HOUSE SUBSTITUTE FOR

SENATE BILL NO. 1037

[A bill to amend 2007 PA 36, entitled

"Michigan business tax act,"

by amending sections 111, 201, 305, and 435 (MCL 208.1111, 208.1201, 208.1305, and 208.1435), section 111 as amended by 2011 PA 305, section 201 as amended by 2009 PA 135, section 305 as amended by 2007 PA 205, and section 435 as amended by 2010 PA 310.]

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 111. (1) "Gross receipts" means the entire amount received by the taxpayer as determined by using the taxpayer's method of accounting used for federal income tax purposes, less any amount deducted as bad debt for federal income tax purposes that corresponds to items of gross receipts included in the modified gross receipts tax base for the current tax year or a past tax year phased in over a 5-year period starting with 50% of that amount in

the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter, from any activity whether in intrastate, interstate, or foreign commerce carried on for direct or indirect gain, benefit, or advantage to the taxpayer or to others except for the following:

(a) Proceeds from sales by a principal that the taxpayer collects in an agency capacity solely on behalf of the principal and delivers to the principal.

(b) Amounts received by the taxpayer as an agent solely on behalf of the principal that are expended by the taxpayer for any of the following:

(*i*) The performance of a service by a third party for the benefit of the principal that is required by law to be performed by a licensed person.

(*ii*) The performance of a service by a third party for the benefit of the principal that the taxpayer has not undertaken a contractual duty to perform.

(*iii*) Principal and interest under a mortgage loan or land contract, lease or rental payments, or taxes, utilities, or insurance premiums relating to real or personal property owned or leased by the principal.

(*iv*) A capital asset of a type that is, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated cost recovery by the principal for federal income tax purposes, or for real property owned or leased by the principal.

(*v*) Property not described under subparagraph (*iv*) that is purchased by the taxpayer on behalf of the principal and that the taxpayer does not take title to or use in the course of performing its contractual business activities.

(*vi*) Fees, taxes, assessments, levies, fines, penalties, or other payments established by law that are paid to a governmental entity and that are the legal obligation of the principal.

(c) Amounts that are excluded from gross income of a foreign corporation engaged in the international operation of aircraft under section 883(a) of the internal revenue code.

(d) Amounts received by an advertising agency used to acquire advertising media time, space, production, or talent on behalf of another person.

(e) Amounts received by a newspaper to acquire advertising space not owned by that newspaper in another newspaper on behalf of another person. This subdivision does not apply to any consideration received by the taxpayer for acquiring that advertising space.

(f) Notwithstanding any other provision of this section, amounts received by a taxpayer that manages real property owned by a third party that are deposited into a separate account kept in the name of that third party and that are not reimbursements to the taxpayer and are not indirect payments for management services that the taxpayer provides to that third party.

(g) Proceeds from the taxpayer's transfer of an account receivable if the sale that generated the account receivable was included in gross receipts for federal income tax purposes. This

subdivision does not apply to a taxpayer that during the tax year both buys and sells any receivables.

(h) Proceeds from any of the following:

(*i*) The original issue of stock or equity instruments or equity issued by a regulated investment company as that term is defined under section 851 of the internal revenue code.

(*ii*) The original issue of debt instruments.

(i) Refunds from returned merchandise.

(j) Cash and in-kind discounts.

(k) Trade discounts.

(*l*) Federal, state, or local tax refunds.

(m) Security deposits.

(n) Payment of the principal portion of loans.

(o) Value of property received in a like-kind exchange.

(p) Proceeds from a sale, transaction, exchange, involuntary conversion, maturity, redemption, repurchase, recapitalization, or other disposition or reorganization of tangible, intangible, or real property, less any gain from the disposition or reorganization to the extent that the gain is included in the taxpayer's federal taxable income, if the property satisfies 1 or more of the following:

(*i*) The property is a capital asset as defined in section 1221(a) of the internal revenue code.

(*ii*) The property is land that qualifies as property used in the trade or business as defined in section 1231(b) of the internal revenue code.

(*iii*) The property is used in a hedging transaction entered into

by the taxpayer in the normal course of the taxpayer's trade or business primarily to manage the risk of exposure to foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; interest rate fluctuations; or commodity price fluctuations. For purposes of this subparagraph, the actual transfer of title of real or tangible personal property to another person is not a hedging transaction. Only the overall net gain from the hedging transactions entered into during the tax year is included in gross receipts. As used in this subparagraph, "hedging transaction" means that term as defined under section 1221 of the internal revenue code regardless of whether the transaction was identified by the taxpayer as a hedge for federal income tax purposes, provided, however, that transactions excluded under this subparagraph and not identified as a hedge for federal income tax purposes shall be identifiable to the department by the taxpayer as a hedge in its books and records.

