

HOUSE BILL No. 4948

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

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 266 (MCL 206.266), as amended by 1999
PA 214.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 266. (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 section 47(a)(2) of the internal revenue code, 25% of the
7 qualified expenditures that would qualify under section 47(a)(2)
8 of the internal revenue code except that the expenditures are
9 made to a historic resource that is not eligible for the credit
10 under section 47(a)(2) of the internal revenue code, subject to
11 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. PART 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 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) A credit amount assigned under section 39c(7) of the
10 single business tax act, 1975 PA 228, MCL 208.39c, may be claimed
11 against the partner's, member's, or shareholder's tax liability
12 under this act as provided in section ~~37c(7)~~ 39C(7) of the
13 single business tax act, 1975 PA 228, MCL 208.39c.

14 (8) If the credit allowed under this section for the tax
15 year and any unused carryforward of the credit allowed by this
16 section exceed the taxpayer's tax liability for the tax year,
17 that portion that exceeds the tax liability for the tax year
18 shall not be refunded but may be carried forward to offset tax
19 liability in subsequent tax years for 10 years or until used up,
20 whichever occurs first. A carryforward under this subsection may
21 be claimed in tax years after the 2002 tax year for a credit
22 based on a rehabilitation plan certified before January 1, 2003.

23 (9) If the taxpayer sells a historic resource for which a
24 credit under this section was claimed less than 5 years after the
25 year in which the credit was claimed, the following percentage of
26 the credit amount previously claimed relative to that historic

1 resource shall be added back to the tax liability of the taxpayer
2 in the year of the sale:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (12) The qualified taxpayer shall attach all of the follow-
13 ing to the qualified taxpayer's annual return under this act:

14 (a) Certification of completed rehabilitation.

15 (b) Certification of historic significance related to the
16 historic resource and the qualified expenditures used to claim a
17 credit under this section.

18 (c) A completed assignment form if the qualified taxpayer is
19 an assignee under section 39c of the single business tax act,
20 1975 PA 228, MCL 208.39c, of any portion of a credit allowed
21 under that section.

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

1 (14) The total of the credits claimed under this section and
2 section 39c of the single business tax act, 1975 PA 228,
3 MCL 208.39c, for a rehabilitation project shall not exceed 25% of
4 the total qualified expenditures eligible for the credit under
5 this section for that rehabilitation project.

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

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

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

13 (c) The location of each new and ongoing rehabilitation
14 project.

15 (16) As used in this section:

16 (a) "Contributing resource" means a historic resource that
17 contributes to the significance of the historic district in which
18 it is located.

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

23 (c) "Historic resource" means a publicly or privately owned
24 historic building, structure, site, object, feature, or open
25 space located within a historic district designated by the
26 national register of historic places, the state register of
27 historic sites, or a local unit acting under the local historic

1 districts act, 1970 PA 169, MCL 399.201 to 399.215; or that is
2 individually listed on the state register of historic sites or
3 national register of historic places and includes all of the
4 following:

5 (i) An owner-occupied personal residence or a historic
6 resource located within the property boundaries of that personal
7 residence.

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

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

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

19 (v) Any other resource that could benefit from
20 rehabilitation.

21 (d) "Local unit" means a county, city, village, or
22 township.

23 (e) "Long-term lease" means a lease term of at least 27.5
24 years for a residential resource or at least 31.5 years for a
25 nonresidential resource.

26 (f) "Michigan historical center" or "center" means the state
27 historic preservation office of the Michigan historical center of

1 the department of ~~state~~ HISTORY, ARTS, AND CULTURE or its
2 successor agency.

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

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

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

1 certification by the Michigan historical center before January 1,
2 2003.

3 (j) "Qualified taxpayer" means a person that is an assignee
4 under section 39c of the single business tax act, 1975 PA 228,
5 MCL 208.39c, or either owns the resource to be rehabilitated or
6 has a long-term lease agreement with the owner of the historic
7 resource and that has qualified expenditures for the rehabilita-
8 tion of the historic resource equal to or greater than 10% of the
9 state equalized valuation of the property. If the historic
10 resource to be rehabilitated is a portion of a historic or non-
11 historic resource, the state equalized valuation of only that
12 portion of the property shall be used for purposes of this
13 subdivision. If the assessor for the local tax collecting unit
14 in which the historic resource is located determines the state
15 equalized valuation of that portion, that assessor's determina-
16 tion shall be used for purposes of this subdivision. If the
17 assessor does not determine that state equalized valuation of
18 that portion, qualified expenditures, for purposes of this subdivi-
19 sion, shall be equal to or greater than 5% of the appraised
20 value as determined by a certified appraiser. If the historic
21 resource to be rehabilitated does not have a state equalized val-
22 uation, qualified expenditures for purposes of this subdivision
23 shall be equal to or greater than 5% of the appraised value of
24 the resource as determined by a certified appraiser.

25 (k) "Rehabilitation plan" means a plan for the rehabilita-
26 tion of a historic resource that meets the federal secretary of

1 the interior's standards for rehabilitation and guidelines for
2 rehabilitation of historic buildings under 36 C.F.R. PART 67.

3 Enacting section 1. This amendatory act does not take
4 effect unless Senate Bill No. _____ or House Bill No. 4941
5 (request no. 02873'01) of the 91st Legislature is enacted into
6 law.