

SUBSTITUTE FOR
HOUSE BILL NO. 5732

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending sections 435 and 510 (MCL 208.1435 and 208.1510),
section 435 as amended by 2010 PA 310 and section 510 as amended by
2011 PA 292.

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

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

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

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

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

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

10 (a) All of the following criteria:

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

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

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

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

26 (4) If a qualified taxpayer is eligible for the credit allowed
27 under section 47(a)(2) of the internal revenue code, the qualified

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

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

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

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

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

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

26 (iii) A contributing resource located within an historic
27 district designated by a local unit pursuant to an ordinance

1 adopted under the local historic districts act, 1970 PA 169, MCL
2 399.201 to 399.215.

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

6 (i) The historic resource is located in a designated historic
7 district in a local unit of government with an existing ordinance
8 under the local historic districts act, 1970 PA 169, MCL 399.201 to
9 399.215.

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

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

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

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

23 (7) For projects for which a certificate of completed
24 rehabilitation is issued for a tax year beginning before January 1,
25 2009, if a qualified taxpayer is a partnership, limited liability
26 company, or subchapter S corporation, the qualified taxpayer may
27 assign all or any portion of a credit allowed under this section to

1 its partners, members, or shareholders, based on the partner's,
2 member's, or shareholder's proportionate share of ownership or
3 based on an alternative method approved by the department. A credit
4 assignment under this subsection is irrevocable and shall be made
5 in the tax year in which a certificate of completed rehabilitation
6 is issued. A qualified taxpayer may claim a portion of a credit and
7 assign the remaining credit amount. A partner, member, or
8 shareholder that is an assignee shall not subsequently assign a
9 credit or any portion of a credit assigned to the partner, member,
10 or shareholder under this subsection. A credit amount assigned
11 under this subsection may be claimed against the partner's,
12 member's, or shareholder's tax liability under this act or under
13 the income tax act of 1967, 1967 PA 281, MCL 206.1 to ~~206.532-~~
14 **206.713.** A credit assignment under this subsection shall be made on
15 a form prescribed by the department. The qualified taxpayer and
16 assignees shall attach a copy of the completed assignment form to
17 the department in the tax year in which the assignment is made and
18 attach a copy of the completed assignment form to the annual return
19 required to be filed under this act for that tax year.

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

1 portions of the credit, the qualified taxpayer shall claim the
2 portion it claims in the tax year in which a certificate of
3 completed rehabilitation is issued pursuant to this section. An
4 assignee may subsequently assign the credit or any portion of the
5 credit assigned under this subsection to 1 or more assignees. An
6 assignment or subsequent reassignment of a credit can be made in
7 the year the certificate of completed rehabilitation is issued. A
8 credit assignment or subsequent reassignment under this section
9 shall be made on a form prescribed by the department. The
10 department or its designee shall review and issue a completed
11 assignment or reassignment certificate to the assignee or
12 reassignee. A credit amount assigned under this subsection may be
13 claimed against the assignees' tax under this act or under the
14 income tax act of 1967, 1967 PA 281, MCL 206.1 to ~~206.532~~. **206.713**.
15 An assignee or subsequent reassignee shall attach a copy of the
16 completed assignment certificate to the annual return required to
17 be filed under this act or under the income tax act of 1967, 1967
18 PA 281, MCL 206.1 to ~~206.532~~, **206.713**, for the tax year in which
19 the assignment or reassignment is made and the assignee or
20 reassignee first claims the credit, which shall be the same tax
21 year.

22 (9) If the credit allowed under this section for the tax year
23 and any unused carryforward of the credit allowed by this section
24 exceed the taxpayer's tax liability for the tax year, that portion
25 that exceeds the tax liability for the tax year shall not be
26 refunded but may be carried forward to offset tax liability in
27 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

1 the credit was claimed, 100%.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (b) If the revocation is at least 1 year but less than 2 years

1 after the historic resource is placed in service, 80%.

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

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

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

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

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

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

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

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

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

1 (14) The authority may impose a fee to cover the
2 administrative cost of implementing the program under this section.

