

HOUSE SUBSTITUTE FOR SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5479

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 435 (MCL 208.1435), as amended by 2009 PA 141.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 435. (1) A qualified taxpayer with a rehabilitation plan
2 certified after December 31, 2007 or a qualified taxpayer that has
3 a rehabilitation plan certified before January 1, 2008 under
4 section 39c of former 1975 PA 228 for the rehabilitation of an
5 historic resource for which a certification of completed
6 rehabilitation has been issued after the end of the taxpayer's last
7 tax year may credit against the tax imposed by this act the amount
8 determined pursuant to subsection (2) for the qualified
9 expenditures for the rehabilitation of an historic resource
10 pursuant to the rehabilitation plan in the year in which the

1 certification of completed rehabilitation of the historic resource
2 is issued. Only those expenditures that are paid or incurred during
3 the time periods prescribed for the credit under section 47(a)(2)
4 of the internal revenue code and any related treasury regulations
5 shall be considered qualified expenditures.

6 (2) The credit allowed under this subsection shall be 25% of
7 the qualified expenditures that are eligible, or would have been
8 eligible except that the taxpayer entered into an agreement under
9 subsection (13), for the 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, 25% of the qualified expenditures that
14 would qualify under section 47(a)(2) of the internal revenue code
15 except that the expenditures are made to an historic resource that
16 is not eligible for the credit under section 47(a)(2) of the
17 internal revenue code, subject to both of the following:

18 (a) A taxpayer with qualified expenditures that are eligible
19 for the credit under section 47(a)(2) of the internal revenue code
20 may not claim a credit under this section for those qualified
21 expenditures unless the taxpayer has claimed and received a credit
22 for those qualified expenditures under section 47(a)(2) of the
23 internal revenue code or the taxpayer has entered into an agreement
24 under subsection (13).

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

1 (3) To be eligible for the credit under subsection (2), the
2 taxpayer shall apply to and receive from the Michigan ~~historical~~
3 ~~center certification~~ **STATE HOUSING DEVELOPMENT AUTHORITY** that the
4 historic significance, the rehabilitation plan, and the completed
5 rehabilitation of the historic resource meet the criteria under
6 subsection (6) and either of the following:

7 (a) All of the following criteria:

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

10 (ii) Both the rehabilitation plan and completed rehabilitation
11 of the historic resource meet the federal secretary of the
12 interior's standards for rehabilitation and guidelines for
13 rehabilitating historic buildings, 36 CFR part 67.

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

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

23 (4) If a qualified taxpayer is eligible for the credit allowed
24 under section 47(a)(2) of the internal revenue code, the qualified
25 taxpayer shall file for certification with the ~~center~~ **AUTHORITY** to
26 qualify for the credit allowed under section 47(a)(2) of the
27 internal revenue code. If the qualified taxpayer has previously

1 filed for certification with the ~~center~~**AUTHORITY** to qualify for
2 the credit allowed under section 47(a)(2) of the internal revenue
3 code, additional filing for the credit allowed under this section
4 is not required.

5 (5) The ~~center~~**AUTHORITY** may inspect an historic resource at
6 any time during the rehabilitation process and may revoke
7 certification of completed rehabilitation if the rehabilitation was
8 not undertaken as represented in the rehabilitation plan or if
9 unapproved alterations to the completed rehabilitation are made
10 during the 5 years after the tax year in which the credit was
11 claimed. The ~~center~~**AUTHORITY** shall promptly notify the department
12 of a revocation.

13 (6) Qualified expenditures for the rehabilitation of an
14 historic resource may be used to calculate the credit under this
15 section if the historic resource meets 1 of the criteria listed in
16 subdivision (a) and 1 of the criteria listed in subdivision (b):

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

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

22 (ii) A contributing resource located within an historic
23 district listed on the national register of historic places or the
24 state register of historic sites.

25 (iii) A contributing resource located within an historic
26 district designated by a local unit pursuant to an ordinance
27 adopted under the local historic districts act, 1970 PA 169, MCL

1 399.201 to 399.215.

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

5 (i) The historic resource is located in a designated historic
6 district in a local unit of government with an existing ordinance
7 under the local historic districts act, 1970 PA 169, MCL 399.201 to
8 399.215.

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

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

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

20 (v) The historic resource is subject to a historic
21 preservation easement.