(*iv*) The property is investment and trading assets managed as part of the person's treasury function. For purposes of this subparagraph, a person principally engaged in the trade or business of purchasing and selling investment and trading assets is not performing a treasury function. Only the overall net gain from the treasury function incurred during the tax year is included in gross receipts. As used in this subparagraph, "treasury function" means the pooling and management of investment and trading assets for the purpose of satisfying the cash flow or liquidity needs of the taxpayer's trade or business.

(q) The proceeds from a policy of insurance, a settlement of a

claim, or a judgment in a civil action less any proceeds under this subdivision that are included in federal taxable income.

(r) For a sales finance company, as defined in section 2 of the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.102, and directly or indirectly owned in whole or in part by a motor vehicle manufacturer as of January 1, 2008, and for a person that is a broker or dealer as defined under section 78c(a)(4) or (5) of the securities exchange act of 1934, 15 USC 78c, or a person included in the unitary business group of that broker or dealer that buys and sells for its own account, contracts that are subject to the commodity exchange act, 7 USC 1 to 27f, amounts realized from the repayment, maturity, sale, or redemption of the principal of a loan, bond, or mutual fund, certificate of deposit, or similar marketable instrument provided such instruments are not held as inventory.

(s) For a sales finance company, as defined in section 2 of the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.102, and directly or indirectly owned in whole or in part by a motor vehicle manufacturer as of January 1, 2008, and for a person that is a broker or dealer as defined under section 78c(a)(4) or (5) of the securities exchange act of 1934, 15 USC 78c, or a person included in the unitary business group of that broker or dealer that buys and sells for its own account, contracts that are subject to the commodity exchange act, 7 USC 1 to 27f, the principal amount received under a repurchase agreement or other transaction properly characterized as a loan.

(t) For a mortgage company, proceeds representing the

principal balance of loans transferred or sold in the tax year. For purposes of this subdivision, "mortgage company" means a person that is licensed under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, or the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and has greater than 90% of its revenues, in the ordinary course of business, from the origination, sale, or servicing of residential mortgage loans.

(u) For a professional employer organization, any amount charged by a professional employer organization that represents the actual cost of wages and salaries, benefits, worker's compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer arrangement.

(v) Any invoiced items used to provide more favorable floor plan assistance to a person subject to the tax imposed under this act than to a person not subject to this tax and paid by a manufacturer, distributor, or supplier.

(w) For an individual, estate, or person organized for estate or gift planning purposes, amounts received other than those from transactions, activities, and sources in the regular course of the person's trade or business. For purposes of this subdivision, all of the following apply:

(*i*) Amounts received from transactions, activities, and sources in the regular course of the person's business include, but are not limited to, the following:

(A) Receipts from tangible and intangible property if the

acquisition, rental, lease, management, or disposition of the property constitutes integral parts of the person's regular trade or business operations.

(B) Receipts received in the course of the person's trade or business from stock and securities of any foreign or domestic corporation and dividend and interest income.

(C) Receipts derived from isolated sales, leases, assignments, licenses, divisions, or other infrequently occurring dispositions, transfers, or transactions involving tangible, intangible, or real property if the property is or was used in the person's trade or business operation.

(D) Receipts derived from the sale of an interest in a business that constitutes an integral part of the person's regular trade or business.

(E) Receipts derived from the lease or rental of real property.

(*ii*) Receipts excluded from gross receipts include, but are not limited to, the following:

(A) Receipts derived from investment activity, including interest, dividends, royalties, and gains from an investment portfolio or retirement account, if the investment activity is not part of the person's trade or business.

(B) Receipts derived from the disposition of tangible, intangible, or real property held for personal use and enjoyment, such as a personal residence or personal assets.

(x) Receipts derived from investment activity other than receipts from transactions, activities, and sources in the regular

course of the person's trade or business by a person that is organized exclusively to conduct investment activity and that does not conduct investment activity for any person other than an individual or a person related to that individual or by a common trust fund established under the collective investment funds act, 1941 PA 174, MCL 555.101 to 555.113. For purposes of this subdivision, a person is related to an individual if that person is a spouse, brother or sister, whether of the whole or half blood or by adoption, ancestor, lineal descendent of that individual or related person, or a trust benefiting that individual or 1 or more persons related to that individual.

(y) Interest income and dividends derived from obligations or securities of the United States government, this state, or any governmental unit of this state. As used in this subdivision, "governmental unit" means that term as defined in section 3 of the shared credit rating act, 1985 PA 227, MCL 141.1053.