3 (15) The qualified taxpayer shall attach all of the following
4 to the qualified taxpayer's annual return required under this act
5 or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to
6 ~~206.532~~, **206.713**, if applicable, on which the credit is claimed:

7 (a) Certification of completed rehabilitation.

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

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

15 (16) The authority may promulgate rules to implement this
16 section pursuant to the administrative procedures act of 1969, 1969
17 PA 306, MCL 24.201 to 24.328.

18 (17) The total of the credits claimed under subsection (2) and
19 **FORMER** section 266 of the income tax act of 1967, 1967 PA 281, ~~MCL~~
20 ~~206.266~~, for a rehabilitation project shall not exceed 25% of the
21 total qualified expenditures eligible for the credit under
22 subsection (2) for that rehabilitation project.

23 (18) The authority shall report all of the following to the
24 legislature annually for the immediately preceding state fiscal
25 year:

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

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

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

4 (19) In addition to the credit allowed under subsection (2)
5 and subject to the criteria under this subsection and subsections
6 (21), (22), and (23), for tax years that begin on and after January
7 1, 2009 a qualified taxpayer that has a preapproval letter issued
8 on or before December 31, 2013 may claim an additional credit that
9 has been approved under this subsection or subsection (20) against
10 the tax imposed by this act equal to a percentage established in
11 the taxpayer's preapproval letter of the qualified taxpayer's
12 qualified expenditures for the rehabilitation of an historic
13 resource or the actual amount of the qualified taxpayer's qualified
14 expenditures incurred during the completion of the rehabilitation
15 of an historic resource, whichever is less. The authority may
16 approve 1 credit under this subsection for a qualified taxpayer
17 that receives a certificate of completed rehabilitation for a
18 credit under subsection (2) on or after January 1, 2009 and before
19 November 15, 2009 notwithstanding that the qualified taxpayer has
20 not received a preapproval letter for a credit under this
21 subsection. The qualified taxpayer must apply for the additional
22 credit under this subsection before January 1, 2010. If the
23 additional credit approved under this subsection for a qualified
24 taxpayer that has not received a preapproval letter on or before
25 December 31, 2009 exceeds the allotted amount available for
26 additional credits approved under this subsection in the calendar
27 year ending December 31, 2009, then \$2,800,000.00 of the allotted

1 amount available in the calendar year ending December 31, 2010 may
2 be allocated to that 1 credit. The total amount of all additional
3 credits approved under this subsection shall not exceed
4 \$8,000,000.00 in calendar year ending December 31, 2009;
5 \$9,000,000.00 in calendar year ending December 31, 2010;
6 \$10,000,000.00 in calendar year ending December 31, 2011;
7 \$11,000,000.00 in calendar year ending December 31, 2012; and
8 \$12,000,000.00 in calendar year ending December 31, 2013 and,
9 except as otherwise provided under this subsection, at least, 25%
10 of the allotted amount for additional credits approved under this
11 subsection during each calendar year shall be allocated to
12 rehabilitation plans that have \$1,000,000.00 or less in qualified
13 expenditures. On October 1 of each calendar year, if the total of
14 all credits approved under subdivision (a) for the calendar year is
15 less than the minimum allotted amount, the authority may use the
16 remainder of that allotted amount to approve applications for
17 additional credits submitted under subdivision (b) for that
18 calendar year. To be eligible for the additional credit under this
19 subsection, the taxpayer shall apply to and receive a preapproval
20 letter and comply with the following:

21 (a) For a rehabilitation plan that has \$1,000,000.00 or less
22 in qualified expenditures, the taxpayer shall apply to the
23 authority for approval of the additional credit under this
24 subsection. Subject to the limitation provided under this
25 subsection, the authority is authorized to approve an application
26 under this subdivision and determine the percentage of at least 10%
27 but not more than 15% of the taxpayer's qualified expenditures for

1 which he or she may claim an additional credit. If the authority
2 approves the application under this subdivision, then the authority
3 shall issue a preapproval letter to the taxpayer that states that
4 the taxpayer is a qualified taxpayer and the maximum percentage of
5 the qualified expenditures on which a credit may be claimed for the
6 rehabilitation plan when it is complete and a certification of
7 completed rehabilitation is issued.