22 (7) For projects for which a certificate of completed
23 rehabilitation is issued for a tax year beginning before January 1,
24 2009, if a qualified taxpayer is a partnership, limited liability
25 company, or subchapter S corporation, the qualified taxpayer may
26 assign all or any portion of a credit allowed under this section to
27 its partners, members, or shareholders, based on the partner's,

1 member's, or shareholder's proportionate share of ownership or
2 based on an alternative method approved by the department. A credit
3 assignment under this subsection is irrevocable and shall be made
4 in the tax year in which a certificate of completed rehabilitation
5 is issued. A qualified taxpayer may claim a portion of a credit and
6 assign the remaining credit amount. A partner, member, or
7 shareholder that is an assignee shall not subsequently assign a
8 credit or any portion of a credit assigned to the partner, member,
9 or shareholder under this subsection. A credit amount assigned
10 under this subsection may be claimed against the partner's,
11 member's, or shareholder's tax liability under this act or under
12 the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. A
13 credit assignment under this subsection shall be made on a form
14 prescribed by the department. The qualified taxpayer and assignees
15 shall attach a copy of the completed assignment form to the
16 department in the tax year in which the assignment is made and
17 attach a copy of the completed assignment form to the annual return
18 required to be filed under this act for that tax year.

19 (8) For projects for which a certificate of completed
20 rehabilitation is issued for a tax year beginning after December
21 31, 2008, a qualified taxpayer may assign all or any portion of the
22 credit allowed under this section. A credit assignment under this
23 subsection is irrevocable and shall be made in the tax year in
24 which a certificate of completed rehabilitation is issued. A
25 qualified taxpayer may claim a portion of a credit and assign the
26 remaining amount. If the qualified taxpayer both claims and assigns
27 portions of the credit, the qualified taxpayer shall claim the

1 portion it claims in the tax year in which a certificate of
2 completed rehabilitation is issued pursuant to this section. An
3 assignee may subsequently assign the credit or any portion of the
4 credit assigned under this subsection to 1 or more assignees. An
5 assignment or subsequent reassignment of a credit can be made in
6 the year the certificate of completed rehabilitation is issued. A
7 credit assignment or subsequent reassignment under this section
8 shall be made on a form prescribed by the department. The
9 department or its designee shall review and issue a completed
10 assignment or reassignment certificate to the assignee or
11 reassignee. A credit amount assigned under this subsection may be
12 claimed against the assignees' tax under this act or under the
13 income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. An
14 assignee or subsequent reassignee shall attach a copy of the
15 completed assignment certificate to the annual return required to
16 be filed under this act or under the income tax act of 1967, 1967
17 PA 281, MCL 206.1 to 206.532, for the tax year in which the
18 assignment or reassignment is made and the assignee or reassignee
19 first claims the credit, which shall be the same tax year.

20 (9) If the credit allowed under this section for the tax year
21 and any unused carryforward of the credit allowed by this section
22 exceed the taxpayer's tax liability for the tax year, that portion
23 that exceeds the tax liability for the tax year shall not be
24 refunded but may be carried forward to offset tax liability in
25 subsequent tax years for 10 years or until used up, whichever
26 occurs first. If a qualified taxpayer has an unused carryforward of
27 a credit under this section, the amount otherwise added under

1 subsection (10), (11), or (12) to the qualified taxpayer's tax
2 liability may instead be used to reduce the qualified taxpayer's
3 carryforward under this section. An unused carryforward of a credit
4 under section 39c of former 1975 PA 228 that was unused at the end
5 of the last tax year for which former 1975 PA 228 was in effect may
6 be claimed against the tax imposed under this act for the years the
7 carryforward would have been available under section 39c of former
8 1975 PA 228. For projects for which a certificate of completed
9 rehabilitation is issued for a tax year beginning after December
10 31, 2008 and for which the credit amount allowed is less than
11 \$250,000.00, a qualified taxpayer may elect to forgo the carryover
12 period and receive a refund of the amount of the credit that
13 exceeds the qualified taxpayer's tax liability. The amount of the
14 refund shall be equal to 90% of the amount of the credit that
15 exceeds the qualified taxpayer's tax liability. An election under
16 this subsection shall be made in the year that a certificate of
17 completed rehabilitation is issued and shall be irrevocable.

18 (10) For tax years beginning before January 1, 2009, if the
19 taxpayer sells an historic resource for which a credit was claimed
20 under this section or under section 39c of former 1975 PA 228 less
21 than 5 years after the year in which the credit was claimed, the
22 following percentage of the credit amount previously claimed
23 relative to that historic resource shall be added back to the tax
24 liability of the taxpayer in the year of the sale:

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

27 (b) If the sale is at least 1 year but less than 2 years after

1 the year in which the credit was claimed, 80%.

