

HOUSE BILL No. 5433

September 22, 2009, Introduced by Rep. Cushingberry and referred to the Committee on Appropriations.

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 be eligible for the credit under subsection (2), the
2 taxpayer shall apply to and receive from the Michigan historical
3 center certification that the historic significance, the
4 rehabilitation plan, and the completed rehabilitation of the
5 historic resource meet the criteria under subsection (6) and either
6 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~~**DOES** not apply if the qualified

1 taxpayer 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~~ **BY WHICH** the department can recover an
8 amount from the taxpayer equal to the appropriate percentage of
9 credit added 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~~ **STATE**
18 through the Michigan historical center may impose a fee to cover
19 the administrative cost of implementing the program under this
20 section.

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

25 (a) Certification of completed rehabilitation.

26 (b) Certification of historic significance related to the
27 historic resource and the qualified expenditures used to claim a

1 credit under this section.

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

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

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

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

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

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

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

24 (19) In addition to the credit allowed under subsection (2)
25 and subject to the criteria under this subsection and subsections
26 (21), (22), and (23), for tax years that begin on and after January
27 1, 2009 a qualified taxpayer that has a preapproval letter issued

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

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

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

1 shall be approved or denied not more than 15 business days after
2 the ~~director of the department of history, arts, and libraries~~
3 **SECRETARY OF STATE** or his or her designee has reviewed the
4 application, determined the percentage amount of the credit for
5 that applicant, and submitted the same to the president of the
6 Michigan strategic fund or his or her designee. If the president of
7 the Michigan strategic fund or his or her designee does not approve
8 or deny the application within 15 business days after the
9 application is received from the department of ~~history, arts, and~~
10 ~~libraries~~ **STATE**, the application is considered approved and the
11 credit awarded in the amount as determined by the ~~director of the~~
12 ~~department of history, arts, and libraries~~ **SECRETARY OF STATE** or
13 his or her designee. If the president of the Michigan strategic
14 fund or his or her designee approves the application under this
15 subdivision, the ~~director of the department of history, arts, and~~
16 ~~libraries~~ **SECRETARY OF STATE** 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~~ **SECRETARY OF STATE** or his or her designee, subject to the
24 approval of the president of the Michigan strategic fund and the
25 state treasurer, may approve 3 additional credits during the 2009
26 calendar year of up to 15% of the qualified taxpayer's qualified
27 expenditures, and 2 additional credits during the 2010, 2011, 2012,

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

1 the maximum percentage of the qualified expenditures on which a
2 credit may be claimed for the high community impact rehabilitation
3 plan when it is complete and a certification of completed
4 rehabilitation is issued. Before approving a credit under this
5 subsection, the ~~director of the department of history, arts, and~~
6 ~~libraries~~ **SECRETARY OF STATE** or his or her designee shall consider
7 all of the following criteria to the extent reasonably applicable:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (e) Any other criteria that the ~~director of the department of~~
21 ~~history, arts, and libraries~~ **SECRETARY OF STATE** and the president
22 of the Michigan strategic fund, as applicable, consider appropriate
23 for the determination of approval under subsection (19).

24 (23) The ~~director of the department of history, arts, and~~
25 ~~libraries~~ **SECRETARY OF STATE** or his or her designee may at any time
26 before a certification of completed rehabilitation is issued for a
27 credit for which a preapproval letter was issued pursuant to

1 subsection (19) do the following:

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

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

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

26 (25) Unless otherwise specifically provided under subsections
27 (19) through (24), all other provisions under this section such as

1 the recapture of credits, assignment of credits, and refundability
2 of credits in excess of a qualified taxpayer's tax liability apply
3 to the additional credits issued under subsections (19) and (20).

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

9 (a) All of the following:

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

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

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

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

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

21 (b) All of the following:

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

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

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

27 (iv) The historic resource must be located in a city with a

1 population of more than 100,000 and less than 125,000.

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

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

7 (28) As used in this section:

8 (a) "Contributing resource" means an historic resource that
9 contributes to the significance of the historic district in which
10 it is located.

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

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

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

25 (ii) An income-producing commercial, industrial, or residential
26 resource or an historic resource located within the property
27 boundaries of that resource.

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

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

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

10 (d) "Last tax year" means the taxpayer's tax year under former
11 1975 PA 228 that begins after December 31, 2006 and before January
12 1, 2008.

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

14 (f) "Long-term lease" means a lease term of at least 27.5
15 years for a residential resource or at least 31.5 years for a
16 nonresidential resource.

17 (g) "Michigan historical center" or "center" means the state
18 historic preservation office of the Michigan historical center of
19 the department of ~~history, arts, and libraries~~ **STATE** or its
20 successor agency.

21 (h) "Michigan strategic fund" means the Michigan strategic
22 fund created under the Michigan strategic fund act, 1984 PA 270,
23 MCL 125.2001 to 125.2094.

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

27 (j) "Person" means an individual, partnership, corporation,

1 association, governmental entity, or other legal entity.

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

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

23 (m) "Qualified taxpayer" means a person that either owns the
24 resource to be rehabilitated or has a long-term lease agreement
25 with the owner of the historic resource and that has qualified
26 expenditures for the rehabilitation of the historic resource equal
27 to or greater than 10% of the state equalized valuation of the

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

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

20 Enacting section 1. This amendatory act does not take effect
21 unless Senate Bill No.____ or House Bill No. 5423(request no.
22 01945'09) of the 95th Legislature is enacted into law.