8 (b) For a rehabilitation plan that has more than \$1,000,000.00
9 in qualified expenditures, the taxpayer shall apply to the
10 authority for approval of the additional credit under this
11 subsection. The authority, subject to the approval of the president
12 of the Michigan strategic fund or his or her designee, is
13 authorized to approve an application under this subdivision and
14 determine the percentage of up to 15% of the taxpayer's qualified
15 expenditures for which he or she may claim an additional credit. An
16 application shall be approved or denied not more than 15 business
17 days after the authority has reviewed the application, determined
18 the percentage amount of the credit for that applicant, and
19 submitted the same to the president of the Michigan strategic fund
20 or his or her designee. If the president of the Michigan strategic
21 fund or his or her designee does not approve or deny the
22 application within 15 business days after the application is
23 received from the authority, the application is considered approved
24 and the credit awarded in the amount as determined by the
25 authority. If the president of the Michigan strategic fund or his
26 or her designee approves the application under this subdivision,
27 the director of the authority shall issue a preapproval letter to

1 the taxpayer that states that the taxpayer is a qualified taxpayer
2 and the maximum percentage of the qualified expenditures on which a
3 credit may be claimed for the rehabilitation plan when it is
4 complete and a certification of completed rehabilitation is issued.

5 (20) Except as otherwise provided under this subsection, the
6 authority, subject to the approval of the president of the Michigan
7 strategic fund and the state treasurer, may approve 3 additional
8 credits during the 2009 calendar year of up to 15% of the qualified
9 taxpayer's qualified expenditures, and 2 additional credits during
10 the 2010, 2011, 2012, and 2013 calendar years of up to 15% of the
11 qualified taxpayer's qualified expenditures, for certain
12 rehabilitation plans that the authority determines is a high
13 community impact rehabilitation plan that will have a significantly
14 greater historic, social, and economic impact than those plans
15 described under subsection (19)(a) and (b). The authority, subject
16 to the approval of the president of the Michigan strategic fund and
17 the state treasurer, may use 1 of the 2 additional credits
18 available during the 2010 calendar year to approve an additional
19 credit during the 2009 calendar year of up to 15% of the qualified
20 taxpayer's qualified expenditures and 1 of the 2 additional credits
21 available during the 2011 calendar year to approve an additional
22 credit during the 2010 calendar year of up to 15% of the qualified
23 taxpayer's qualified expenditures. Subject to the limitations
24 provided under subsection (21), for the 2011, 2012, and 2013
25 calendar years, of the additional credits available under this
26 subsection the authority may use 1 of those credits to approve a
27 combined rehabilitation plan that the authority determines would

1 allow for the rehabilitation of several multiple historic resources
2 within the same geographic district and would have a greater impact
3 on the community than the approval of a plan for the rehabilitation
4 of a single larger historic resource. To be eligible for the
5 additional credit under this subsection, the taxpayer shall apply
6 to and receive a preapproval letter from the authority. The
7 authority, subject to the approval of the president of the Michigan
8 strategic fund and the state treasurer, may combine applications
9 that are received for the rehabilitation of historic resources that
10 are located within the same geographic district and that taken as a
11 whole satisfy the additional requirements under subsection (28) and
12 consider the approval of the combination of those applications as
13 the approval of a single credit for a combined rehabilitation plan.
14 An application shall be approved or denied not more than 15
15 business days after the authority 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 authority, the application is considered approved
22 and the credit awarded in the amount as determined by the
23 authority. If the president of the Michigan strategic fund and the
24 state treasurer approve the application under this subsection, the
25 authority shall issue a preapproval letter to the taxpayer that
26 states that the taxpayer is a qualified taxpayer and the maximum
27 percentage of the qualified expenditures on which a credit may be

1 claimed for the high community impact rehabilitation plan when it
2 is complete and a certification of completed rehabilitation is
3 issued. Before approving a credit under this subsection, the
4 authority shall consider all of the following criteria to the
5 extent reasonably applicable:

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

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

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

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

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

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

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

21 (h) Any other criteria that the authority, the president of
22 the Michigan strategic fund, and the state treasurer consider
23 appropriate for the determination of approval under this
24 subsection.

