14 YEARS AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED, 40%.

15 (E) IF THE REVOCATION IS AT LEAST 4 YEARS BUT LESS THAN 5
16 YEARS AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED, 20%.

17 (F) IF THE REVOCATION IS 5 YEARS OR MORE AFTER THE YEAR IN
18 WHICH THE CREDIT WAS CLAIMED, AN ADDBACK TO THE TAXPAYER'S TAX
19 LIABILITY SHALL NOT BE MADE.

20 (11) ~~-(9)-~~ The department of state through the Michigan his-
21 torical center may impose a fee to cover the administrative cost
22 of implementing the program under this section.

23 (12) ~~-(10)- An individual who claims a credit under this sec-~~
24 ~~tion shall not report the credit amount on the individual's~~
25 ~~annual return filed under this act, but shall claim the credit on~~
26 ~~a separate form prescribed by the department. The taxpayer shall~~
27 ~~attach the certificate~~ CERTIFICATION of completed ~~work and~~

1 ~~certificate~~ REHABILITATION, CERTIFICATION of historic
2 significance related to the historic resource and the qualified
3 expenditures used to claim a credit under this section, AND A
4 COMPLETED ASSIGNMENT FORM IF THE THE TAXPAYER IS AN ASSIGNEE
5 UNDER SECTION 39C OF THE SINGLE BUSINESS TAX ACT, 1975 PA 228,
6 MCL 208.39C, OF ANY PORTION OF A CREDIT to ~~the form~~ HIS OR HER
7 ANNUAL RETURN REQUIRED UNDER THIS ACT on which the credit is
8 claimed.

9 (13) ~~(11) Within 6 months after the effective date of the~~
10 ~~amendatory act that added this section~~ NOT LATER THAN JULY 19,
11 1999, the department of state shall submit rules to implement
12 this section for public hearing pursuant to the administrative
13 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

14 (14) ~~(12)~~ The total of the credits claimed ~~by a taxpayer~~
15 under this section and section 39c of the single business tax
16 act, 1975 PA 228, MCL 208.39c, FOR A REHABILITATION PROJECT shall
17 not exceed 25% OF the total qualified expenditures eligible for
18 the credit under this section ~~of the taxpayer~~ FOR THAT REHABIL-
19 ITATION PROJECT.

20 (15) ~~(13)~~ The department of state through the Michigan
21 historical center shall report all of the following to the legis-
22 lature annually for the immediately preceding state fiscal year:

23 (a) The fee schedule used by the center and the total amount
24 of fees collected.

25 (b) A description of each REHABILITATION project certified.

26 (c) The location of each new and ongoing REHABILITATION
27 project.

1 (16) ~~—(14)—~~ As used in this section:

2 (a) "Contributing resource" means a historic resource that
3 contributes to the significance of the historic district in which
4 it is located.

5 (b) "Historic district" means an area, or group of areas not
6 necessarily having contiguous boundaries, that contains 1
7 resource or a group of resources that are related by history,
8 architecture, archaeology, engineering, or culture.

9 (c) "Historic resource" ~~—or—"resource"—~~ means a publicly or
10 privately owned historic building, structure, site, object, fea-
11 ture, or open space located within a historic district designated
12 by the national register of historic places, the state register
13 of historic sites, or a local unit acting under the local his-
14 toric districts act, 1970 PA 169, MCL 399.201 to 399.215; or that
15 is individually listed on the state register of historic sites or
16 national register of historic places and includes all of the
17 following:

18 (i) An owner-occupied personal residence or a historic
19 resource located within the property boundaries of that personal
20 residence.

21 (ii) An income-producing commercial, industrial, or residen-
22 tial resource or a historic resource located within the property
23 boundaries of that resource.

24 (iii) A resource owned by a governmental body, nonprofit
25 organization, or tax-exempt entity that is used primarily by a
26 taxpayer lessee in a trade or business unrelated to the

1 governmental body, nonprofit organization, or tax-exempt entity
2 and that is subject to tax under this act.

3 (iv) A resource that is occupied or utilized by a governmen-
4 tal body, nonprofit organization, or tax-exempt entity pursuant
5 to a long-term lease or lease with option to buy agreement.

6 (v) Any other resource that could benefit from
7 rehabilitation.

8 (d) "Local unit" means a county, city, village, or
9 township.