(z) Dividends and royalties received or deemed received from a foreign operating entity or a person other than a United States person, including, but not limited to, the amounts determined under section 78 of the internal revenue code and sections 951 to 964 of the internal revenue code, phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter.

(aa) To the extent not deducted as purchases from other firms under section 203, each of the following:

(*i*) Sales or use taxes collected from or reimbursed by a

consumer or other taxes the taxpayer collected directly from or was reimbursed by a purchaser and remitted to a local, state, or federal tax authority, phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter.

(*ii*) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer, or seller, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the internal revenue code or other applicable state law, phased in over a 3-year period starting with 60% of that amount in the 2008 tax year, 75% in the 2009 tax year, and 100% in the 2010 tax year and each tax year thereafter.

(*iii*) In the case of receipts from the sale of motor fuel by a person with a motor fuel tax license or a retail dealer, an amount equal to federal and state excise taxes paid by any person on such motor fuel under section 4081 of the internal revenue code or under other applicable state law, phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter.

(*iv*) In the case of receipts from the sale of beer, wine, or intoxicating liquor by a person holding a license to sell, distribute, or produce those products, an amount equal to federal and state excise taxes paid by any person on or for such beer, wine, or intoxicating liquor under subtitle E of the internal

revenue code or other applicable state law, phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter.

(*v*) In the case of receipts from the sale of communication, video, internet access and related services and equipment, any government imposed tax, fee, or other imposition in the nature of a tax or fee required by law, ordinance, regulation, ruling, or other legal authority and authorized to be charged on a customer's bill or invoice, phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter. This subparagraph does not include the recovery of net income taxes, net worth taxes, property taxes, or the tax imposed under this act.

(*vi*) In the case of receipts from the sale of electricity, natural gas, or other energy source, any government imposed tax, fee, or other imposition in the nature of a tax or fee required by law, ordinance, regulation, ruling, or other legal authority and authorized to be charged on a customer's bill or invoice, phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter. This subparagraph does not include the recovery of net income taxes, net worth taxes, property taxes, or the tax imposed under this act.

(*vii*) Any deposit required under any of the following, phased

in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter:

(A) 1976 IL 1, MCL 445.571 to 445.576.

(B) R 436.1629 of the Michigan administrative code.

(C) R 436.1723a of the Michigan administrative code.

(D) Any substantially similar beverage container deposit law of another state.

(*viii*) An excise tax collected pursuant to the airport parking tax act, 1987 PA 248, MCL 207.371 to 207.383, collected from or reimbursed by a consumer and remitted as provided in the airport parking tax act, 1987 PA 248, MCL 207.371 to 207.383, phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter.

(bb) Amounts attributable to an ownership interest in a pass-through entity, regulated investment company, real estate investment trust, or cooperative corporation whose business activities are taxable under section 203 or would be subject to the tax under section 203 if the business activities were in this state. For purposes of this subdivision:

(*i*) "Cooperative corporation" means those organizations described under subchapter T of the internal revenue code.

(*ii*) "Pass-through" entity means a partnership, subchapter S corporation, or other person, other than an individual, that is not

classified for federal income tax purposes as an association taxed as a corporation.

(*iii*) "Real estate investment trust" means that term as defined under section 856 of the internal revenue code.

(*iv*) "Regulated investment company" means that term as defined under section 851 of the internal revenue code.

(cc) For a regulated investment company as that term is defined under section 851 of the internal revenue code, receipts derived from investment activity by that regulated investment company.

(dd) For fiscal years that begin after September 30, 2009, unless the state budget director certifies to the state treasurer by January 1 of that fiscal year that the federally certified rates for actuarial soundness required under 42 CFR 438.6 and that are specifically developed for Michigan's health maintenance organizations that hold a contract with this state for medicaid services provide explicit adjustment for their obligations required for payment of the tax under this act, amounts received by the taxpayer during that fiscal year for medicaid premium or reimbursement of costs associated with service provided to a medicaid recipient or beneficiary.

(ee) For a taxpayer that provides health care management consulting services, amounts received by the taxpayer as fees from its clients that are expended by the taxpayer to reimburse those clients for labor and nonlabor services that are paid by the client and reimbursed to the client pursuant to a services agreement.

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(2) "Insurance company" means an authorized insurer as defined in ~~section 106~~ **SECTIONS 106 AND 108** of the insurance code of 1956, 1956 PA 218, MCL 500.106 **AND 500.108**.

(3) "Internal revenue code" means the United States internal revenue code of 1986 in effect on January 1, 2008 or, at the option of the taxpayer, in effect for the tax year.

(4) "Inventory" means, except as provided in subdivision (e), all of the following:

(a) The stock of goods held for resale in the regular course of trade of a retail or wholesale business, including electricity or natural gas purchased for resale.

