SENATE BILL No. 90

January 27, 2009, Introduced by Senator CASSIS and referred to the Committee on Finance.

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:

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

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

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

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

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

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

(a) All of the following criteria:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

based on an alternative method approved by the department. A credit assignment under this subsection is irrevocable and shall be made in the tax year in which a certificate of completed rehabilitation is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. A partner, member, or shareholder that is an assignee shall not subsequently assign a credit or any portion of a credit assigned to the partner, member, or shareholder under this subsection. A credit amount assigned under this subsection may be claimed against the partner's, member's, or shareholder's tax liability under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. A credit assignment under this subsection shall be made on a form prescribed by the department. The qualified taxpayer and assignees shall attach a copy of the completed assignment form to the department in the tax year in which the assignment is made and attach a copy of the completed assignment form to the annual return required to be filed under this act for that tax year.

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

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

(9) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed by this section exceed the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first. **IF A QUALIFIED TAXPAYER HAS AN UNUSED CARRYFORWARD OF A CREDIT UNDER THIS SECTION, THE AMOUNT OTHERWISE ADDED UNDER SUBSECTION (10), (11), OR (12) TO THE QUALIFIED TAXPAYER'S TAX**

LIABILITY MAY INSTEAD BE USED TO REDUCE THE QUALIFIED TAXPAYER'S CARRYFORWARD UNDER THIS SECTION. An unused carryforward of a credit under section 39c of former 1975 PA 228 that was unused at the end of the last tax year for which former 1975 PA 228 was in effect may be claimed against the tax imposed under this act for the years the carryforward would have been available under section 39c of former 1975 PA 228. For projects for which a certificate of completed rehabilitation is issued for a tax year beginning after December 31, 2008 and for which the credit amount allowed is less than $250,000.00, a qualified taxpayer may elect to forgo the carryover period and receive a refund of the amount of the credit that exceeds the qualified taxpayer's tax liability. The amount of the refund shall be equal to 90% of the amount of the credit that exceeds the qualified taxpayer's tax liability. An election under this subsection shall be made in the year that a certificate of completed rehabilitation is issued and shall be irrevocable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) The qualified taxpayer shall attach all of the following to the qualified taxpayer's annual return required under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to

206.532, if applicable, on which the credit is claimed:

(a) Certification of completed rehabilitation.

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

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

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

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

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

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

(b) A description of each rehabilitation project certified.

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

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

submitted under ~~subsection (19)(b)~~ **SUBDIVISION (B)** for that calendar year. To be eligible for the additional credit under this subsection, the taxpayer shall apply to and receive a preapproval letter and comply with the following:

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

(b) For a rehabilitation plan that has more than $1,000,000.00 in qualified expenditures, the taxpayer shall apply to the department of history, arts, and libraries for approval of the additional credit under this subsection. The director of the department of history, arts, and libraries or his or her designee, subject to the approval of the president of the Michigan strategic fund or his or her designee, is authorized to approve an application under this subdivision and determine the percentage of up to 15% of the taxpayer's qualified expenditures for which he or she may claim an additional credit. An application shall be approved or denied not more than 15 business days after the director of the department of history, arts, and libraries or his or her designee has reviewed the application, determined the percentage amount of the credit for that applicant, and submitted the same to the president of the Michigan strategic fund or his or her designee. If the president of the Michigan strategic fund or his or her designee does not approve or deny the application within 15 business days after the application is received from the department of history, arts, and libraries, the application is considered approved and the credit awarded in the amount as determined by the director of the department of history, arts, and libraries or his or her designee. If the president of the Michigan strategic fund or his or her designee approves the application under this subdivision, the director of the department of history, arts, and libraries or his or her designee shall issue a preapproval letter to the taxpayer that states that the taxpayer is a qualified taxpayer and the maximum percentage of the qualified expenditures on which a credit may be claimed for the rehabilitation plan when it is complete and a certification of completed rehabilitation is issued.

(20) The director of the department of history, arts, and libraries or his or her designee, subject to the approval of the president of the Michigan strategic fund and the state treasurer,

may approve 3 additional credits during the 2009 calendar year of up to 15% of the qualified taxpayer's qualified expenditures, and 2 additional credits during the 2010, 2011, 2012, and 2013 calendar years of up to 15% of the qualified taxpayer's qualified expenditures, for certain rehabilitation plans that the director of the department of history, arts, and libraries or his or her designee determines is a high community impact rehabilitation plan that will have a significantly greater historic, social, and economic impact than those plans described under subsection (19)(a) and (b). To be eligible for the additional credit under this subsection, the taxpayer shall apply to and receive a preapproval letter from the department of history, arts, and libraries. An application shall be approved or denied not more than 15 business days after the director of the department of history, arts, and libraries or his or her designee has reviewed the application, determined the percentage amount of the credit for that applicant, and submitted the same to the president of the Michigan strategic fund and the state treasurer. If the president of the Michigan strategic fund and the state treasurer do not approve or deny the application within 15 business days after the application is received from the department of history, arts, and libraries, the application is considered approved and the credit awarded in the amount as determined by the director of the department of history, arts, and libraries or his or her designee. If the president of the Michigan strategic fund and the state treasurer approve the application under this subdivision, the director of the department of history, arts, and libraries or his or her designee shall issue a preapproval letter to the taxpayer that states that the taxpayer is a qualified taxpayer and the maximum percentage of the qualified expenditures on which a credit may be claimed for the high community impact rehabilitation plan when it is complete and a certification of completed rehabilitation is issued. Before approving a credit under this subsection, the director of the department of history, arts, and libraries or his or her designee shall consider all of the following criteria to the extent reasonably applicable:

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

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

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

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

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

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

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

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

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

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

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

(b) The physical condition of the historic resource.

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

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

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

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

(19) do the following:

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

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

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

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

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

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

(a) All of the following:

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

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

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

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

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

(b) All of the following:

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

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

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

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

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

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

(28) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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