

# HOUSE BILL No. 4947

June 13, 2001, Introduced by Reps. Bishop, Vear and Stewart and referred to the Committee on Commerce.

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
by amending section 39c (MCL 208.39c), as amended by 1999  
PA 213.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 39c. (1) A qualified taxpayer with a rehabilitation  
2 plan certified after December 31, 1998 and before January 1, 2003  
3 may credit against the tax imposed by this act the amount deter-  
4 mined pursuant to subsection (2) for the qualified expenditures  
5 for the rehabilitation of a historic resource pursuant to the  
6 rehabilitation plan in the year in which the certification of  
7 completed rehabilitation of the historic resource is issued pro-  
8 vided that the certification of completed rehabilitation was  
9 issued not more than 5 years after the rehabilitation plan was  
10 certified by the Michigan historical center.

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1       (2) The credit allowed under this section shall be 25% of  
2 the qualified expenditures that are eligible for the credit under  
3 section 47(a)(2) of the internal revenue code if the taxpayer is  
4 eligible for the credit under section 47(a)(2) of the internal  
5 revenue code or, if the taxpayer is not eligible for the credit  
6 under 47(a)(2) of the internal revenue code, 25% of the qualified  
7 expenditures that would qualify under section 47(a)(2) of the  
8 internal revenue code except that the expenditures are made to a  
9 historic resource that is not eligible for the credit under sec-  
10 tion 47(a)(2) of the internal revenue code, subject to both of  
11 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:

(a) All of the following criteria:

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

(ii) Both the rehabilitation plan and completed rehabilitation of the historic resource meet the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 C.F.R. PART 67.

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

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

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

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

1 completed rehabilitation if the rehabilitation was not undertaken  
2 as represented in the rehabilitation plan or if unapproved alter-  
3 ations to the completed rehabilitation are made during the 5  
4 years after the tax year in which the credit was claimed. The  
5 center shall promptly notify 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 a qualified taxpayer is a partnership, limited  
10 liability company, or subchapter S corporation, the qualified  
11 taxpayer may assign all or any portion of a credit allowed under  
12 this section to its partners, members, or shareholders, based on  
13 the partner's, member's, or shareholder's proportionate share of  
14 ownership or based on an alternative method approved by the  
15 department. A credit assignment under this subsection is irrevocable  
16 and shall be made in the tax year in which a certificate of  
17 completed rehabilitation is issued. A qualified taxpayer may  
18 claim a portion of a credit and assign the remaining credit  
19 amount. A partner, member, or shareholder that is an assignee  
20 shall not subsequently assign a credit or any portion of a credit  
21 assigned to the partner, member, or shareholder under this  
22 subsection. A credit amount assigned under this subsection may  
23 be claimed against the partner's, member's, or shareholder's tax  
24 liability under this act or under the income tax act of 1967,  
25 1967 PA 281, MCL 206.1 to 206.532. A credit assignment under  
26 this subsection shall be made on a form prescribed by the  
27 department. The qualified taxpayer and assignees shall send a

1 copy of the completed assignment form to the department in the  
2 tax year in which the assignment is made and attach a copy of the  
3 completed assignment form to the annual return required to be  
4 filed under this act for that tax year.

5       (8) If the credit allowed under this section for the tax  
6 year and any unused carryforward of the credit allowed by this  
7 section exceed the taxpayer's tax liability for the tax year,  
8 that portion that exceeds the tax liability for the tax year  
9 shall not be refunded but may be carried forward to offset tax  
10 liability in subsequent tax years for 10 years or until used up,  
11 whichever occurs first. A carryforward under this subsection may  
12 be claimed in tax years that began after December 31, 2002 for a  
13 credit based on a rehabilitation plan certified before January 1,  
14 2003.

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

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

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

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

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

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

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

8 (10) If a certification of completed rehabilitation is  
9 revoked under subsection (5) less than 5 years after the year in  
10 which a credit was claimed, the following percentage of the  
11 credit amount previously claimed relative to that historic  
12 resource shall be added back to the tax liability of the taxpayer  
13 in the year of the revocation:

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

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

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

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

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

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

1       (11) The department of ~~state~~ HISTORY, ARTS, AND CULTURE  
2 through the Michigan historical center may impose a fee to cover  
3 the administrative cost of implementing the program under this  
4 section.

5       (12) The qualified taxpayer shall attach all of the follow-  
6 ing to the qualified taxpayer's annual return required under this  
7 act or under the income tax act of 1967, 1967 PA 281, MCL 206.1  
8 to 206.532, if applicable, on which the credit is claimed:

9       (a) Certification of completed rehabilitation.