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

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

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

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

11 (11) For tax years beginning before January 1, 2009, if a
12 certification of completed rehabilitation is revoked under
13 subsection (5) less than 5 years after the year in which a credit
14 was claimed under this section or under section 39c of former 1975
15 PA 228, the following percentage of the credit amount previously
16 claimed relative to that historic resource shall be added back to
17 the tax liability of the taxpayer in the year of the revocation:

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

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

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

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

26 (e) If the revocation is at least 4 years but less than 5
27 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 (12) Except as otherwise provided under subsection (13), for
5 tax years beginning after December 31, 2008, if a certificate of
6 completed rehabilitation is revoked under subsection (5), a
7 preapproval letter is revoked under subsection (23)(b), or an
8 historic resource is sold or disposed of less than 5 years after
9 the historic resource is placed in service as defined in section
10 47(b)(1) of the internal revenue code and related treasury
11 regulations or if a certificate of completed rehabilitation issued
12 after December 1, 2008 is revoked under subsection (5) during a tax
13 year beginning after December 31, 2008, a preapproval letter issued
14 after December 1, 2008 is revoked under subsection (23)(b) during a
15 tax year beginning after December 31, 2008, or an historic resource
16 is sold or disposed of less than 5 years after the historic
17 resource is placed in service during a tax year beginning after
18 December 31, 2008, the following percentage of the credit amount
19 previously claimed relative to that historic resource shall be
20 added back to the tax liability of the qualified taxpayer that
21 received the certificate of completed rehabilitation and not the
22 assignee in the year of the revocation:

23 (a) If the revocation is less than 1 year after the historic
24 resource is placed in service, 100%.

25 (b) If the revocation is at least 1 year but less than 2 years
26 after the historic resource is placed in service, 80%.

27 (c) If the revocation is at least 2 years but less than 3

1 years after the historic resource is placed in service, 60%.

2 (d) If the revocation is at least 3 years but less than 4
3 years after the historic resource is placed in service, 40%.

4 (e) If the revocation is at least 4 years but less than 5
5 years after the historic resource is placed in service, 20%.

6 (f) If the revocation is at least 5 years or more after the
7 historic resource is placed in service, an addback to the qualified
8 taxpayer tax liability shall not be required.

9 (13) Subsection (12) shall not apply if the qualified taxpayer
10 enters into a written agreement with the ~~state historic~~
11 ~~preservation office~~ **AUTHORITY** that will allow for the transfer or
12 sale of the historic resource and provides the following:

13 (a) Reasonable assurance that subsequent to the transfer the
14 property will remain a historic resource during the 5-year period
15 after the historic resource is placed in service.

16 (b) A method that the department can recover an amount from
17 the taxpayer equal to the appropriate percentage of credit added
18 back as described under subsection (12).

19 (c) An encumbrance on the title to the historic resource being
20 sold or transferred, stating that the property must remain a
21 historic resource throughout the 5-year period after the historic
22 resource is placed in service.

23 (d) A provision for the payment by the taxpayer of all legal
24 and professional fees associated with the drafting, review, and
25 recording of the written agreement required under this subsection.

26 (14) The ~~department of history, arts, and libraries through~~
27 ~~the Michigan historical center~~ **AUTHORITY** may impose a fee to cover

1 the administrative cost of implementing the program under this
2 section.

3 (15) The qualified taxpayer shall attach all of the following
4 to the qualified taxpayer's annual return required under this act
5 or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to
6 206.532, if applicable, on which the credit is claimed:

7 (a) Certification of completed rehabilitation.

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

11 (c) A completed assignment form if the qualified taxpayer or
12 assignee has assigned any portion of a credit allowed under this
13 section or if the taxpayer is an assignee of any portion of a
14 credit allowed under this section.

15 (16) ~~The department of history, arts, and libraries shall~~
16 **AUTHORITY MAY** promulgate rules to implement this section pursuant
17 to the administrative procedures act of 1969, 1969 PA 306, MCL
18 24.201 to 24.328.

19 (17) The total of the credits claimed under subsection (2) and
20 section 266 of the income tax act of 1967, 1967 PA 281, MCL
21 206.266, for a rehabilitation project shall not exceed 25% of the
22 total qualified expenditures eligible for the credit under
23 subsection (2) for that rehabilitation project.

24 (18) ~~The department of history, arts, and libraries through~~
25 ~~the Michigan historical center~~ **AUTHORITY** shall report all of the
26 following to the legislature annually for the immediately preceding
27 state fiscal year:

1 (a) The fee schedule used by the ~~center~~**AUTHORITY** and the
2 total amount of fees collected.

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

4 (c) The location of each new and ongoing rehabilitation
5 project.

