

# HOUSE BILL No. 4090

January 22, 2009, Introduced by Reps. Corriveau, Robert Jones, Polidori, Liss, Haugh, Terry Brown, Lisa Brown, Segal, Valentine, Haase, Geiss, Kennedy, Roberts, Barnett, Miller, Bauer, Slavens, Angerer and Ebli and referred to the Committee on Commerce.

A bill to amend 2007 PA 36, entitled  
"Michigan business tax act,"  
by amending section 435 (MCL 208.1435), as amended by 2008 PA 448.

## 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~~**SUBJECT TO SUBSECTION (29)**, TO be eligible for the  
2 credit under subsection (2), the taxpayer shall apply to and  
3 receive from the Michigan historical center certification 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 to qualify  
26 for the credit allowed under section 47(a)(2) of the internal  
27 revenue code. If the qualified taxpayer has previously filed for

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

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

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

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

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

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

23 (iii) A contributing resource located within an historic  
24 district designated by a local unit pursuant to an ordinance  
25 adopted under the local historic districts act, 1970 PA 169, MCL  
26 399.201 to 399.215.

27 (b) The resource meets 1 of the following criteria during the

1 tax year in which a credit under this section is claimed for those  
2 qualified expenditures:

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

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

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

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

18 (v) The historic resource is subject to a historic  
19 preservation easement.

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

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

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

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

18 (9) If the credit allowed under this section for the tax year  
19 and any unused carryforward of the credit allowed by this section  
20 exceed the taxpayer's tax liability for the tax year, that portion  
21 that exceeds the tax liability for the tax year shall not be  
22 refunded but may be carried forward to offset tax liability in  
23 subsequent tax years for 10 years or until used up, whichever  
24 occurs first. An unused carryforward of a credit under section 39c  
25 of former 1975 PA 228 that was unused at the end of the last tax  
26 year for which former 1975 PA 228 was in effect may be claimed  
27 against the tax imposed under this act for the years the

1 carryforward would have been available under section 39c of former  
2 1975 PA 228. For projects for which a certificate of completed  
3 rehabilitation is issued for a tax year beginning after December  
4 31, 2008 and for which the credit amount allowed is less than  
5 \$250,000.00, a qualified taxpayer may elect to forgo the carryover  
6 period and receive a refund of the amount of the credit that  
7 exceeds the qualified taxpayer's tax liability. The amount of the  
8 refund shall be equal to 90% of the amount of the credit that  
9 exceeds the qualified taxpayer's tax liability. An election under  
10 this subsection shall be made in the year that a certificate of  
11 completed rehabilitation is issued and shall be irrevocable.

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

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

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

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

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

27 (e) If the sale is at least 4 years but less than 5 years



1 after the year in which the credit was claimed, 20%.

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

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

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

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

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

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

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

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

25 (12) Except as otherwise provided under subsection (13), for  
26 tax years beginning after December 31, 2008, if a certificate of  
27 completed rehabilitation is revoked under subsection (5) or (22) or

1 an historic resource is sold or disposed of less than 5 years after  
2 the historic resource is placed in service as defined in section  
3 47(b)(1) of the internal revenue code and related treasury  
4 regulations or if a certificate of completed rehabilitation issued  
5 after December 1, 2008 is revoked under subsection (5) or (22)  
6 during a tax year beginning after December 31, 2008 or an historic  
7 resource is sold or disposed of less than 5 years after the  
8 historic resource is placed in service during a tax year beginning  
9 after December 31, 2008, the following percentage of the credit  
10 amount previously claimed relative to that historic resource shall  
11 be added back to the tax liability of the qualified taxpayer that  
12 received the certificate of completed rehabilitation and not the  
13 assignee in the year of the revocation:

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

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

18 (c) If the revocation is at least 2 years but less than 3  
19 years after the historic resource is placed in service, 60%.