(b) Finished goods, goods in process, and raw materials of a manufacturing business purchased from another person.

(c) For a person that is a new motor vehicle dealer licensed under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, floor plan interest expenses for new motor vehicles. For purposes of this subdivision, "floor plan interest" means interest paid that finances any part of the person's purchase of new motor vehicle inventory from a manufacturer, distributor, or supplier. However, amounts attributable to any invoiced items used to provide more favorable floor plan assistance to a person subject to the tax imposed under this act than to a person not subject to this tax is considered interest paid by a manufacturer, distributor, or

supplier.

(d) For a person that is a securities trader, broker, or dealer or a person included in the unitary business group of that securities trader, broker, or dealer that buys and sells for its own account, contracts that are subject to the commodity exchange act, 7 USC 1 to 27f, the cost of securities as defined under section 475(c)(2) of the internal revenue code and for a securities trader the cost of commodities as defined under section 475(e)(2) and for a broker or dealer the cost of commodities as defined under section 475(e)(2)(b), (c), and (d) of the internal revenue code, excluding interest expense other than interest expense related to repurchase agreements. As used in this subdivision:

(*i*) "Broker" means that term as defined under section 78c(a)(4) of the securities exchange act of 1934, 15 USC 78c.

(*ii*) "Dealer" means that term as defined under section 78c(a)(5) of the securities exchange act of 1934, 15 USC 78c.

(*iii*) "Securities trader" means a person that engages in the trade or business of purchasing and selling investments and trading assets.

(e) Inventory does not include either of the following:

(*i*) Personal property under lease or principally intended for lease rather than sale.

(*ii*) Property allowed a deduction or allowance for depreciation or depletion under the internal revenue code.

(5) "Officer" means an officer of a corporation other than a subchapter S corporation, including all of the following:

(a) The chairperson of the board.

(b) The president, vice president, secretary, or treasurer of the corporation or board.

(c) Persons performing similar duties **AND RESPONSIBILITIES** to persons described in subdivisions (a) and (b) **THAT INCLUDE, AT A MINIMUM, MAJOR DECISION MAKING**.

Sec. 201. (1) Except as otherwise provided in this act, there is levied and imposed a business income tax on every taxpayer with business activity within this state unless prohibited by 15 USC 381 to 384. The business income tax is imposed on the business income tax base, after allocation or apportionment to this state, at the rate of 4.95%.

(2) The business income tax base means a taxpayer's business income subject to the following adjustments, before allocation or apportionment, and the adjustments in subsections (5), (6), and (7) after allocation or apportionment:

(a) Add interest income and dividends derived from obligations or securities of states other than this state, in the same amount that was excluded from federal taxable income, less the related portion of expenses not deducted in computing federal taxable income because of sections 265 and 291 of the internal revenue code.

(b) Add all taxes on or measured by net income and the tax imposed under this act to the extent the taxes were deducted in arriving at federal taxable income.

(c) Add any carryback or carryover of a net operating loss to the extent deducted in arriving at federal taxable income.

(d) To the extent included in federal taxable income, deduct

dividends and royalties received from persons other than United States persons and foreign operating entities, including, but not limited to, amounts determined under section 78 of the internal revenue code or sections 951 to 964 of the internal revenue code.

(e) To the extent included in federal taxable income, add the loss or subtract the income from the business income tax base that is attributable to another entity whose business activities are taxable under this section or would be subject to the tax under this section if the business activities were in this state.

(f) Except as otherwise provided under this subdivision, to the extent deducted in arriving at federal taxable income, add any royalty, interest, or other expense paid to a person related to the taxpayer by ownership or control for the use of an intangible asset if the person is not included in the taxpayer's unitary business group. The addition of any royalty, interest, or other expense described under this subdivision is not required to be added if the taxpayer can demonstrate that the transaction has a nontax business purpose other than avoidance of this tax, is conducted with arm's-length pricing and rates and terms as applied in accordance with sections 482 and 1274(d) of the internal revenue code, and satisfies 1 of the following:

(*i*) Is a pass through of another transaction between a third party and the related person with comparable rates and terms.

(*ii*) Results in double taxation. For purposes of this subparagraph, double taxation exists if the transaction is subject to tax in another jurisdiction.

(*iii*) Is unreasonable as determined by the treasurer, and the

taxpayer agrees that the addition would be unreasonable based on the taxpayer's facts and circumstances.

(*iv*) The related person recipient of the transaction is organized under the laws of a foreign nation which has in force a comprehensive income tax treaty with the United States.

(g) To the extent included in federal taxable income, deduct interest income derived from United States obligations.

