

SENATE BILL No. 889

November 10, 1999, Introduced by Senator SCHWARZ and referred to the Committee on Finance.

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 qualified taxpayer may credit against the tax imposed by
3 this act the amount determined pursuant to subsection (2) for the
4 qualified expenditures for the rehabilitation of a historic
5 resource pursuant to a rehabilitation plan in 1 of the following
6 time periods BUT ONLY IF THE PROJECT BEGAN BEFORE JANUARY 1,
7 2003:

8 (a) The year in which the rehabilitated historic resource is
9 placed in service.

1 (b) The year in which a final payment of qualified
2 expenditures is made if the project is a phased project and
3 construction is planned for 2 to 5 years.

4 (2) The credit allowed under this section shall be 25% of
5 the qualified expenditures that are eligible for the credit under
6 section 47(a)(2) of the internal revenue code if the taxpayer is
7 eligible for the credit under section 47(a)(2) of the internal
8 revenue code or 25% of the qualified expenditures that are eligi-
9 ble for the credit under this act if the taxpayer is not eligible
10 for the credit under section 47(a)(2) of the internal revenue
11 code, subject to both of the following:

12 (a) A taxpayer with qualified expenditures that are eligible
13 for the credit under section 47(a)(2) of the internal revenue
14 code may not claim a credit under this section for those quali-
15 fied expenditures unless the taxpayer has claimed and received a
16 credit for those qualified expenditures under section 47(a)(2) of
17 the internal revenue code.

18 (b) A credit under this section shall be reduced by the
19 amount of a credit received by the taxpayer for the same quali-
20 fied expenditures under section 47(a)(2) of the internal revenue
21 code.

22 (3) To be eligible for the credit under this section, the
23 taxpayer shall apply to and receive from the Michigan historical
24 center certification that the historic significance, the rehabil-
25 itation plan, and the completed rehabilitation of the historic
26 resource meet the criteria under subsection (6) and either of the
27 following:

1 (a) All of the following criteria:

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

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

8 (iii) All rehabilitation work has been done to or within the
9 walls, boundaries, or structures of the historic resource or to
10 historic resources located within the property boundaries of the
11 resource.

12 (b) The taxpayer has received certification from the
13 national park service that the historic resource's significance,
14 the rehabilitation plan, and the completed rehabilitation qualify
15 for the credit allowed under section 47(a)(2) of the internal
16 revenue code.

17 (4) If a qualified taxpayer is eligible for the credit
18 allowed under section 47(a)(2) of the internal revenue code, the
19 qualified taxpayer shall file for certification with the center
20 to qualify for the credit allowed under section 47(a)(2) of the
21 internal revenue code. If the qualified taxpayer has previously
22 filed for certification with the center to qualify for the credit
23 allowed under section 47(a)(2) of the internal revenue code,
24 additional filing for the credit allowed under this section is
25 not required.

26 (5) The center may inspect a historic resource at any time
27 during the rehabilitation process and may revoke certification if

1 the rehabilitation was not undertaken as represented in the
2 rehabilitation plan or if unapproved alterations to the completed
3 rehabilitation are made during the 5 years after the tax year in
4 which the credit was claimed. The center shall promptly notify
5 the department of a revocation.

6 (6) Qualified expenditures for the rehabilitation of a his-
7 toric resource may be used to calculate the credit under this
8 section if the historic resource meets 1 of the criteria listed
9 in subdivision (a) and 1 of the criteria listed in subdivision
10 (b):

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

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

16 (ii) A contributing resource located within a historic dis-
17 trict listed on the national register of historic places or the
18 state register of historic sites.

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

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

26 (i) The historic resource is located in a designated
27 historic district in a local unit of government with an existing

1 ordinance under the local historic districts act, 1970 PA 169,
2 MCL 399.201 to 399.215.

3 (ii) The historic resource is located in an incorporated
4 local unit of government that does not have an ordinance under
5 the local historic districts act, 1970 PA 169, MCL 399.201 to
6 399.215, and has a population of less than 5,000.

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

9 (7) If the credit allowed under this section for the tax
10 year and any unused carryforward of the credit allowed by this
11 section exceed the taxpayer's tax liability for the tax year,
12 that portion that exceeds the tax liability for the tax year
13 shall not be refunded but may be carried forward to offset tax
14 liability in subsequent tax years for 10 years or until used up,
15 whichever occurs first. A CARRYFORWARD UNDER THIS SUBSECTION MAY
16 BE CLAIMED IN TAX YEARS AFTER THE 2002 TAX YEAR FOR A CREDIT
17 BASED ON A PROJECT THAT BEGAN BEFORE JANUARY 1, 2003.

18 (8) If the taxpayer sells a historic resource for which a
19 credit under this section was claimed less than 5 years after the
20 year in which the credit was claimed, the following percentage of
21 the credit amount previously claimed relative to that resource
22 shall be added back to the tax liability of the taxpayer in the
23 year of the sale:

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

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

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

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

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

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

10 (9) IF A CERTIFICATE IS REVOKED UNDER SUBSECTION (5) AFTER A
11 CREDIT UNDER THIS SECTION WAS CLAIMED LESS THAN 5 YEARS AFTER THE
12 YEAR IN WHICH THE CREDIT WAS CLAIMED, THE FOLLOWING PERCENTAGE OF
13 THE CREDIT AMOUNT PREVIOUSLY CLAIMED RELATIVE TO THAT RESOURCE
14 SHALL BE ADDED BACK TO THE TAX LIABILITY OF THE TAXPAYER IN THE
15 YEAR OF THE SALE:

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

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

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

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

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

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

4 (10) ~~-(9)-~~ The department of state through the Michigan his-
5 torical center may impose a fee to cover the administrative cost
6 of implementing the program under this section.