25 (21) The maximum amount of credit that a taxpayer or an
26 assignee may claim under subsection (20) during a tax year is
27 \$3,000,000.00. If the amount of the credit approved in the

1 taxpayer's certificate of completed renovation is greater than
2 \$3,000,000.00 that portion that exceeds the cap shall be carried
3 forward to offset tax liability in subsequent tax years until used
4 up. The aggregate amount of credits approved under subsection (20)
5 for a combined rehabilitation plan shall not exceed \$24,000,000.00.
6 Except as otherwise provided in the preapproval letter, the amount
7 of the credit allowed for a combined rehabilitation plan shall be
8 applied pro rata to each of the qualified taxpayers that submitted
9 an application under subsection (20) that was considered a part of
10 a combined rehabilitation plan. The taxpayer's pro rata share shall
11 be the total amount of the credit allowed multiplied by a fraction
12 the numerator of which is the amount of investment made by the
13 taxpayer for the rehabilitation of the taxpayer's historic resource
14 during the tax year and the denominator of which is the sum of the
15 investments made by all taxpayers for the rehabilitation of all
16 historic resources included within the combined rehabilitation plan
17 during the tax year.

18 (22) Before approving a credit, determining the amount of such
19 credit, and issuing a preapproval letter for such credit under
20 subsection (19) or before considering an amendment to the
21 preapproval letter, the authority shall consider the following
22 criteria to the extent reasonably applicable:

- 23 (a) The importance of the historic resource to the community.
- 24 (b) The physical condition of the historic resource.
- 25 (c) The taxpayer's financial need of the additional credit.
- 26 (d) The overall economic impact the renovation will have on
27 the community.

1 (e) Any other criteria that the authority and the president of
2 the Michigan strategic fund, as applicable, consider appropriate
3 for the determination of approval under subsection (19).

4 (23) The authority may at any time before a certification of
5 completed rehabilitation is issued for a credit for which a
6 preapproval letter was issued pursuant to subsection (19) do the
7 following:

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

12 (b) Revoke the preapproval letter if the authority determines
13 that there has not been substantial progress toward completion of
14 the rehabilitation plan or that the rehabilitation plan cannot be
15 completed. The authority shall provide the qualified taxpayer with
16 a notice of his or her intent to revoke the preapproval letter 45
17 days prior to the proposed date of revocation.

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

1 rehabilitation is issued.

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

7 (26) In addition to meeting the criteria in subsection (20)(a)
8 through (h), 3 of the credits available under subsection (20),
9 including the credit used from the 2010 calendar year, and approved
10 during the 2009 calendar year for a high community impact
11 rehabilitation plan shall be for an application meeting 1 of the
12 following criteria:

13 (a) All of the following:

14 (i) The historic resource must be at least 70 years old.

15 (ii) The historic resource must comprise at least 500,000 total
16 square feet.

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

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

22 (b) All of the following:

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

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

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

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

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

6 (c) All of the following:

7 (i) The historic resource must be at least 70 years old.

8 (ii) The historic resource must comprise at least 180,000 total
9 square feet but not more than 250,000 square feet and must exceed
10 30 stories in height.

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

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

16 (v) The historic resource must be located in a historic
17 district that contains a park bifurcated by an all-American road
18 designated by the federal highway administration in a city with a
19 population of more than 750,000.

20 (vi) The historic resource must have been included in a
21 rehabilitation plan for which an application was submitted by the
22 application deadline for consideration of an additional credit for
23 the 2009 calendar year for a high community impact rehabilitation
24 plan.