10       (b) Certification of historic significance related to the  
11 historic resource and the qualified expenditures used to claim a  
12 credit under this section.

13       (c) A completed assignment form if the qualified taxpayer  
14 has assigned any portion of a credit allowed under this section  
15 to a partner, member, or shareholder, or if the taxpayer is an  
16 assignee of any portion of a credit allowed under this section.

17       (13) ~~Not later than July 19, 1999, the~~ THE department of  
18 ~~state~~ HISTORY, ARTS, AND CULTURE shall ~~submit~~ PROMULGATE  
19 rules to implement this section ~~for public hearing~~ pursuant to  
20 the administrative procedures act of 1969, 1969 PA 306,  
21 MCL 24.201 to 24.328.

22       (14) The total of the credits claimed under this section and  
23 section 266 of the income tax act of 1967, 1967 PA 281,  
24 MCL 206.266, for a rehabilitation project shall not exceed 25% of  
25 the total qualified expenditures eligible for the credit under  
26 this section for that rehabilitation project.

1 (15) The department of ~~state~~ HISTORY, ARTS, AND CULTURE  
2 through the Michigan historical center shall report all of the  
3 following to the legislature annually for the immediately preced-  
4 ing state fiscal year:

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

7 (b) A description of each rehabilitation project certified.

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

10 (16) As used in this section:

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

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

18 (c) "Historic resource" means a publicly or privately owned  
19 historic building, structure, site, object, feature, or open  
20 space located within a historic district designated by the  
21 national register of historic places, the state register of his-  
22 toric sites, or a local unit acting under the local historic dis-  
23 tricts act, 1970 PA 169, MCL 399.201 to 399.215; or that is indi-  
24 vidually listed on the state register of historic sites or  
25 national register of historic places and includes all of the  
26 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~~ HISTORY, ARTS, AND CULTURE or its suc-  
25 cessor agency.

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

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

6 (i) "Qualified expenditures" means capital expenditures that  
7 qualify for a rehabilitation credit under section 47(a)(2) of the  
8 internal revenue code if the taxpayer is eligible for the credit  
9 under section 47(a)(2) of the internal revenue code or, if the  
10 taxpayer is not eligible for the credit under section 47(a)(2) of  
11 the internal revenue code, the qualified expenditures that would  
12 qualify under section 47(a)(2) of the internal revenue code  
13 except that the expenditures are made to a historic resource that  
14 is not eligible for the credit under section 47(a)(2) of the  
15 internal revenue code that were paid not more than 5 years after  
16 the certification of the rehabilitation plan that included those  
17 expenditures was approved by the center, and that were paid after  
18 December 31, 1998 for the rehabilitation of a historic resource.  
19 Qualified expenditures do not include capital expenditures for  
20 nonhistoric additions to a historic resource except an addition  
21 that is required by state or federal regulations that relate to  
22 historic preservation, safety, or accessibility. Expenditures  
23 made after December 31, 2002 and not more than 5 years after the  
24 certification of the rehabilitation plan are qualified expendi-  
25 tures only if the rehabilitation plan received certification by  
26 the Michigan historical center before January 1, 2003.

1       (j) "Qualified taxpayer" means a person that is an assignee  
2 under subsection (7) or either owns the resource to be  
3 rehabilitated or has a long-term lease agreement with the owner  
4 of the historic resource and that has qualified expenditures for  
5 the rehabilitation of the historic resource equal to or greater  
6 than 10% of the state equalized valuation of the property. If  
7 the historic resource to be rehabilitated is a portion of a his-  
8 toric or nonhistoric resource, the state equalized valuation of  
9 only that portion of the property shall be used for purposes of  
10 this subdivision. If the assessor for the local tax collecting  
11 unit in which the historic resource is located determines the  
12 state equalized valuation of that portion, that assessor's deter-  
13 mination shall be used for purposes of this subdivision. If the  
14 assessor does not determine that state equalized valuation of  
15 that portion, qualified expenditures, for purposes of this subdi-  
16 vision, shall be equal to or greater than 5% of the appraised  
17 value as determined by a certified appraiser. If the historic  
18 resource to be rehabilitated does not have a state equalized val-  
19 uation, qualified expenditures for purposes of this subdivision  
20 shall be equal to or greater than 5% of the appraised value of  
21 the resource as determined by a certified appraiser.

22       (k) "Rehabilitation plan" means a plan for the rehabilita-  
23 tion of a historic resource that meets the federal secretary of  
24 the interior's standards for rehabilitation and guidelines for  
25 rehabilitation of historic buildings under 36 C.F.R. PART 67.

26       Enacting section 1. This amendatory act does not take  
27 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. 4941

1 (request no. 02873'01) of the 91st Legislature is enacted into  
2 law.