

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:

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

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

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

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

26 (b) A credit under this subsection shall be reduced by the
27 amount of a credit received by the taxpayer for the same qualified

1 expenditures under section 47(a)(2) of the internal revenue code.

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

8 (a) All of the following criteria:

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

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

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

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

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

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

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

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

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

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

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

24 (iii) A contributing resource located within an historic
25 district designated by a local unit pursuant to an ordinance
26 adopted under the local historic districts act, 1970 PA 169, MCL
27 399.201 to 399.215.

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

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

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

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

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

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

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

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

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

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

19 (9) If the credit allowed under this section for the tax year
20 and any unused carryforward of the credit allowed by this section
21 exceed the taxpayer's tax liability for the tax year, that portion
22 that exceeds the tax liability for the tax year shall not be
23 refunded but may be carried forward to offset tax liability in
24 subsequent tax years for 10 years or until used up, whichever
25 occurs first. **IF A QUALIFIED TAXPAYER HAS AN UNUSED CARRYFORWARD OF**
26 **A CREDIT UNDER THIS SECTION, THE AMOUNT OTHERWISE ADDED UNDER**
27 **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%.

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

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

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

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

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

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

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

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

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

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

27 (f) If the revocation is 5 years or more after the year in

1 which the credit was claimed, an addback to the taxpayer's tax
2 liability shall not be made.

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

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

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

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

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

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

1 years after the historic resource is placed in service, 20%.

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

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

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

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

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

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

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

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

1 206.532, if applicable, on which the credit is claimed:

2 (a) Certification of completed rehabilitation.

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

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

10 (16) The department of history, arts, and libraries shall
11 promulgate rules to implement this section pursuant to the
12 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
13 24.328.

14 (17) The total of the credits claimed under subsection (2) and
15 section 266 of the income tax act of 1967, 1967 PA 281, MCL
16 206.266, for a rehabilitation project shall not exceed 25% of the
17 total qualified expenditures eligible for the credit under
18 subsection (2) for that rehabilitation project.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (h) Any other criteria that the director of the department of
26 history, arts, and libraries, the president of the Michigan
27 strategic fund, and the state treasurer consider appropriate for

1 the determination of approval under this subsection.

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

9 (22) Before approving a credit, determining the amount of such
10 credit, and issuing a preapproval letter for such credit under
11 subsection (19) or before considering an amendment to the
12 preapproval letter, the director of the department of history,
13 arts, and libraries or his or her designee shall consider the
14 following criteria to the extent reasonably 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 and the president of the Michigan
22 strategic fund, as applicable, consider appropriate for the
23 determination of approval under subsection (19).

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

1 (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 or his or her designee shall provide the qualified
11 taxpayer with a notice of his or her intent to revoke the
12 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 or his or her designee determines
21 that the actual amount of the additional credit to be claimed by
22 the taxpayer for the calendar year is less than the amount approved
23 under the preapproval letter, the difference shall be added to the
24 annual cap in the calendar year that the certification of completed
25 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 or its successor
20 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 or his or her
4 designee that indicates the date that the complete part 2
5 application was received and the amount of the credit allocated to
6 the project based on the estimated rehabilitation cost included in
7 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.