6 (19) In addition to the credit allowed under subsection (2)
7 and subject to the criteria under this subsection and subsections
8 (21), (22), and (23), for tax years that begin on and after January
9 1, 2009 a qualified taxpayer that has a preapproval letter issued
10 on or before December 31, 2013 may claim an additional credit that
11 has been approved under this subsection or subsection (20) against
12 the tax imposed by this act equal to a percentage established in
13 the taxpayer's preapproval letter of the qualified taxpayer's
14 qualified expenditures for the rehabilitation of an historic
15 resource or the actual amount of the qualified taxpayer's qualified
16 expenditures incurred during the completion of the rehabilitation
17 of an historic resource, whichever is less. **THE AUTHORITY MAY**
18 **APPROVE 1 CREDIT UNDER THIS SUBSECTION FOR A QUALIFIED TAXPAYER**
19 **THAT RECEIVES A CERTIFICATE OF COMPLETED REHABILITATION FOR A**
20 **CREDIT UNDER SUBSECTION (2) ON OR AFTER JANUARY 1, 2009 AND BEFORE**
21 **NOVEMBER 15, 2009 NOTWITHSTANDING THAT THE QUALIFIED TAXPAYER HAS**
22 **NOT RECEIVED A PREAPPROVAL LETTER FOR A CREDIT UNDER THIS**
23 **SUBSECTION. THE QUALIFIED TAXPAYER MUST APPLY FOR THE ADDITIONAL**
24 **CREDIT UNDER THIS SUBSECTION BEFORE JANUARY 1, 2010. IF THE**
25 **ADDITIONAL CREDIT APPROVED UNDER THIS SUBSECTION FOR A QUALIFIED**
26 **TAXPAYER THAT HAS NOT RECEIVED A PREAPPROVAL LETTER ON OR BEFORE**
27 **DECEMBER 31, 2009 EXCEEDS THE ALLOTTED AMOUNT AVAILABLE FOR**

1 ADDITIONAL CREDITS APPROVED UNDER THIS SUBSECTION IN THE CALENDAR
2 YEAR ENDING DECEMBER 31, 2009, THEN \$2,800,000.00 OF THE ALLOTTED
3 AMOUNT AVAILABLE IN THE CALENDAR YEAR ENDING DECEMBER 31, 2010 MAY
4 BE ALLOCATED TO THAT 1 CREDIT. The total amount of all additional
5 credits approved under this subsection shall not exceed
6 \$8,000,000.00 in calendar year ending December 31, 2009;
7 \$9,000,000.00 in calendar year ending December 31, 2010;
8 \$10,000,000.00 in calendar year ending December 31, 2011;
9 \$11,000,000.00 in calendar year ending December 31, 2012; and
10 \$12,000,000.00 in calendar year ending December 31, 2013 and,
11 except as otherwise provided under this subsection, at least, 25%
12 of the allotted amount for additional credits approved under this
13 subsection during each calendar year shall be allocated to
14 rehabilitation plans that have \$1,000,000.00 or less in qualified
15 expenditures. On October 1 of each calendar year, if the total of
16 all credits approved under subdivision (a) for the calendar year is
17 less than the minimum allotted amount, the ~~department of history,~~
18 ~~arts, and libraries~~ **AUTHORITY** may use the remainder of that
19 allotted amount to approve applications for additional credits
20 submitted under subdivision (b) for that calendar year. To be
21 eligible for the additional credit under this subsection, the
22 taxpayer shall apply to and receive a preapproval letter and comply
23 with the following:

24 (a) For a rehabilitation plan that has \$1,000,000.00 or less
25 in qualified expenditures, the taxpayer shall apply to the
26 ~~department of history, arts, and libraries~~ **AUTHORITY** for approval
27 of the additional credit under this subsection. Subject to the

1 limitation provided under this subsection, the ~~director of the~~
2 ~~department of history, arts, and libraries or his or her designee~~
3 **AUTHORITY** is authorized to approve an application under this
4 subdivision and determine the percentage of at least 10% but not
5 more than 15% of the taxpayer's qualified expenditures for which he
6 or she may claim an additional credit. If the ~~director of the~~
7 ~~department of history, arts, and libraries or his or her designee~~
8 **AUTHORITY** approves the application under this subdivision, then ~~he~~
9 ~~or she~~ **THE AUTHORITY** shall issue a preapproval letter to the
10 taxpayer that states that the taxpayer is a qualified taxpayer and
11 the maximum percentage of the qualified expenditures on which a
12 credit may be claimed for the rehabilitation plan when it is
13 complete and a certification of completed rehabilitation is issued.