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

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

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

27 (13) Subsection (12) shall not apply if the qualified taxpayer

1 enters into a written agreement with the state historic  
2 preservation office that will allow for the transfer or sale of the  
3 historic resource and provides the following:

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

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

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

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

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

20 (15) The qualified taxpayer shall attach all of the following  
21 to the qualified taxpayer's annual return required under this act  
22 or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to  
23 206.532, if applicable, on which the credit is claimed:

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 or  
2 assignee has assigned any portion of a credit allowed under this  
3 section or if the taxpayer is an assignee of any portion of a  
4 credit allowed under this section.

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

9 (17) The total of the credits claimed under subsection (2) and  
10 section 266 of the income tax act of 1967, 1967 PA 281, MCL  
11 206.266, for a rehabilitation project shall not exceed 25% of the  
12 total qualified expenditures eligible for the credit under  
13 subsection (2) for that rehabilitation project.

14 (18) The department of history, arts, and libraries through  
15 the Michigan historical center shall report all of the following to  
16 the legislature **AND THE BOARD OF THE MICHIGAN STRATEGIC FUND**  
17 annually for the immediately preceding state fiscal year:

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

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

21 (c) The location of each new and ongoing rehabilitation  
22 project.

23 **(D) THE NUMBER OF MICHIGAN RESIDENTS EMPLOYED IN NEW JOBS IN**  
24 **THE IMMEDIATELY PRECEDING YEAR.**

25 **(E) THE TOTAL NUMBER OF NEW JOBS CREATED IN THE IMMEDIATELY**  
26 **PRECEDING YEAR.**

27 **(F) THE SPECIFIC REASONS FOR EACH DETERMINATION OF EXEMPTION**

1 FROM THE PROVISIONS OF SUBSECTION (28) (A) OR (B) MADE BY THE CENTER  
2 AND THE NUMBER OF JOBS RELATED TO EACH DETERMINATION.

3 (19) In addition to the credit allowed under subsection (2)  
4 and subject to the criteria under this subsection and subsections  
5 (21), (22), ~~and (23)~~, **AND (29)**, for tax years that begin on and  
6 after January 1, 2009 a qualified taxpayer that has a preapproval  
7 letter issued on or before December 31, 2013 may claim an  
8 additional credit that has been approved under this subsection or  
9 subsection (20) against the tax imposed by this act equal to a  
10 percentage established in the taxpayer's preapproval letter of the  
11 qualified taxpayer's qualified expenditures for the rehabilitation  
12 of an historic resource or the actual amount of the qualified  
13 taxpayer's qualified expenditures incurred during the completion of  
14 the rehabilitation of an historic resource, whichever is less. The  
15 total amount of all additional credits approved under this  
16 subsection shall not exceed \$8,000,000.00 in calendar year ending  
17 December 31, 2009; \$9,000,000.00 in calendar year ending December  
18 31, 2010; \$10,000,000.00 in calendar year ending December 31, 2011;  
19 \$11,000,000.00 in calendar year ending December 31, 2012; and  
20 \$12,000,000.00 in calendar year ending December 31, 2013 and,  
21 except as otherwise provided under this subsection, at least, 25%  
22 of the allotted amount for additional credits approved under this  
23 subsection during each calendar year shall be allocated to  
24 rehabilitation plans that have \$1,000,000.00 or less in qualified  
25 expenditures. On October 1 of each calendar year, if the total of  
26 all credits approved under subsection (19)(a) for the calendar year  
27 is less than the minimum allotted amount, the department of

1 history, arts, and libraries may use the remainder of that allotted  
2 amount to approve applications for additional credits submitted  
3 under subsection (19)(b) for that calendar year. To be eligible for  
4 the additional credit under this subsection, the taxpayer shall  
5 apply to and receive a preapproval letter and comply with the  
6 following:

7 (a) For a rehabilitation plan that has \$1,000,000.00 or less  
8 in qualified expenditures, the taxpayer shall apply to the  
9 department of history, arts, and libraries for approval of the  
10 additional credit under this subsection. Subject to the limitation  
11 provided under this subsection, the director of the department of  
12 history, arts, and libraries or his or her designee is authorized  
13 to approve an application under this subdivision and determine the  
14 percentage of at least 10% but not more than 15% of the taxpayer's  
15 qualified expenditures for which he or she may claim an additional  
16 credit. If the director of the department of history, arts, and  
17 libraries or his or her designee approves the application under  
18 this subdivision, then he or she shall issue a preapproval letter  
19 to the taxpayer that states that the taxpayer is a qualified  
20 taxpayer and the maximum percentage of the qualified expenditures  
21 on which a credit may be claimed for the rehabilitation plan when  
22 it is complete and a certification of completed rehabilitation is  
23 issued.