7 (11) ~~-(10)- An individual who claims a credit under this sec-~~
8 ~~tion shall not report the credit amount on the individual's~~
9 ~~annual return filed under this act, but shall claim the credit on~~
10 ~~a separate form prescribed by the department.~~ The taxpayer shall
11 attach the certificate of completed work and certificate of his-
12 toric significance related to the historic resource and the qual-
13 ified expenditures used to claim a credit under this section to
14 ~~the form~~ HIS OR HER ANNUAL RETURN REQUIRED UNDER THIS ACT on
15 which the credit is claimed.

16 (12) ~~-(11)- Within 6 months after the effective date of the~~
17 ~~amendatory act that added this section~~ NOT LATER THAN JULY 19,
18 1999, the department of state shall submit rules to implement
19 this section for public hearing pursuant to the administrative
20 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

21 (13) ~~-(12)-~~ The total of the credits claimed by a taxpayer
22 under this section and section 39c of the single business tax
23 act, 1975 PA 228, MCL 208.39c, FOR A SINGLE PROJECT shall not
24 exceed 25% OF the total qualified expenditures eligible for the
25 credit under this section of the taxpayer FOR THAT SINGLE
26 PROJECT.

1 (14) ~~—(13)—~~ The department of state through the Michigan
2 historical center shall report all of the following to the
3 legislature annually for the immediately preceding state fiscal
4 year:

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

7 (b) A description of each project certified.

8 (c) The location of each new and ongoing project.

9 (15) ~~—(14)—~~ As used in this section:

10 (a) "Contributing resource" means a historic resource that
11 contributes to the significance of the historic district in which
12 it is located.

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

17 (c) "Historic resource" or "resource" means a publicly or
18 privately owned historic building, structure, site, object, fea-
19 ture, or open space located within a historic district designated
20 by the national register of historic places, the state register
21 of historic sites, or a local unit acting under the local his-
22 toric districts act, 1970 PA 169, MCL 399.201 to 399.215; or that
23 is individually listed on the state register of historic sites or
24 national register of historic places and includes all of the
25 following:

1 (i) An owner-occupied personal residence or a historic
2 resource located within the property boundaries of that personal
3 residence.

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

7 (iii) A resource owned by a governmental body, nonprofit
8 organization, or tax-exempt entity that is used primarily by a
9 taxpayer lessee in a trade or business unrelated to the govern-
10 mental body, nonprofit organization, or tax-exempt entity and
11 that is subject to tax under this act.

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

15 (v) Any other resource that could benefit from
16 rehabilitation.

17 (d) "Local unit" means a county, city, village, or
18 township.

19 (e) "Long-term lease" means a lease term of at least 27.5
20 years for a residential resource or at least 31.5 years for a
21 nonresidential resource.

22 (f) "Michigan historical center" or "center" means the state
23 historic preservation office of the Michigan historical center of
24 the department of state or its successor agency.

25 (g) "Open space" means undeveloped land, a naturally land-
26 scaped area, or a formal or man-made landscaped area that
27 provides a connective link or a buffer between other resources.

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

3 (i) "Qualified expenditures" means capital expenditures that
4 qualify for a rehabilitation credit under section 47(a)(2) of the
5 internal revenue code if the taxpayer is eligible for the credit
6 under section 47(a)(2) of the internal revenue code or the quali-
7 fied expenditures that are eligible for the credit under this act
8 if the taxpayer is not eligible for the credit under section
9 47(a)(2) of the internal revenue code, that were paid not more
10 than 5 years after the initial certification of the rehabilita-
11 tion plan that included those expenditures was approved by the
12 center, and that were paid after December 31, 1998 for the reha-
13 bilitation of a historic resource. Qualified expenditures do not
14 include capital expenditures for nonhistoric additions to a
15 resource except an addition that is required by state or federal
16 regulations that relate to historic preservation, safety, or
17 accessibility.

18 (j) "Qualified taxpayer" means a person that owns the
19 resource to be rehabilitated or that has a long-term lease agree-
20 ment with the owner of the resource and that has qualified expen-
21 ditures for the rehabilitation of the resource equal to or
22 greater than 10% of the state equalized valuation of the
23 property. If the historic resource to be rehabilitated is a por-
24 tion of a historic or nonhistoric resource, the state equalized
25 valuation of only that portion of the property shall be used for
26 purposes of this subdivision. If the assessor for the local tax
27 collecting unit in which the historic resource is located

1 determines the state equalized valuation of that portion, that
2 assessor's determination shall be used for purposes of this
3 subdivision. If the assessor does not determine that state
4 equalized valuation of that portion, qualified expenditures, for
5 purposes of this subdivision, shall be equal to or greater than
6 5% of the appraised value as determined by a certified
7 appraiser. IF THE HISTORIC RESOURCE TO BE REHABILITATED DOES NOT
8 HAVE A STATE EQUALIZED VALUATION, QUALIFIED EXPENDITURES FOR PUR-
9 POSES OF THIS SUBDIVISION SHALL BE EQUAL TO OR GREATER THAN 5% OF
10 THE APPRAISED VALUE OF THE RESOURCE AS DETERMINED BY A CERTIFIED
11 APPRAISER.

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