14 (b) For a rehabilitation plan that has more than \$1,000,000.00
15 in qualified expenditures, the taxpayer shall apply to the
16 ~~department of history, arts, and libraries~~ **AUTHORITY** for approval
17 of the additional credit under this subsection. The ~~director of the~~
18 ~~department of history, arts, and libraries or his or her designee~~
19 **AUTHORITY**, subject to the approval of the president of the Michigan
20 strategic fund or his or her designee, is authorized to approve an
21 application under this subdivision and determine the percentage of
22 up to 15% of the taxpayer's qualified expenditures for which he or
23 she may claim an additional credit. An application shall be
24 approved or denied not more than 15 business days after the
25 ~~director of the department of history, arts, and libraries or his~~
26 ~~or her designee~~ **AUTHORITY** has reviewed the application, determined
27 the percentage amount of the credit for that applicant, and

1 submitted the same to the president of the Michigan strategic fund
2 or his or her designee. If the president of the Michigan strategic
3 fund or his or her designee does not approve or deny the
4 application within 15 business days after the application is
5 received from the ~~department of history, arts, and libraries~~
6 **AUTHORITY**, the application is considered approved and the credit
7 awarded in the amount as determined by the ~~director of the~~
8 ~~department of history, arts, and libraries or his or her designee~~
9 **AUTHORITY**. If the president of the Michigan strategic fund or his
10 or her designee approves the application under this subdivision,
11 the director of the ~~department of history, arts, and libraries or~~
12 ~~his or her designee~~ **AUTHORITY** shall issue a preapproval letter to
13 the taxpayer that states that the taxpayer is a qualified taxpayer
14 and the maximum percentage of the qualified expenditures on which a
15 credit may be claimed for the rehabilitation plan when it is
16 complete and a certification of completed rehabilitation is issued.

17 (20) ~~The director of the department of history, arts, and~~
18 ~~libraries or his or her designee~~ **EXCEPT AS OTHERWISE PROVIDED UNDER**
19 **THIS SUBSECTION, THE AUTHORITY**, subject to the approval of the
20 president of the Michigan strategic fund and the state treasurer,
21 may approve 3 additional credits during the 2009 calendar year of
22 up to 15% of the qualified taxpayer's qualified expenditures, and 2
23 additional credits during the 2010, 2011, 2012, and 2013 calendar
24 years of up to 15% of the qualified taxpayer's qualified
25 expenditures, for certain rehabilitation plans that the ~~director of~~
26 ~~the department of history, arts, and libraries or his or her~~
27 ~~designee~~ **AUTHORITY** determines is a high community impact

1 rehabilitation plan that will have a significantly greater
2 historic, social, and economic impact than those plans described
3 under subsection (19)(a) and (b). **THE AUTHORITY, SUBJECT TO THE**
4 **APPROVAL OF THE PRESIDENT OF THE MICHIGAN STRATEGIC FUND AND THE**
5 **STATE TREASURER, MAY USE 1 OF THE 2 ADDITIONAL CREDITS AVAILABLE**
6 **DURING THE 2010 CALENDAR YEAR TO APPROVE AN ADDITIONAL CREDIT**
7 **DURING THE 2009 CALENDAR YEAR OF UP TO 15% OF THE QUALIFIED**
8 **TAXPAYER'S QUALIFIED EXPENDITURES AND 1 OF THE 2 ADDITIONAL CREDITS**
9 **AVAILABLE DURING THE 2011 CALENDAR YEAR TO APPROVE AN ADDITIONAL**
10 **CREDIT DURING THE 2010 CALENDAR YEAR OF UP TO 15% OF THE QUALIFIED**
11 **TAXPAYER'S QUALIFIED EXPENDITURES.** To be eligible for the
12 additional credit under this subsection, the taxpayer shall apply
13 to and receive a preapproval letter from the ~~department of history,~~
14 ~~arts, and libraries~~ **AUTHORITY**. An application shall be approved or
15 denied not more than 15 business days after the ~~director of the~~
16 ~~department of history, arts, and libraries or his or her designee~~
17 **AUTHORITY** has reviewed the application, determined the percentage
18 amount of the credit for that applicant, and submitted the same to
19 the president of the Michigan strategic fund and the state
20 treasurer. If the president of the Michigan strategic fund and the
21 state treasurer do not approve or deny the application within 15
22 business days after the application is received from the ~~department~~
23 ~~of history, arts, and libraries~~ **AUTHORITY**, the application is
24 considered approved and the credit awarded in the amount as
25 determined by the ~~director of the department of history, arts, and~~
26 ~~libraries or his or her designee~~ **AUTHORITY**. If the president of the
27 Michigan strategic fund and the state treasurer approve the

1 application under this subdivision, the ~~director of the department~~
2 ~~of history, arts, and libraries or his or her designee~~ **AUTHORITY**
3 shall issue a preapproval letter to the taxpayer that states that
4 the taxpayer is a qualified taxpayer and the maximum percentage of
5 the qualified expenditures on which a credit may be claimed for the
6 high community impact rehabilitation plan when it is complete and a
7 certification of completed rehabilitation is issued. Before
8 approving a credit under this subsection, the ~~director of the~~
9 ~~department of history, arts, and libraries or his or her designee~~
10 **AUTHORITY** shall consider all of the following criteria to the
11 extent reasonably applicable:

12 (a) The importance of the historic resource to the community
13 in which it is located.

