

# SENATE BILL No. 1647

November 13, 2008, Introduced by Senators CLARKE and THOMAS 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 amended by 2007 PA 94.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 266. (1) A qualified taxpayer with a rehabilitation plan  
2 certified after December 31, 1998 may credit against the tax  
3 imposed by this act the amount determined pursuant to subsection  
4 (2) for the qualified expenditures for the rehabilitation of a  
5 historic resource pursuant to the rehabilitation plan in the year  
6 in which the certification of completed rehabilitation of the  
7 historic resource is issued provided that the certification of  
8 completed rehabilitation was issued not more than 5 years after the  
9 rehabilitation plan was certified by the Michigan historical  
10 center.

1           (2) The credit allowed under this section shall be 25% of the  
2 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) of  
8 the internal revenue code except that the expenditures are made to  
9 a historic resource that is not eligible for the credit under  
10 section 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 code  
14 may not claim a credit under this section for those qualified  
15 expenditures unless the taxpayer has claimed and received a credit  
16 for those qualified expenditures under section 47(a)(2) of the  
17 internal revenue code.

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

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

27           (a) All of the following criteria:

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

3           (ii) Both the rehabilitation plan and completed rehabilitation  
4 of the historic resource meet the federal secretary of the  
5 interior's standards for rehabilitation and guidelines for  
6 rehabilitating historic buildings, 36 CFR part 67.

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

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

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

24           (5) The center may inspect a historic resource at any time  
25 during the rehabilitation process and may revoke certification of  
26 completed rehabilitation if the rehabilitation was not undertaken  
27 as represented in the rehabilitation plan or if unapproved

1 alterations to the completed rehabilitation are made during the 5  
2 years after the tax year in which the credit was claimed. The  
3 center shall promptly notify the department of a revocation.

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

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

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

13 (ii) A contributing resource located within a historic district  
14 listed on the national register of historic places or the state  
15 register of historic sites.

16 (iii) A contributing resource located within a historic district  
17 designated by a local unit pursuant to an ordinance adopted under  
18 the local historic districts act, 1970 PA 169, MCL 399.201 to  
19 399.215.

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

23 (i) The historic resource is located in a designated historic  
24 district in a local unit of government with an existing ordinance  
25 under the local historic districts act, 1970 PA 169, MCL 399.201 to  
26 399.215.

27 (ii) The historic resource is located in an incorporated local

1 unit of government that does not have an ordinance under the local  
2 historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and  
3 has a population of less than 5,000.

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

6 (iv) The historic resource is located in an incorporated local  
7 unit of government that does not have an ordinance under the local  
8 historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and is  
9 located within the boundaries of an association that has been  
10 chartered under 1889 PA 39, MCL 455.51 to 455.72.

11 (7) A credit amount assigned under section 39c(7) of the  
12 **FORMER** single business tax act, 1975 PA 228, ~~MCL 208.39e~~, or  
13 section 435 of the Michigan business tax act, 2007 PA 36, MCL  
14 208.1435, may be claimed against the partner's, member's, or  
15 shareholder's tax liability under this act as provided in **FORMER**  
16 section 39c(7) of the single business tax act, 1975 PA 228, ~~MCL~~  
17 ~~208.39e~~, or section 435 of the Michigan business tax act, 2007 PA  
18 36, MCL 208.1435.

19 (8) ~~IF~~ **FOR PROJECTS FOR WHICH A CERTIFICATE OF COMPLETED**  
20 **REHABILITATION IS ISSUED BEFORE JANUARY 1, 2007, IF** the credit  
21 allowed under this section for the tax year and any unused  
22 carryforward of the credit allowed by this section exceed the  
23 taxpayer's tax liability for the tax year, that portion that  
24 exceeds the tax liability for the tax year shall not be refunded  
25 but may be carried forward to offset tax liability in subsequent  
26 tax years for 10 years or until used up, whichever occurs first.  
27 **FOR PROJECTS FOR WHICH A CERTIFICATE OF COMPLETED REHABILITATION IS**

1 ISSUED AFTER DECEMBER 31, 2006, IF THE CREDIT ALLOWED UNDER THIS  
2 SECTION FOR THE TAX YEAR AND ANY UNUSED CARRYFORWARD OF THE CREDIT  
3 ALLOWED BY THIS SECTION EXCEED THE TAXPAYER'S TAX LIABILITY FOR THE  
4 TAX YEAR, THAT PORTION THAT EXCEEDS THE TAX LIABILITY FOR THE TAX  
5 YEAR SHALL NOT BE REFUNDED BUT MAY BE CARRIED FORWARD TO OFFSET TAX  
6 LIABILITY IN SUBSEQUENT TAX YEARS FOR 30 YEARS OR UNTIL USED UP,  
7 WHICHEVER OCCURS FIRST.

8 (9) If the taxpayer sells a historic resource for which a  
9 credit under this section was claimed less than 5 years after the  
10 year in which the credit was claimed, the following percentage of  
11 the 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 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 after  
17 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 the  
25 credit was claimed, an addback to the taxpayer's tax liability  
26 shall not be made.

27 (10) If a certification of completed rehabilitation is revoked

1 under subsection (5) less than 5 years after the year in which a  
2 credit was claimed, the following percentage of the credit amount  
3 previously claimed relative to that historic resource shall be  
4 added back to the tax liability of the taxpayer in the year of the  
5 revocation:

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

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

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

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

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

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

19 (11) The department of history, arts, and libraries through  
20 the Michigan historical center may impose a fee to cover the  
21 administrative cost of implementing the program under this section.