(h) To the extent included in federal taxable income, deduct any earnings that are net earnings from self-employment as defined under section 1402 of the internal revenue code of the taxpayer or a partner ~~or limited liability company member~~ of the taxpayer ~~except to the extent that those net earnings represent a reasonable return on capital~~ **AND FOR PURPOSES OF A PARTNER OF A TAXPAYER, IT SHALL BE THE AMOUNT PROPERLY REPORTED ON A SCHEDULE K-1-FORM 1065 AS SELF-EMPLOYMENT EARNINGS FOR FEDERAL INCOME TAX PURPOSES FOR THE TAX YEAR**.

(i) Subject to the limitation provided under this subdivision, if the book-tax differences for the first fiscal period ending after July 12, 2007 result in a deferred liability for a person subject to tax under this act, deduct the following percentages of the total book-tax difference for each qualifying asset, for each of the successive 15 tax years beginning with the 2015 tax year:

(*i*) For the 2015 through 2019 tax years, 4%.

(*ii*) For the 2020 through 2024 tax years, 6%.

(*iii*) For the 2025 through 2029 tax years, 10%.

(j) For tax years that begin after December 31, 2009, to the extent included in federal taxable income, deduct the amount of a

charitable contribution made to the advance tuition payment fund created under section 9 of the Michigan education trust act, 1986 PA 316, MCL 390.1429.

(3) The deduction under subsection (2)(i) shall not exceed the amount necessary to offset the net deferred tax liability of the taxpayer as computed in accordance with generally accepted accounting principles which would otherwise result from the imposition of the business income tax under this section and the modified gross receipts tax under section 203 if the deduction provided under this subdivision were not allowed. The deduction under subsection (2)(i) is intended to flow through and reduce the surcharge imposed and levied under section 281. For purposes of the calculation of the deduction under subsection (2)(i), a book-tax difference shall only be used once in the calculation of the deduction arising from the taxpayer's business income tax base under this section and once in the calculation of the deduction arising from the taxpayer's modified gross receipts tax base under section 203. The adjustment under subsection (2)(i) shall be calculated without regard to the federal effect of the deduction. If the adjustment under subsection (2)(i) is greater than the taxpayer's business income tax base, any adjustment that is unused may be carried forward and applied as an adjustment to the taxpayer's business income tax base before apportionment in future years. In order to claim this deduction, the department may require the taxpayer to report the amount of this deduction on a form as prescribed by the department that is to be filed on or after the date that the first quarterly return and estimated payment are due

under this act. As used in subsection (2)(i) and this subsection:

(a) "Book-tax difference" means the difference, if any, between the person's qualifying asset's net book value shown on the person's books and records for the first fiscal period ending after July 12, 2007 and the qualifying asset's tax basis on that same date.

(b) "Qualifying asset" means any asset shown on the person's books and records for the first fiscal period ending after July 12, 2007, in accordance with generally accepted accounting principles.

(4) For purposes of subsections (2) and (3), the business income of a unitary business group is the sum of the business income of each person, other than a foreign operating entity or a person subject to the tax imposed under chapter 2A or 2B, included in the unitary business group less any items of income and related deductions arising from transactions including dividends between persons included in the unitary business group.

(5) Deduct any available business loss incurred after December 31, 2007. As used in this subsection, "business loss" means a negative business income taxable amount after allocation or apportionment. **FOR PURPOSES OF THIS SUBSECTION, A TAXPAYER THAT ACQUIRES THE ASSETS OF ANOTHER CORPORATION IN A TRANSACTION DESCRIBED UNDER SECTION 381(A)(1) OR (2) OF THE INTERNAL REVENUE CODE MAY DEDUCT ANY BUSINESS LOSS ATTRIBUTABLE TO THAT DISTRIBUTOR OR TRANSFEROR CORPORATION.** The business loss shall be carried forward to the year immediately succeeding the loss year as an offset to the allocated or apportioned business income tax base, then successively to the next 9 taxable years following the loss

year or until the loss is used up, whichever occurs first, but for not more than 10 taxable years after the loss year.