14 (b) If the rehabilitation of the historic resource will act as
15 a catalyst for additional rehabilitation or revitalization of the
16 community in which it is located.

17 (c) The potential that the rehabilitation of the historic
18 resource will have for creating or preserving jobs and employment
19 in the community in which it is located.

20 (d) Other social benefits the rehabilitation of the historic
21 resource will bring to the community in which it is located.

22 (e) The amount of local community and financial support for
23 the rehabilitation of the historic resource.

24 (f) The taxpayer's financial need of the additional credit.

25 (g) Whether the taxpayer is eligible for the credit allowed
26 under section 47(a)(2) of the internal revenue code.

27 (h) Any other criteria that the ~~director of the department of~~

House Bill No. 5479 (H-5) as amended December 17, 2009

~~history, arts, and libraries~~ **AUTHORITY**, the president of the Michigan strategic fund, and the state treasurer consider appropriate for the determination of approval under this subsection.

(21) The maximum amount of credit that a taxpayer or an assignee may claim under subsection (20) during a tax year is \$3,000,000.00. If the amount of the credit approved in the taxpayer's certificate of completed renovation is greater than \$3,000,000.00 that portion that exceeds the cap shall be carried forward to offset tax liability in subsequent tax years until used up. [

]

(22) Before approving a credit, determining the amount of such credit, and issuing a preapproval letter for such credit under subsection (19) or before considering an amendment to the preapproval letter, the ~~director of the department of history, arts, and libraries or his or her designee~~ **AUTHORITY** shall consider the following criteria to the extent reasonably applicable:

(a) The importance of the historic resource to the community.

(b) The physical condition of the historic resource.

(c) The taxpayer's financial need of the additional credit.

(d) The overall economic impact the renovation will have on the community.

(e) Any other criteria that the ~~director of the department of~~

1 ~~history, arts, and libraries~~ **AUTHORITY** and the president of the
2 Michigan strategic fund, as applicable, consider appropriate for
3 the determination of approval under subsection (19).

4 (23) The ~~director of the department of history, arts, and~~
5 ~~libraries or his or her designee~~ **AUTHORITY** may at any time before a
6 certification of completed rehabilitation is issued for a credit
7 for which a preapproval letter was issued pursuant to subsection
8 (19) do the following:

9 (a) Subject to the limitations and parameters under subsection
10 (19), make amendments to the preapproval letter, which may include
11 revising the amount of qualified expenditures for which the
12 taxpayer may claim the additional credit under subsection (19).

13 (b) Revoke the preapproval letter if ~~he or she~~ **THE AUTHORITY**
14 determines that there has not been substantial progress toward
15 completion of the rehabilitation plan or that the rehabilitation
16 plan cannot be completed. The ~~director of the department of~~
17 ~~history, arts, and libraries or his or her designee~~ **AUTHORITY** shall
18 provide the qualified taxpayer with a notice of his or her intent
19 to revoke the preapproval letter 45 days prior to the proposed date
20 of revocation.

21 (24) If a preapproval letter is revoked under subsection
22 (23)(b), the amount of the credit approved under that preapproval
23 letter shall be added to the annual cap in the calendar year that
24 the preapproval letter is revoked. After a certification of
25 completed rehabilitation is issued for a rehabilitation plan
26 approved under subsection (19), if the ~~director of the department~~
27 ~~of history, arts, and libraries or his or her designee~~ **AUTHORITY**

determines that the actual amount of the additional credit to be claimed by the taxpayer for the calendar year is less than the amount approved under the preapproval letter, the difference shall be added to the annual cap in the calendar year that the certification of completed rehabilitation is issued.

(25) Unless otherwise specifically provided under subsections (19) through (24), all other provisions under this section such as the recapture of credits, assignment of credits, and refundability of credits in excess of a qualified taxpayer's tax liability apply to the additional credits issued under subsections (19) and (20).

(26) In addition to meeting the criteria in subsection (20)(a) through (h), ~~2-3~~ of the ~~3~~ credits available under subsection (20), **INCLUDING THE CREDIT USED FROM THE 2010 CALENDAR YEAR, AND APPROVED** during the 2009 calendar year for a high community impact rehabilitation plan shall be for an application meeting 1 of the following criteria:

(a) All of the following:

(i) The historic resource must be at least ~~80~~-70 years old.