24 (b) For a rehabilitation plan that has more than \$1,000,000.00  
25 in qualified expenditures, the taxpayer shall apply to the  
26 department of history, arts, and libraries for approval of the  
27 additional credit under this subsection. The director of the

1 department of history, arts, and libraries or his or her designee,  
2 subject to the approval of the president of the Michigan strategic  
3 fund or his or her designee, is authorized to approve an  
4 application under this subdivision and determine the percentage of  
5 up to 15% of the taxpayer's qualified expenditures for which he or  
6 she may claim an additional credit. An application shall be  
7 approved or denied not more than 15 business days after the  
8 director of the department of history, arts, and libraries or his  
9 or her designee has reviewed the application, determined the  
10 percentage amount of the credit for that applicant, and submitted  
11 the same to the president of the Michigan strategic fund or his or  
12 her designee. If the president of the Michigan strategic fund or  
13 his or her designee does not approve or deny the application within  
14 15 business days after the application is received from the  
15 department of history, arts, and libraries, the application is  
16 considered approved and the credit awarded in the amount as  
17 determined by the director of the department of history, arts, and  
18 libraries or his or her designee. If the president of the Michigan  
19 strategic fund or his or her designee approves the application  
20 under this subdivision, the director of the department of history,  
21 arts, and libraries or his or her designee shall issue a  
22 preapproval letter to the taxpayer that states that the taxpayer is  
23 a qualified taxpayer and the maximum percentage of the qualified  
24 expenditures on which a credit may be claimed for the  
25 rehabilitation plan when it is complete and a certification of  
26 completed rehabilitation is issued.

27 (20) The director of the department of history, arts, and

1 libraries or his or her designee, subject to the approval of the  
2 president of the Michigan strategic fund and the state treasurer,  
3 may approve 3 additional credits during the 2009 calendar year of  
4 up to 15% of the qualified taxpayer's qualified expenditures, and 2  
5 additional credits during the 2010, 2011, 2012, and 2013 calendar  
6 years of up to 15% of the qualified taxpayer's qualified  
7 expenditures, for certain rehabilitation plans that the director of  
8 the department of history, arts, and libraries or his or her  
9 designee determines is a high community impact rehabilitation plan  
10 that will have a significantly greater historic, social, and  
11 economic impact than those plans described under subsection (19)(a)  
12 and (b). To be eligible for the additional credit under this  
13 subsection, the taxpayer shall apply to and receive a preapproval  
14 letter from the department of history, arts, and libraries. An  
15 application shall be approved or denied not more than 15 business  
16 days after the director of the department of history, arts, and  
17 libraries or his or her designee has reviewed the application,  
18 determined the percentage amount of the credit for that applicant,  
19 and submitted the same to the president of the Michigan strategic  
20 fund and the state treasurer. If the president of the Michigan  
21 strategic fund and the state treasurer do not approve or deny the  
22 application within 15 business days after the application is  
23 received from the department of history, arts, and libraries, the  
24 application is considered approved and the credit awarded in the  
25 amount as determined by the director of the department of history,  
26 arts, and libraries or his or her designee. 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 shall issue  
3 a preapproval letter to the taxpayer that states that the taxpayer  
4 is a qualified taxpayer and the maximum percentage of the qualified  
5 expenditures on which a credit may be claimed for the high  
6 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 shall consider all of the following criteria to the extent  
11 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

1 history, arts, and libraries, the president of the Michigan  
2 strategic fund, and the state treasurer consider appropriate for  
3 the determination of approval under this subsection.