22 (12) The qualified taxpayer shall attach all of the following  
23 to the qualified taxpayer's annual return under this act:

24 (a) Certification of completed rehabilitation.

25 (b) Certification of historic significance related to the  
26 historic resource and the qualified expenditures used to claim a  
27 credit under this section.

1 (c) A completed assignment form if the qualified taxpayer is  
2 an assignee under section 39c of the **FORMER** single business tax  
3 act, 1975 PA 228, ~~MCL 208.39c~~, or section 435 of the Michigan  
4 business tax act, 2007 PA 36, MCL 208.1435, of any portion of a  
5 credit allowed under that section.

6 (13) The department of history, arts, and libraries shall  
7 promulgate rules to implement this section pursuant to the  
8 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
9 24.328.

10 (14) The total of the credits claimed under this section and  
11 section 39c of the **FORMER** single business tax act, 1975 PA 228, ~~MCL~~  
12 ~~208.39c~~, or section 435 of the Michigan business tax act, 2007 PA  
13 36, MCL 208.1435, for a rehabilitation project shall not exceed 25%  
14 of the total qualified expenditures eligible for the credit under  
15 this section for that rehabilitation project.

16 (15) The department of history, arts, and libraries through  
17 the Michigan historical center shall report all of the following to  
18 the legislature annually for the immediately preceding state fiscal  
19 year:

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

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

23 (c) The location of each new and ongoing rehabilitation  
24 project.

25 (16) As used in this section:

26 (a) "Contributing resource" means a historic resource that  
27 contributes to the significance of the historic district in which

1 it is located.

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

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

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

16 (ii) An income-producing commercial, industrial, or residential  
17 resource or a historic resource located within the property  
18 boundaries of that resource.

19 (iii) A resource owned by a governmental body, nonprofit  
20 organization, or tax-exempt entity that is used primarily by a  
21 taxpayer lessee in a trade or business unrelated to the  
22 governmental body, nonprofit organization, or tax-exempt entity and  
23 that is subject to tax under this act.

24 (iv) A resource that is occupied or utilized by a governmental  
25 body, nonprofit organization, or tax-exempt entity pursuant to a  
26 long-term lease or lease with option to buy agreement.

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

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

2 (e) "Long-term lease" means a lease term of at least 27.5  
3 years for a residential resource or at least 31.5 years for a  
4 nonresidential resource.

5 (f) "Michigan historical center" or "center" means the state  
6 historic preservation office of the Michigan historical center of  
7 the department of history, arts, and libraries or its successor  
8 agency.

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

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

14 (i) "Qualified expenditures" means capital expenditures that  
15 qualify for a rehabilitation credit under section 47(a)(2) of the  
16 internal revenue code if the taxpayer is eligible for the credit  
17 under section 47(a)(2) of the internal revenue code or, if the  
18 taxpayer is not eligible for the credit under section 47(a)(2) of  
19 the internal revenue code, the qualified expenditures that would  
20 qualify under section 47(a)(2) of the internal revenue code except  
21 that the expenditures are made to a historic resource that is not  
22 eligible for the credit under section 47(a)(2) of the internal  
23 revenue code, that were paid not more than 5 years after the  
24 certification of the rehabilitation plan that included those  
25 expenditures was approved by the center, and that were paid after  
26 December 31, 1998 for the rehabilitation of a historic resource.  
27 Qualified expenditures do not include capital expenditures for

1 nonhistoric additions to a historic resource except an addition  
2 that is required by state or federal regulations that relate to  
3 historic preservation, safety, or accessibility.

4 (j) "Qualified taxpayer" means a person that is an assignee  
5 under section 39c of the **FORMER** single business tax act, 1975 PA  
6 228, ~~MCL 208.39e~~, or section 435 of the Michigan business tax act,  
7 2007 PA 36, MCL 208.1435, or either owns the resource to be  
8 rehabilitated or has a long-term lease agreement with the owner of  
9 the historic resource and that has qualified expenditures for the  
10 rehabilitation of the historic resource equal to or greater than  
11 10% of the state equalized valuation of the property. If the  
12 historic resource to be rehabilitated is a portion of a historic or  
13 nonhistoric resource, the state equalized valuation of only that  
14 portion of the property shall be used for purposes of this  
15 subdivision. If the assessor for the local tax collecting unit in  
16 which the historic resource is located determines the state  
17 equalized valuation of that portion, that assessor's determination  
18 shall be used for purposes of this subdivision. If the assessor  
19 does not determine that state equalized valuation of that portion,  
20 qualified expenditures, for purposes of this subdivision, shall be  
21 equal to or greater than 5% of the appraised value as determined by  
22 a certified appraiser. If the historic resource to be rehabilitated  
23 does not have a state equalized valuation, qualified expenditures  
24 for purposes of this subdivision shall be equal to or greater than  
25 5% of the appraised value of the resource as determined by a  
26 certified appraiser.

27 (k) "Rehabilitation plan" means a plan for the rehabilitation

1 of a historic resource that meets the federal secretary of the  
2 interior's standards for rehabilitation and guidelines for  
3 rehabilitation of historic buildings under 36 CFR part 67.