(6) Deduct any gain from the sale of any residential rental units in this state to a qualified affordable housing project that enters an agreement to operate the residential rental units as rent restricted units for a minimum of 15 years. If the qualified affordable housing project does not agree to operate all of the residential rental units as rent restricted units, the deduction under this subsection is limited to an amount equal to the gain from the sale multiplied by a fraction, the numerator of which is the number of those residential rental units purchased that are to be operated as a rent restricted unit and the denominator is the number of all residential rental units purchased. In order to claim this deduction, the department may require the taxpayer and the qualified affordable housing project to report the amount of this deduction on a form as prescribed by the department that is to be signed by both the taxpayer and the qualified affordable housing project and filed with the taxpayer's annual return. The department shall record a lien against the property subject to the operation agreement for the total amount of the deduction allowed under this subsection. The department shall notify the qualified affordable housing project of the maximum amount of the lien that the qualified affordable housing project may be liable for if the qualified affordable housing project fails to qualify and operate as provided in the operation agreement within 15 years after the purchase. The lien shall become payable in an amount as provided under this subsection to the state by the qualified affordable

housing project if the qualified affordable housing project fails to qualify as a qualified affordable housing project and fails to operate all or some of the residential rental units as rent restricted units in accordance with the operation agreement entered upon the purchase of those units within 15 years after the deduction is claimed by a taxpayer under this subsection. An amount equal to the product of 100% of the amount of the deduction allowed under this subsection multiplied by a fraction, the numerator of which is the difference between 15 and the number of years the affordable housing project qualified and operated rent restricted units in accordance with the agreement and the denominator is 15, shall be added back to the tax liability of the qualified affordable housing project for the tax year that the qualified affordable housing project fails to comply with the agreement.

(7) Subject to the limitations provided in this subsection, for a person that is a qualified affordable housing project, deduct an amount equal to the product of that person's taxable income that is attributable to residential rental units in this state owned by the qualified affordable housing project multiplied by a fraction, the numerator of which is the number of rent restricted units in this state owned by that qualified affordable housing project and the denominator of which is the number of all residential rental units in this state owned by the qualified affordable housing project. The amount of the deduction calculated under this subsection shall be reduced by the amount of limited dividends or other distributions made to the partners, members, or shareholders of the qualified affordable housing project. Taxable income that is

attributable to residential rental units does not include income received by the management, construction, or development company for completion and operation of the project and those rental units.

(8) If a qualified affordable housing project no longer meets the requirements of subsection (9)(b) or fails to operate those residential rental units as rent restricted units in accordance with the operation agreement and the requirements of subsection (9)(c), the taxpayer is entitled to the deductions under subsections (6) and (7) as long as the qualified affordable housing project continues to offer some of the residential rental units purchased as rent restricted units in accordance with the operation agreement.

(9) For purposes of subsections (6), (7), and (8) and this subsection:

(a) "Limited dividend housing association" means a limited dividend housing association, corporation, or cooperative organized and qualified pursuant to chapter 7 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1491 to 125.1496.

(b) "Qualified affordable housing project" means a person that is organized, qualified, and operated as a limited dividend housing association that has a limitation on the amount of dividends or other distributions that may be distributed to its owners in any given year and has received funding, subsidies, grants, operating support, or construction or permanent funding through 1 or more of the following sources and programs:

(*i*) Mortgage or other financing provided by the Michigan state

housing development authority created in section 21 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1421, the United States department of housing and urban development, the United States department of agriculture for rural housing service, the Michigan interfaith housing trust fund, Michigan housing and community development fund, federal home loan bank, housing commission loan, community development financial institution, or mortgage or other funding or guaranteed by Fannie, Ginnie, federal housing association, United States department of agriculture, or federal home loan mortgage corporation.

(*ii*) A tax-exempt bond issued by a nonprofit organization, local governmental unit, or other authority.

(*iii*) A payment in lieu of tax agreement or other tax abatement.

(*iv*) Funding from the state or a local governmental unit through a HOME investments partnership program authorized under 42 USC 12741 to 12756.

(*v*) A grant or other funding from a federal home loan bank's affordable housing program.

(*vi*) Financing or funding under the new markets tax credit program under section 45D of the internal revenue code.

(*vii*) Financed in whole or in part under the United States department of housing and urban development's hope VI program as authorized by section 803 of the national affordable housing act, 42 USC 8012.

(*viii*) Financed in whole or in part under the United States department of housing and urban development's section 202 program authorized by section 202 of the national housing act, 12 USC

1701q.

(*ix*) Financing or funding under the low-income housing tax credit program under section 42 of the internal revenue code.

(*x*) Financing or other subsidies from any new programs similar to any of the above.

(c) "Rent restricted unit" means any residential rental unit's rental income is restricted in accordance with section 42(g)(1) of the internal revenue code as if it was a qualified low-income housing project, or receives rental assistance in the form of HUD section 8 subsidies or HUD housing assistance program subsidies, or rental assistance from the United States department of agriculture rural housing programs, or from any of the other programs described under subdivision (b).