4 (21) The maximum amount of credit that a taxpayer or an  
5 assignee may claim under subsection (20) during a tax year is  
6 \$3,000,000.00. If the amount of the credit approved in the  
7 taxpayer's certificate of completed renovation is greater than  
8 \$3,000,000.00 that portion that exceeds the cap shall be carried  
9 forward to offset tax liability in subsequent tax years until used  
10 up.

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

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

18 (b) The physical condition of the historic resource.

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

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

22 (e) Any other criteria that the director of the department of  
23 history, arts, and libraries and the president of the Michigan  
24 strategic fund, as applicable, consider appropriate for the  
25 determination of approval under subsection (19).

26 (23) The director of the department of history, arts, and  
27 libraries or his or her designee may at any time before a

1 certification of completed rehabilitation is issued for a credit  
2 for which a preapproval letter was issued pursuant to subsection  
3 (19) do the following:

4 (a) Subject to the limitations and parameters under subsection  
5 (19), make amendments to the preapproval letter, which may include  
6 revising the amount of qualified expenditures for which the  
7 taxpayer may claim the additional credit under subsection (19).

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

16 (24) If a preapproval letter is revoked under subsection  
17 (23)(b), the amount of the credit approved under that preapproval  
18 letter shall be added to the annual cap in the calendar year that  
19 the preapproval letter is revoked. After a certification of  
20 completed rehabilitation is issued for a rehabilitation plan  
21 approved under subsection (19), if the director of the department  
22 of history, arts, and libraries or his or her designee determines  
23 that the actual amount of the additional credit to be claimed by  
24 the taxpayer for the calendar year is less than the amount approved  
25 under the preapproval letter, the difference shall be added to the  
26 annual cap in the calendar year that the certification of completed  
27 rehabilitation is issued.

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

6 (26) In addition to meeting the criteria in subsection (20)(a)  
7 through (h), 2 of the 3 credits available under subsection (20)  
8 during the 2009 calendar year for a high community impact  
9 rehabilitation plan shall be for an application meeting 1 of the  
10 following criteria:

11 (a) All of the following:

12 (i) The historic resource must be at least 80 years old.

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

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

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

20 (v) The historic resource receives a federal earmark  
21 appropriation and is the former home of a former professional  
22 sports team.

23 (b) All of the following:

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

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

27 (iii) The historic resource must be located in a county with a

1 population of more than 400,000 and less than 500,000.

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

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

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

9 (28) BEGINNING JULY 1, 2009, WHEN DETERMINING IF AN APPLICANT  
10 QUALIFIES FOR THE CREDIT UNDER THIS SECTION, IF ALL OTHER  
11 CONSIDERATIONS ARE EQUAL, THE CENTER SHALL GIVE PREFERENCE TO AN  
12 APPLICANT THAT AGREES, IN WRITING, TO DO ALL OF THE FOLLOWING:

13 (A) HIRE ONLY RESIDENTS OF THIS STATE TO ASSIST IN THE  
14 REHABILITATION OF A HISTORIC RESOURCE UNLESS THE CENTER DETERMINES  
15 THAT THE REHABILITATION CANNOT BE COMPLETED BY USING ONLY RESIDENTS  
16 OF THIS STATE FOR 1 OR MORE OF THE FOLLOWING:

17 (i) TO THE EXTENT NECESSARY TO COMPLY WITH FEDERAL LAW OR  
18 REGULATION CONCERNING THE USE OF FEDERAL FUNDS.

19 (ii) TO THE EXTENT THAT KEY MANAGEMENT PERSONNEL OR INDIVIDUALS  
20 WITH SPECIAL SKILLS, WHO ARE NOT RESIDENTS OF THIS STATE, ARE  
21 NEEDED.

