

Act No. 195  
Public Acts of 2000  
Approved by the Governor  
June 22, 2000  
Filed with the Secretary of State  
June 22, 2000  
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**STATE OF MICHIGAN  
90TH LEGISLATURE  
REGULAR SESSION OF 2000**

**Introduced by Senators Schuette, Johnson, Hammerstrom, Goschka, McCotter, Bennett, Sikkema, Shugars, Dunaskiss, Steil, Bullard, Stille, Hoffman, North, McManus, Peters, Leland, Vaughn, Cherry, DeBeaussaert, A. Smith, Byrum, Hart, Schwarz, Emerson, Jaye, Gougeon, Bennett, Steil, Van Regenmorter, McCotter, Emmons and Miller**

# **ENROLLED SENATE BILL No. 796**

AN ACT to amend 1967 PA 281, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," by amending section 261 (MCL 206.261), as amended by 1996 PA 484.

*The People of the State of Michigan enact:*

Sec. 261. (1) For the 1989 tax year and each tax year after 1989 and subject to the applicable limitations in this section, a taxpayer may credit against the tax imposed by this act 50% of the amount the taxpayer contributes during the tax year to an endowment fund of a community foundation or for the 1992 tax year and each tax year after 1992 and subject to the applicable limitations in this section, a taxpayer may credit against the tax imposed by this act 50% of the cash amount the taxpayer contributes during the tax year to a shelter for homeless persons, food kitchen, food bank, or other entity located in this state, the primary purpose of which is to provide overnight accommodation, food, or meals to persons who are indigent if a contribution to that entity is tax deductible for the donor under the internal revenue code.

(2) For a taxpayer other than a resident estate or trust, the credit allowed by this section for a contribution to a community foundation shall not exceed \$100.00, or \$200.00 for a husband and wife filing a joint return for tax years before the 2000 tax year and \$100.00 or \$200.00 for a husband and wife filing a joint return for tax years after the 1999 tax year. For the 1992 tax year and each tax year after 1992, a taxpayer may claim an additional credit under this

section not to exceed \$100.00, or \$200.00 for a husband and wife filing a joint return, for total cash contributions made in the tax year to shelters for homeless persons, food kitchens, food banks, and, except for community foundations, other entities allowed under subsection (1). For a resident estate or trust, the credit allowed by this section for a contribution to a community foundation shall not exceed 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less. For the 1992 tax year and each tax year after 1992, a resident estate or trust may claim an additional credit under this section not to exceed 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less, for total cash contributions made in the tax year to shelters for homeless persons, food kitchens, food banks, and, except for community foundations, other entities allowed under subsection (1). For a resident estate or trust, the amount used to calculate the credits under this section shall not have been deducted in arriving at federal taxable income.

(3) The credits allowed under this section are nonrefundable so that a taxpayer shall not claim under this section a total credit amount that reduces the taxpayer's tax liability to less than zero.

(4) As used in this section, "community foundation" means an organization that applies for certification on or before May 15 of the tax year for which the taxpayer is claiming the credit and that the department certifies for that tax year as meeting all of the following requirements:

(a) Qualifies for exemption from federal income taxation under section 501(c)(3) of the internal revenue code.

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

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

(d) Is publicly supported as defined by the regulations of the United States department of treasury, 26 C.F.R. 1.170A-9(e)(10). To maintain certification, the community foundation shall submit documentation to the department annually that demonstrates compliance with this subdivision.

(e) Is not a supporting organization as an organization is described in section 509(a)(3) of the internal revenue code and the regulations of the United States department of treasury, 26 C.F.R. 1.509(a)-4 and 1.509(a)-5.

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

(g) Except as provided in subsection (6), is incorporated or established as a trust at least 6 months before the beginning of the tax year for which the credit under this section is claimed and that has an endowment value of at least \$100,000.00 before the expiration of 18 months after the community foundation is incorporated or established.

(h) Has an independent governing body representing the general public's interest and that is not appointed by a single outside entity.

(i) Provides evidence to the department that the community foundation has, before the expiration of 6 months after the community foundation is incorporated or established, and maintains continually during the tax year for which the credit under this section is claimed, at least 1 part-time or full-time employee.

(j) For community foundations that have an endowment value of \$1,000,000.00 or more only, the community foundation is subject to an annual independent financial audit and provides copies of that audit to the department not more than 3 months after the completion of the audit. For community foundations that have an endowment value of less than \$1,000,000.00, the community foundation is subject to an annual review and an audit every third year.

(k) In addition to all other criteria listed in this subsection for a community foundation that is incorporated or established after the effective date of the amendatory act that added this subdivision, operates in a county of this state that was not served by a community foundation when the community foundation was incorporated or established or operates as a geographic component of an existing certified community foundation.

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

(6) A taxpayer may claim a credit under this section for contributions to a community foundation made before the expiration of the 18-month period after a community foundation was incorporated or established during which the community foundation must build an endowment value of \$100,000.00 as provided in subsection (4)(g). If the community foundation does not reach the required \$100,000.00 endowment value during that 18-month period, contributions to the community foundation made after the date on which the 18-month period expires shall not be used to calculate a credit under this section. At any time after the expiration of the 18-month period under subsection (4)(g) that the community foundation has an endowment value of \$100,000.00, the community foundation may apply to the department for certification under this section.

(7) On or before July 1 of each year, the department shall report to the house committee on tax policy and the senate finance committee the total amount of tax credits claimed under this section and under section 38c of the single business tax act, 1975 PA 228, MCL 208.38c, for the immediately preceding tax year.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate.

*Sam E. Randall*

Clerk of the House of Representatives.

Approved .....

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Governor.