25 (27) In addition to meeting the criteria in subsection (20) (a)
26 through (h), 1 of the credits available under subsection (20),
27 including the credit used from the 2011 calendar year, and approved

1 during the 2010 calendar year for a high community impact
2 rehabilitation plan shall be for an application that meets all of
3 the following criteria:

4 (a) The historic resource must be at least 85 years old.

5 (b) The historic resource must comprise at least 85,000 total
6 square feet.

7 (c) The historic resource must be located in a county with a
8 population of more than 500,000 but less than 600,000 according to
9 the official 2000 federal decennial census.

10 (d) The historic resource must be located in a city with a
11 population of more than 180,000 but less than 200,000 according to
12 the official 2000 federal decennial census.

13 (e) The historic resource is or was formerly owned by the
14 United States government or formerly housed agencies of the United
15 States government, or both.

16 (f) The historic resource houses facilities operated in
17 conjunction with a public university.

18 (28) In addition to meeting the criteria in subsection (20) (a)
19 through (h), the credit available during the 2011, 2012, and 2013
20 calendar years and approved for a combined rehabilitation plan
21 under subsection (20) shall be for applications that taken as a
22 whole meet all of the following criteria:

23 (a) The geographic district in which the historic resources to
24 be rehabilitated are located must not exceed 1 square mile.

25 (b) The historic resources to be rehabilitated combined must
26 comprise more than 1,000,000 square feet.

27 (c) The historic resources to be rehabilitated combined must

1 be redeveloped into residential, commercial, and retail
2 establishments.

3 (d) The combined investment associated with the historic
4 resources to be rehabilitated must be at least \$150,000,000.00.

5 (e) Each historic resource to be rehabilitated must be at
6 least 50,000 square feet.

7 (f) The historic resources to be rehabilitated combined must
8 be at least 80% vacant.

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

11 **(30) NOTWITHSTANDING SUBSECTIONS (7) AND (8), FOR PROJECTS FOR**
12 **WHICH A CERTIFICATE OF COMPLETED REHABILITATION IS ISSUED FOR A TAX**
13 **YEAR BEGINNING AFTER DECEMBER 31, 2007 AND ENDING BEFORE JANUARY 1,**
14 **2012, AN ASSIGNMENT BY A QUALIFIED TAXPAYER OF ALL OR ANY PORTION**
15 **OF A CREDIT ALLOWED UNDER SUBSECTION (1), (19), OR (20), MADE**
16 **WITHIN THE 12 MONTHS IMMEDIATELY SUCCEEDING THE TAX YEAR IN WHICH**
17 **THE CERTIFICATE OF COMPLETED REHABILITATION IS ISSUED, WILL QUALIFY**
18 **AS AN ASSIGNMENT UNDER SUBSECTIONS (7) AND (8).**

19 (31) ~~(30)~~As used in this section:

20 (a) "Combined rehabilitation plan" means a rehabilitation plan
21 for the rehabilitation of 1 or more historic resources that are
22 located within the same geographic district.

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

26 (c) "Historic district" means an area, or group of areas not
27 necessarily having contiguous boundaries, that contains 1 resource

1 or a group of resources that are related by history, architecture,
2 archaeology, engineering, or culture.

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

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

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

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

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

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

25 (e) "Last tax year" means the taxpayer's tax year under former
26 1975 PA 228 that begins after December 31, 2006 and before January
27 1, 2008.

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

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

5 (h) "Michigan state housing development authority" or
6 "authority" means the public body corporate and politic created by
7 section 21 of the state housing development authority act of 1966,
8 1966 PA 346, MCL 125.1421.

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

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

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

17 (l) "Preapproval letter" means a letter issued by the authority
18 that indicates the date that the complete part 2 application was
19 received and the amount of the credit allocated to the project
20 based on the estimated rehabilitation cost included in the
21 application.