22 (B) CONTRACT WITH BUSINESSES THAT AGREE TO HIRE ONLY RESIDENTS  
23 OF THIS STATE TO ASSIST IN THE REHABILITATION OF A HISTORIC  
24 RESOURCE UNLESS THE CENTER DETERMINES THAT THE REHABILITATION  
25 CANNOT BE COMPLETED BY USING ONLY RESIDENTS OF THIS STATE FOR 1 OR  
26 MORE OF THE FOLLOWING:

27 (i) TO THE EXTENT NECESSARY TO COMPLY WITH FEDERAL LAW OR

1 REGULATION CONCERNING THE USE OF FEDERAL FUNDS.

2 (ii) TO THE EXTENT THAT KEY MANAGEMENT PERSONNEL OR INDIVIDUALS  
3 WITH SPECIAL SKILLS, WHO ARE NOT RESIDENTS OF THIS STATE, ARE  
4 NEEDED.

5 (29) A QUALIFIED TAXPAYER THAT IS A BUSINESS IS NOT ABLE TO  
6 CLAIM THE CREDIT UNDER THIS SECTION UNLESS THAT QUALIFIED TAXPAYER  
7 ENTERS INTO A CONTRACT WITH THE CENTER THAT PROVIDES THAT, FOR ANY  
8 WORK ON THE REHABILITATION PLAN, THE QUALIFIED TAXPAYER WILL NOT  
9 KNOWINGLY HIRE OR CONTRACT WITH ANY BUSINESS ENTITY THAT KNOWINGLY  
10 HIRES AN INDIVIDUAL WHO IS NOT AUTHORIZED UNDER FEDERAL LAW TO WORK  
11 IN THE UNITED STATES.

12 (30) ~~(28)~~As used in this section:

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

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

20 (c) "Historic resource" means a publicly or privately owned  
21 historic building, structure, site, object, feature, or open space  
22 located within an historic district designated by the national  
23 register of historic places, the state register of historic sites,  
24 or a local unit acting under the local historic districts act, 1970  
25 PA 169, MCL 399.201 to 399.215, or that is individually listed on  
26 the state register of historic sites or national register of  
27 historic places, and includes all of the following:

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

3 (ii) An income-producing commercial, industrial, or residential  
4 resource or an historic resource located within the property  
5 boundaries of that resource.

6 (iii) A resource owned by a governmental body, nonprofit  
7 organization, or tax-exempt entity that is used primarily by a  
8 taxpayer lessee in a trade or business unrelated to the  
9 governmental body, nonprofit organization, or tax-exempt entity and  
10 that is subject to tax under this act.

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

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

15 (d) "Last tax year" means the taxpayer's tax year under former  
16 1975 PA 228 that begins after December 31, 2006 and before January  
17 1, 2008.

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

19 (f) "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 (g) "Michigan historical center" or "center" means the state  
23 historic preservation office of the Michigan historical center of  
24 the department of history, arts, and libraries or its successor  
25 agency.

26 (h) "Michigan strategic fund" means the Michigan strategic  
27 fund created under the Michigan strategic fund act, 1984 PA 270,

1 MCL 125.2001 to 125.2094.

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

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

7 (k) "Preapproval letter" means a letter issued by the director  
8 of the department of history, arts, and libraries or his or her  
9 designee that indicates the date that the complete part 2  
10 application was received and the amount of the credit allocated to  
11 the project based on the estimated rehabilitation cost included in  
12 the application.

13 (l) "Qualified expenditures" means capital expenditures that  
14 qualify, or would qualify except that the taxpayer entered into an  
15 agreement under subsection (13), for a rehabilitation credit under  
16 section 47(a)(2) of the internal revenue code if the taxpayer is  
17 eligible for the credit under section 47(a)(2) of the internal  
18 revenue code or, if the taxpayer is not eligible for the credit  
19 under section 47(a)(2) of the internal revenue code, the qualified  
20 expenditures that would qualify under section 47(a)(2) of the  
21 internal revenue code except that the expenditures are made to an  
22 historic resource that is not eligible for the credit under section  
23 47(a)(2) of the internal revenue code that were paid. Qualified  
24 expenditures do not include capital expenditures for nonhistoric  
25 additions to an historic resource except an addition that is  
26 required by state or federal regulations that relate to historic  
27 preservation, safety, or accessibility.



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

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