Sec. 305. (1) Sales of the taxpayer in this state are determined as follows:

(a) Sales of tangible personal property are in this state if the property is shipped or delivered, or, in the case of electricity and gas, the contract requires the property to be shipped or delivered, to any purchaser within this state based on the ultimate destination at the point that the property comes to rest regardless of the free on board point or other conditions of the sales. [**PROPERTY STORED IN TRANSIT FOR 60 DAYS OR MORE PRIOR TO RECEIPT BY THE PURCHASER OR THE PURCHASER'S DESIGNEE, OR IN THE CASE OF A DOCK SALE NOT PICKED UP FOR 60 DAYS OR MORE, SHALL BE DEEMED TO HAVE COME TO REST AT THIS ULTIMATE DESTINATION. PROPERTY STORED IN TRANSIT FOR FEWER THAN 60 DAYS PRIOR TO RECEIPT BY THE PURCHASER OR THE PURCHASER'S DESIGNEE, OR IN THE CASE OF A DOCK SALE NOT PICKED UP BEFORE**

60 DAYS, IS NOT DEEMED TO HAVE COME TO REST AT THIS ULTIMATE DESTINATION. FOR PURPOSES OF THIS SUBDIVISION:

(*i*) "DOCK SALE" MEANS A SALE IN WHICH THE PURCHASER USES ITS OWN OR RENTED VEHICLES, OR MAKES ARRANGEMENTS WITH A CARRIER, TO PICK UP THE PROPERTY AT THE SELLER'S LOCATION.

(*ii*) "STORED IN TRANSIT" MEANS STORING, STAGING, FORWARDING, OR CONSOLIDATING ACTIVITIES UNDERTAKEN FOR FURTHER SHIPMENT OR TRANSFER OF THE PROPERTY TO THE PURCHASER OR PURCHASER'S DESIGNEE.]

(b) Receipts from the sale, lease, rental, or licensing of real property are in this state if that property is located in this state.

(c) Receipts from the lease or rental of tangible personal property are sales in this state to the extent that the property is utilized in this state. The extent of utilization of tangible personal property in this state is determined by multiplying the receipts by a fraction, the numerator of which is the number of days of physical location of the property in this state during the lease or rental period in the tax year and the denominator of which is the number of days of physical location of the property everywhere during all lease or rental periods in the tax year. If the physical location of the property during the lease or rental period is unknown or cannot be determined, the tangible personal property is utilized in the state in which the property was located at the time the lease or rental payer obtained possession.

(d) Receipts from the lease or rental of mobile transportation property owned by the taxpayer are in this state to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state and the amount of receipts that is to be included in the numerator of this state's sales factor is determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of the fraction is the number of landings of the aircraft in this state and the denominator of the fraction is the total number of landings of the

aircraft. If the extent of the use of any transportation property

within this state cannot be determined, then the receipts are in this state if the property has its principal base of operations in this state.

(e) Royalties and other income received for the use of or for the privilege of using intangible property, including patents, know-how, formulas, designs, processes, patterns, copyrights, trade names, service names, franchises, licenses, contracts, customer lists, computer software, or similar items, are attributed to the state in which the property is used by the purchaser. If the property is used in more than 1 state, the royalties or other income shall be apportioned to this state pro rata according to the portion of use in this state. If the portion of use in this state cannot be determined, the royalties or other income shall be excluded from both the numerator and the denominator. Intangible property is used in this state if the purchaser uses the intangible property or the rights to the intangible property in the regular course of its business operations in this state, regardless of the location of the purchaser's customers.

(2) Sales from the performance of services are in this state and attributable to this state as follows:

(a) Except as otherwise provided in this section, all receipts from the performance of services are included in the numerator of the apportionment factor if the recipient of the services receives all of the benefit of the services in this state. If the recipient of the services receives some of the benefit of the services in this state, the receipts are included in the numerator of the apportionment factor in proportion to the extent that the recipient

receives benefit of the services in this state.

(b) Sales derived from securities brokerage services attributable to this state are determined by multiplying the total dollar amount of receipts from securities brokerage services by a fraction, the numerator of which is the sales of securities brokerage services to customers within this state, and the denominator of which is the sales of securities brokerage services to all customers. Receipts from securities brokerage services include commissions on transactions, the spread earned on principal transactions in which the broker buys or sells from its account, total margin interest paid on behalf of brokerage accounts owned by the broker's customers, and fees and receipts of all kinds from the underwriting of securities. If receipts from brokerage services can be associated with a particular customer, but it is impractical to associate the receipts with the address of the customer, then the address of the customer shall be presumed to be the address of the branch office that generates the transactions for the customer.