22 (m) "Qualified expenditures" means capital expenditures that
23 qualify, or would qualify except that the taxpayer entered into an
24 agreement under subsection (13), for a rehabilitation credit under
25 section 47(a)(2) of the internal revenue code if the taxpayer is
26 eligible for the credit under section 47(a)(2) of the internal
27 revenue code or, if the taxpayer is not eligible for the credit

1 under section 47(a)(2) of the internal revenue code, the qualified
2 expenditures that would qualify under section 47(a)(2) of the
3 internal revenue code except that the expenditures are made to an
4 historic resource that is not eligible for the credit under section
5 47(a)(2) of the internal revenue code that were paid. Qualified
6 expenditures do not include capital expenditures for nonhistoric
7 additions to an historic resource except an addition that is
8 required by state or federal regulations that relate to historic
9 preservation, safety, or accessibility.

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

1 subdivision shall be equal to or greater than 5% of the appraised
2 value of the resource as determined by a certified appraiser.

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

7 Sec. 510. (1) If a certificate of completion, assignment
8 certificate, or component completion certificate is issued for a
9 tax year beginning after December 31, 2011 under section 437 to a
10 taxpayer or if a certificate of completed rehabilitation,
11 assignment certificate, or reassignment certificate is issued for a
12 tax year beginning after December 31, 2011 under section 435 to a
13 taxpayer, beginning on and after January 1, 2012 the taxpayer may
14 elect to claim a refundable credit for 90% of the amount of that
15 certificate. The claim may be filed before the end of the tax year,
16 and the department shall pay the refundable credit within 60 days
17 after receiving the claim. A taxpayer claiming a credit under this
18 section shall forgo the remaining 10% of the credit.

19 (2) If section 437 or 435 provides that payment of a credit
20 will be made over a period of years or limits the annual amount of
21 a payment, a refundable credit may only be claimed under subsection
22 (1) for the amount payable in the year claimed. A taxpayer may
23 elect to claim a refundable credit under subsection (1) in each
24 year that a credit is payable under section 437 or 435.
25 Notwithstanding the foregoing, a taxpayer may elect under
26 subsection (1) to claim the balance of a refundable credit awarded
27 under section 435(20), but the amount of that refund shall be equal

1 to 86% of the amount of the credit and the taxpayer shall forgo the
2 remaining 14% of the credit.

3 (3) Notwithstanding the provisions of section 437(18) and
4 section 435(9), for tax years ending after December 31, 2011, a
5 taxpayer may not claim a refundable credit under section 437(18) or
6 section 435(9) and may only claim a refundable credit under
7 sections 437 and 435 as provided in subsection (1) or (2).

8 (4) If a voucher certificate is issued for a tax year
9 beginning after December 31, 2011 under section 500(7) to a
10 taxpayer, beginning on and after January 1, 2012 the taxpayer may
11 elect to redeem a refundable voucher certificate subject only to
12 the annual limitations and conditions provided under section
13 500(7). The claim may be filed before the end of the tax year, and
14 the department shall pay the refundable certificate within 60 days
15 after receiving the claim.

16 (5) NOTWITHSTANDING SECTION 435(8), FOR PROJECTS FOR WHICH A
17 CERTIFICATE OF COMPLETED REHABILITATION IS ISSUED FOR A TAX YEAR
18 BEGINNING AFTER DECEMBER 31, 2009 AND BEFORE JANUARY 1, 2011, AN
19 ASSIGNEE OF A CREDIT ALLOWED UNDER SECTION 435(20) AVAILABLE TO BE
20 CLAIMED FOR A TAX YEAR BEGINNING AFTER DECEMBER 31, 2011 MAY ASSIGN
21 ALL OR ANY PORTION OF THAT CREDIT TO 1 OR MORE ASSIGNEES. ANY
22 ASSIGNEE MAY SUBSEQUENTLY REASSIGN THAT CREDIT OR ANY PORTION OF
23 THAT CREDIT TO 1 OR MORE ASSIGNEES. AN ASSIGNMENT OR REASSIGNMENT
24 OF A CREDIT UNDER THIS SUBSECTION CAN BE MADE ANY TIME PRIOR TO
25 DECEMBER 31, 2012.