(ii) The historic resource must comprise at least ~~75,000~~ 500,000 total square feet.

(iii) The historic resource must be located in a county with a population of more than 1,500,000.

(iv) The historic resource must be located in a city with an unemployment rate that is at least 2% higher than the current state average unemployment rate at the time of the application.

~~—— (v) The historic resource receives a federal earmark appropriation and is the former home of a former professional~~

1 ~~sports team.~~

2 (b) All of the following:

3 (i) The historic resource must be at least 85 years old.

4 (ii) The historic resource must comprise at least 120,000 total
5 square feet.

6 (iii) The historic resource must be located in a county with a
7 population of more than 400,000 and less than 500,000.

8 (iv) The historic resource must be located in a city with a
9 population of more than 100,000 and less than 125,000.

10 (v) The historic resource must be located in a city with an
11 unemployment rate that is at least 2% higher than the current state
12 average unemployment rate at the time of the application.

13 (C) ALL OF THE FOLLOWING:

14 (i) THE HISTORIC RESOURCE MUST BE AT LEAST 70 YEARS OLD.

15 (ii) THE HISTORIC RESOURCE MUST COMPRISE AT LEAST 180,000 TOTAL
16 SQUARE FEET BUT NOT MORE THAN 250,000 SQUARE FEET AND MUST EXCEED
17 30 STORIES IN HEIGHT.

18 (iii) THE HISTORIC RESOURCE MUST BE LOCATED IN A COUNTY WITH A
19 POPULATION OF MORE THAN 1,500,000.

20 (iv) THE HISTORIC RESOURCE MUST BE LOCATED IN A CITY WITH AN
21 UNEMPLOYMENT RATE THAT IS AT LEAST 2% HIGHER THAN THE CURRENT STATE
22 AVERAGE UNEMPLOYMENT RATE AT THE TIME OF THE APPLICATION.

23 (v) THE HISTORIC RESOURCE MUST BE LOCATED IN A HISTORIC
24 DISTRICT THAT CONTAINS A PARK BIFURCATED BY AN ALL-AMERICAN ROAD
25 DESIGNATED BY THE FEDERAL HIGHWAY ADMINISTRATION IN A CITY WITH A
26 POPULATION OF MORE THAN 750,000.

27 (vi) THE HISTORIC RESOURCE MUST HAVE BEEN INCLUDED IN A

1 REHABILITATION PLAN FOR WHICH AN APPLICATION WAS SUBMITTED BY THE
2 APPLICATION DEADLINE FOR CONSIDERATION OF AN ADDITIONAL CREDIT FOR
3 THE 2009 CALENDAR YEAR FOR A HIGH COMMUNITY IMPACT REHABILITATION
4 PLAN.

5 (27) IN ADDITION TO MEETING THE CRITERIA IN SUBSECTION (20) (A)
6 THROUGH (H), 1 OF THE CREDITS AVAILABLE UNDER SUBSECTION (20),
7 INCLUDING THE CREDIT USED FROM THE 2011 CALENDAR YEAR, AND APPROVED
8 DURING THE 2010 CALENDAR YEAR FOR A HIGH COMMUNITY IMPACT
9 REHABILITATION PLAN SHALL BE FOR AN APPLICATION THAT MEETS ALL OF
10 THE FOLLOWING CRITERIA:

11 (A) THE HISTORIC RESOURCE MUST BE AT LEAST 85 YEARS OLD.

12 (B) THE HISTORIC RESOURCE MUST COMPRISE AT LEAST 85,000 TOTAL
13 SQUARE FEET.

14 (C) THE HISTORIC RESOURCE MUST BE LOCATED IN A COUNTY WITH A
15 POPULATION OF MORE THAN 500,000 BUT LESS THAN 600,000 ACCORDING TO
16 THE OFFICIAL 2000 FEDERAL DECENNIAL CENSUS.

17 (D) THE HISTORIC RESOURCE MUST BE LOCATED IN A CITY WITH A
18 POPULATION OF MORE THAN 180,000 BUT LESS THAN 200,000 ACCORDING TO
19 THE OFFICIAL 2000 FEDERAL DECENNIAL CENSUS.

20 (E) THE HISTORIC RESOURCE IS OR WAS FORMERLY OWNED BY THE
21 UNITED STATES GOVERNMENT OR FORMERLY HOUSED AGENCIES OF THE UNITED
22 STATES GOVERNMENT, OR BOTH.