10 (e) "Long-term lease" means a lease term of at least 27.5
11 years for a residential resource or at least 31.5 years for a
12 nonresidential resource.

13 (f) "Michigan historical center" or "center" means the state
14 historic preservation office of the Michigan historical center of
15 the department of state or its successor agency.

16 (g) "Open space" means undeveloped land, a naturally land-
17 scaped area, or a formal or man-made landscaped area that pro-
18 vides a connective link or a buffer between other resources.

19 (h) "Person" means an individual, partnership, corporation,
20 association, governmental entity, or other legal entity.

21 (i) "Qualified expenditures" means capital expenditures that
22 qualify for a rehabilitation credit under section 47(a)(2) of the
23 internal revenue code if the taxpayer is eligible for the credit
24 under section 47(a)(2) of the internal revenue code or, IF THE
25 TAXPAYER IS NOT ELIGIBLE FOR THE CREDIT UNDER SECTION 47(a)(2) OF
26 THE INTERNAL REVENUE CODE, the qualified expenditures that ~~are~~
27 ~~eligible for the credit under this act if the taxpayer is not~~

~~1 eligible for the credit under section 47(a)(2) of the internal~~
~~2 revenue code~~ WOULD QUALIFY UNDER SECTION 47(a)(2) OF THE INTER-
3 NAL REVENUE CODE EXCEPT THAT THE EXPENDITURES ARE MADE TO A HIS-
4 TORIC RESOURCE THAT IS NOT ELIGIBLE FOR THE CREDIT UNDER SECTION
5 47(a)(2) OF THE INTERNAL REVENUE CODE, that were paid not more
6 than 5 years after the ~~initial~~ certification of the rehabilita-
7 tion plan that included those expenditures was approved by the
8 center, and that were paid after December 31, 1998 for the reha-
9 bilitation of a historic resource. Qualified expenditures do not
10 include capital expenditures for nonhistoric additions to a
11 HISTORIC resource except an addition that is required by state or
12 federal regulations that relate to historic preservation, safety,
13 or accessibility. EXPENDITURES MADE AFTER DECEMBER 31, 2002 AND
14 NOT MORE THAN 5 YEARS AFTER THE CERTIFICATION OF THE REHABILITA-
15 TION PLAN ARE QUALIFIED EXPENDITURES ONLY IF THE REHABILITATION
16 PLAN RECEIVED CERTIFICATION BY THE MICHIGAN HISTORICAL CENTER
17 BEFORE JANUARY 1, 2003.

18 (j) "Qualified taxpayer" means a person that IS AN ASSIGNEE
19 UNDER SECTION 39C OF THE SINGLE BUSINESS TAX ACT, 1975 PA 228,
20 MCL 208.39C, OR EITHER owns the resource to be rehabilitated or
21 ~~that~~ has a long-term lease agreement with the owner of the
22 HISTORIC resource and that has qualified expenditures for the
23 rehabilitation of the HISTORIC resource equal to or greater than
24 10% of the state equalized valuation of the property. If the
25 historic resource to be rehabilitated is a portion of a historic
26 or nonhistoric resource, the state equalized valuation of only
27 that portion of the property shall be used for purposes of this

1 subdivision. If the assessor for the local tax collecting unit
2 in which the historic resource is located determines the state
3 equalized valuation of that portion, that assessor's determina-
4 tion shall be used for purposes of this subdivision. If the
5 assessor does not determine that state equalized valuation of
6 that portion, qualified expenditures, for purposes of this subdivi-
7 vision, shall be equal to or greater than 5% of the appraised
8 value as determined by a certified appraiser. IF THE HISTORIC
9 RESOURCE TO BE REHABILITATED DOES NOT HAVE A STATE EQUALIZED VAL-
10 UATION, QUALIFIED EXPENDITURES FOR PURPOSES OF THIS SUBDIVISION
11 SHALL BE EQUAL TO OR GREATER THAN 5% OF THE APPRAISED VALUE OF
12 THE RESOURCE AS DETERMINED BY A CERTIFIED APPRAISER.

13 (k) "Rehabilitation plan" means a plan for the rehabilita-
14 tion of a historic resource that meets the federal secretary of
15 the interior's standards for rehabilitation and guidelines for
16 rehabilitation of historic buildings under 36 C.F.R. 67.