

# HOUSE BILL No. 4548

March 10, 2009, Introduced by Rep. McDowell 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

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

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

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

27 (b) A credit under this subsection shall be reduced by the

1 amount of a credit received by the taxpayer for the same qualified  
2 expenditures under section 47(a)(2) of the internal revenue code.

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

9 (a) All of the following criteria:

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

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

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

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

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

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

6 (5) The center may inspect an historic resource at any time  
7 during the rehabilitation process and may revoke certification of  
8 completed rehabilitation if the rehabilitation was not undertaken  
9 as represented in the rehabilitation plan or if unapproved  
10 alterations to the completed rehabilitation are made during the 5  
11 years after the tax year in which the credit was claimed. The  
12 center shall promptly notify the department 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. An unused carryforward of a credit under section 39c  
27 of former 1975 PA 228 that was unused at the end of the last tax

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

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

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

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

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

27 (d) If the sale is at least 3 years but less than 4 years



1 after the year in which the credit was claimed, 40%.

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

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

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

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

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

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

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

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

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

27 (12) Except as otherwise provided under subsection (13), for

1 tax years beginning after December 31, 2008, if a certificate of  
2 completed rehabilitation is revoked under subsection (5) or ~~(22)~~  
3 **(23) (B)** or an historic resource is sold or disposed of less than 5  
4 years after the historic resource is placed in service as defined  
5 in section 47(b)(1) of the internal revenue code and related  
6 treasury regulations or if a certificate of completed  
7 rehabilitation issued after December 1, 2008 is revoked under  
8 subsection (5) or ~~(22)~~ **(23) (B)** during a tax year beginning after  
9 December 31, 2008 or an historic resource is sold or disposed of  
10 less than 5 years after the historic resource is placed in service  
11 during a tax year beginning after December 31, 2008, the following  
12 percentage of the credit amount previously claimed relative to that  
13 historic resource shall be added back to the tax liability of the  
14 qualified taxpayer that received the certificate of completed  
15 rehabilitation and not the assignee in the year of the revocation:

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

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

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

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

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

26 (f) If the revocation is at least 5 years or more after the  
27 historic resource is placed in service, an addback to the qualified

1 taxpayer tax liability shall not be required.

2 (13) Subsection (12) shall not apply if the qualified taxpayer  
3 enters into a written agreement with the state historic  
4 preservation office that will allow for the transfer or sale of the  
5 historic resource and provides the following:

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

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

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

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

19 (14) 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 (15) The qualified taxpayer shall attach all of the following  
23 to the qualified taxpayer's annual return required under this act  
24 or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to  
25 206.532, if applicable, on which the credit is claimed:

26 (a) Certification of completed rehabilitation.

27 (b) Certification of historic significance related to the

1 historic resource and the qualified expenditures used to claim a  
2 credit under this section.

3 (c) A completed assignment form if the qualified taxpayer or  
4 assignee has assigned any portion of a credit allowed under this  
5 section or if the taxpayer is an assignee of any portion of a  
6 credit allowed under this section.

7 (16) The department of history, arts, and libraries shall  
8 promulgate rules to implement this section pursuant to the  
9 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
10 24.328.

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

16 (18) 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 (19) In addition to the credit allowed under subsection (2)  
26 and subject to the criteria under this subsection and subsections  
27 (21), (22), and (23), for tax years that begin on and after January

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

1 letter and comply with the following:

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

19 (b) For a rehabilitation plan that has more than \$1,000,000.00  
20 in qualified expenditures, the taxpayer shall apply to the  
21 department of history, arts, and libraries for approval of the  
22 additional credit under this subsection. The director of the  
23 department of history, arts, and libraries or his or her designee,  
24 subject to the approval of the president of the Michigan strategic  
25 fund or his or her designee, is authorized to approve an  
26 application under this subdivision and determine the percentage of  
27 up to 15% of the taxpayer's qualified expenditures for which he or

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

22 (20) The director of the department of history, arts, and  
23 libraries or his or her designee, subject to the approval of the  
24 president of the Michigan strategic fund and the state treasurer,  
25 may approve 3 additional credits during the 2009 calendar year of  
26 up to 15% of the qualified taxpayer's qualified expenditures, and 2  
27 additional credits during the 2010, 2011, 2012, and 2013 calendar

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



1 community impact rehabilitation plan when it is complete and a  
2 certification of completed rehabilitation is issued. Before  
3 approving a credit under this subsection, the director of the  
4 department of history, arts, and libraries or his or her designee  
5 shall consider all of the following criteria to the extent  
6 reasonably applicable:

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

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

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

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

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

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

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

22 (h) Any other criteria that the director of the department of  
23 history, arts, and libraries, the president of the Michigan  
24 strategic fund, and the state treasurer consider appropriate for  
25 the determination of approval under this subsection.

26 (21) The maximum amount of credit that a taxpayer or an  
27 assignee may claim under subsection (20) during a tax year is

1 \$3,000,000.00. If the amount of the credit approved in the  
2 taxpayer's certificate of completed renovation is greater than  
3 \$3,000,000.00 that portion that exceeds the cap shall be carried  
4 forward to offset tax liability in subsequent tax years until used  
5 up.

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

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

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

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

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

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

21 (23) The director of the department of history, arts, and  
22 libraries or his or her designee may at any time before a  
23 certification of completed rehabilitation is issued for a credit  
24 for which a preapproval letter was issued pursuant to subsection  
25 (19) do the following:

26 (a) Subject to the limitations and parameters under subsection  
27 (19), make amendments to the preapproval letter, which may include

1 revising the amount of qualified expenditures for which the  
2 taxpayer may claim the additional credit under subsection (19).

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

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

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

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

6           (a) All of the following:

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

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

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

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

15          (v) The historic resource receives a federal earmark  
16 appropriation and is the former home of a former professional  
17 sports team.

18          (b) All of the following:

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

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

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

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

26          (v) The historic resource must be located in a city with an  
27 unemployment rate that is at least 2% higher than the current state

1 average unemployment rate at the time of the application.

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

4 (28) FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2009, AN  
5 OTHERWISE QUALIFIED TAXPAYER WHO FAILS TO COMPLY WITH SECTION 3 OF  
6 THE MICHIGAN CORPORATE RESPONSIBILITY ACT OR WHO FAILS TO DISCLOSE  
7 A CIVIL OR CRIMINAL OFFENSE AS REQUIRED BY SECTION 3 OF THE  
8 MICHIGAN CORPORATE RESPONSIBILITY ACT IS NOT ELIGIBLE FOR THE  
9 CREDIT UNDER THIS SECTION.

10 (29) ~~(28)~~As used in this section:

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

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

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

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

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

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

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

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

13           (d) "Last tax year" means the taxpayer's tax year under former  
14 1975 PA 228 that begins after December 31, 2006 and before January  
15 1, 2008.

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

17           (f) "Long-term lease" means a lease term of at least 27.5  
18 years for a residential resource or at least 31.5 years for a  
19 nonresidential resource.

20           (g) "Michigan historical center" or "center" means the state  
21 historic preservation office of the Michigan historical center of  
22 the department of history, arts, and libraries or its successor  
23 agency.

24           (h) "Michigan strategic fund" means the Michigan strategic  
25 fund created under the Michigan strategic fund act, 1984 PA 270,  
26 MCL 125.2001 to 125.2094.

27           (i) "Open space" means undeveloped land, a naturally

1 landscaped area, or a formal or man-made landscaped area that  
2 provides a connective link or a buffer between other resources.

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

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

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

26 (m) "Qualified taxpayer" means a person that either owns the  
27 resource to be rehabilitated or has a long-term lease agreement

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

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