23 (F) THE HISTORIC RESOURCE HOUSES FACILITIES OPERATED IN
24 CONJUNCTION WITH A PUBLIC UNIVERSITY.

25 (28) ~~(27)~~For purposes of this section, taxpayer includes a
26 person subject to the tax imposed under chapter 2A or 2B.

27 (29) ~~(28)~~As used in this section:

1 (a) "Contributing resource" means an historic resource that
2 contributes to the significance of the historic district in which
3 it is located.

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

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

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

18 (ii) An income-producing commercial, industrial, or residential
19 resource or an historic resource located within the property
20 boundaries of that resource.

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

26 (iv) A resource that is occupied or utilized by a governmental
27 body, nonprofit organization, or tax-exempt entity pursuant to a

1 long-term lease or lease with option to buy agreement.

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

3 (d) "Last tax year" means the taxpayer's tax year under former
4 1975 PA 228 that begins after December 31, 2006 and before January
5 1, 2008.

6 (e) "Local unit" means a county, city, village, or township.

7 (f) "Long-term lease" means a lease term of at least 27.5
8 years for a residential resource or at least 31.5 years for a
9 nonresidential resource.

10 (g) ~~"Michigan historical center" or "center" means the state~~
11 ~~historic preservation office of the Michigan historical center of~~
12 ~~the department of history, arts, and libraries or its successor~~
13 ~~agency~~ **STATE HOUSING DEVELOPMENT AUTHORITY" OR "AUTHORITY" MEANS**
14 **THE PUBLIC BODY CORPORATE AND POLITIC CREATED BY SECTION 21 OF THE**
15 **STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966, 1966 PA 346, MCL**
16 **125.1421.**

17 (h) "Michigan strategic fund" means the Michigan strategic
18 fund created under the Michigan strategic fund act, 1984 PA 270,
19 MCL 125.2001 to 125.2094.

20 (i) "Open space" means undeveloped land, a naturally
21 landscaped area, or a formal or man-made landscaped area that
22 provides a connective link or a buffer between other resources.

23 (j) "Person" means an individual, partnership, corporation,
24 association, governmental entity, or other legal entity.

25 (k) "Preapproval letter" means a letter issued by the ~~director~~
26 ~~of the department of history, arts, and libraries or his or her~~
27 ~~designee~~ **AUTHORITY** that indicates the date that the complete part 2

1 application was received and the amount of the credit allocated to
2 the project based on the estimated rehabilitation cost included in
3 the application.

4 (l) "Qualified expenditures" means capital expenditures that
5 qualify, or would qualify except that the taxpayer entered into an
6 agreement under subsection (13), for a rehabilitation credit under
7 section 47(a)(2) of the internal revenue code if the taxpayer is
8 eligible for the credit under section 47(a)(2) of the internal
9 revenue code or, if the taxpayer is not eligible for the credit
10 under section 47(a)(2) of the internal revenue code, the qualified
11 expenditures that would qualify under section 47(a)(2) of the
12 internal revenue code except that the expenditures are made to an
13 historic resource that is not eligible for the credit under section
14 47(a)(2) of the internal revenue code that were paid. Qualified
15 expenditures do not include capital expenditures for nonhistoric
16 additions to an historic resource except an addition that is
17 required by state or federal regulations that relate to historic
18 preservation, safety, or accessibility.

19 (m) "Qualified taxpayer" means a person that either owns the
20 resource to be rehabilitated or has a long-term lease agreement
21 with the owner of the historic resource and that has qualified
22 expenditures for the rehabilitation of the historic resource equal
23 to or greater than 10% of the state equalized valuation of the
24 property. If the historic resource to be rehabilitated is a portion
25 of an historic or nonhistoric resource, the state equalized
26 valuation of only that portion of the property shall be used for
27 purposes of this subdivision. If the assessor for the local tax

1 collecting unit in which the historic resource is located
2 determines the state equalized valuation of that portion, that
3 assessor's determination shall be used for purposes of this
4 subdivision. If the assessor does not determine that state
5 equalized valuation of that portion, qualified expenditures, for
6 purposes of this subdivision, shall be equal to or greater than 5%
7 of the appraised value as determined by a certified appraiser. If
8 the historic resource to be rehabilitated does not have a state
9 equalized valuation, qualified expenditures for purposes of this
10 subdivision shall be equal to or greater than 5% of the appraised
11 value of the resource as determined by a certified appraiser.

12 (n) "Rehabilitation plan" means a plan for the rehabilitation
13 of an historic resource that meets the federal secretary of the
14 interior's standards for rehabilitation and guidelines for
15 rehabilitation of historic buildings under 36 CFR part 67.