(c) Sales of services that are derived directly or indirectly from the sale of management, distribution, administration, or securities brokerage services to, or on behalf of, a regulated investment company or its beneficial owners, including receipts derived directly or indirectly from trustees, sponsors, or participants of employee benefit plans that have accounts in a regulated investment company, shall be attributable to this state to the extent that the shareholders of the regulated investment company are domiciled within this state. For purposes of this subdivision, "domicile" means the shareholder's mailing address on

the records of the regulated investment company. If the regulated investment company or the person providing management services to the regulated investment company has actual knowledge that the shareholder's primary residence or principal place of business is different than the shareholder's mailing address, then the shareholder's primary residence or principal place of business is the shareholder's domicile. A separate computation shall be made with respect to the receipts derived from each regulated investment company. The total amount of sales attributable to this state shall be equal to the total receipts received by each regulated investment company multiplied by a fraction determined as follows:

(*i*) The numerator of the fraction is the average of the sum of the beginning-of-year and end-of-year number of shares owned by the regulated investment company shareholders who have their domicile in this state.

(*ii*) The denominator of the fraction is the average of the sum of the beginning-of-year and end-of-year number of shares owned by all shareholders.

(*iii*) For purposes of the fraction, the year shall be the tax year of the regulated investment company that ends with or within the tax year of the taxpayer.

(3) Receipts from the origination of a loan or gains from the sale of a loan secured by residential real property is deemed a sale in this state only if 1 or more of the following apply:

(a) The real property is located in this state.

(b) The real property is located both within this state and 1 or more other states and more than 50% of the fair market value of

the real property is located within this state.

(c) More than 50% of the real property is not located in any 1 state and the borrower is located in this state.

(4) Interest from loans secured by real property is in this state if the property is located within this state or if the property is located both within this state and 1 or more other states, if more than 50% of the fair market value of the real property is located within this state, or if more than 50% of the fair market value of the real property is not located within any 1 state, if the borrower is located in this state. The determination of whether the real property securing a loan is located within this state shall be made as of the time the original agreement was made and any and all subsequent substitutions of collateral shall be disregarded.

(5) Interest from a loan not secured by real property is in this state if the borrower is located in this state.

(6) Gains from the sale of a loan not secured by real property, including income recorded under the coupon stripping rules of section 1286 of the internal revenue code, are in this state if the borrower is in this state.

(7) Receipts from credit card receivables, including interest, fees, and penalties from credit card receivables and receipts from fees charged to cardholders, such as annual fees, are in this state if the billing address of the cardholder is in this state.

(8) Receipts from the sale of credit card or other receivables is in this state if the billing address of the customer is in this state. Credit card issuer's reimbursements fees are in this state

if the billing address of the cardholder is in this state. Receipts from merchant discounts, computed net of any cardholder chargebacks, but not reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its cardholders, are in this state if the commercial domicile of the merchant is in this state.

(9) Loan servicing fees derived from loans of another secured by real property are in this state if the real property is located in this state, or the real property is located both within and outside of this state and 1 or more states if more than 50% of the fair market value of the real property is located in this state, or more than 50% of the fair market value of the real property is not located in any 1 state, and the borrower is located in this state. Loan servicing fees derived from loans of another not secured by real property are in this state if the borrower is located in this state. If the location of the security cannot be determined, then loan servicing fees for servicing either the secured or the unsecured loans of another are in this state if the lender to whom the loan servicing service is provided is located in this state.

(10) Receipts from the sale of securities and other assets from investment and trading activities, including, but not limited to, interest, dividends, and gains are in this state in either of the following circumstances:

(a) The person's customer is in this state.

(b) If the location of the person's customer cannot be determined, both of the following:

(*i*) Interest, dividends, and other income from investment

assets and activities and from trading assets and activities, including, but not limited to, investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions are in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. Interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements are in this state if the average value of the assets is assigned to a regular place of business of the taxpayer within this state. The amount of receipts and other income from investment assets and activities is in this state if assets are assigned to a regular place of business of the taxpayer within this state.

(*ii*) The amount of receipts from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts otherwise sourced in this section, are in this state if the assets are assigned to a regular place of business of the taxpayer within this state.

(11) Receipts from transportation services rendered by a person subject to tax in another state are in this state and shall be attributable to this state as follows:

(a) Except as otherwise provided in subdivisions (b) through (e), receipts shall be proportioned based on the ratio that revenue miles of the person in this state bear to the revenue miles of the

person everywhere.

(b) Receipts from maritime transportation services shall be attributable to this state as follows:

(*i*) 50% of those receipts that either originate or terminate in this state.

(*ii*) 100% of those receipts that both originate and terminate in this state.

(c) Receipts attributable to this state of a person whose business activity consists of the transportation both of property and of individuals shall be proportioned based on the total gross receipts for passenger miles and ton mile fractions, separately computed and individually weighted by the ratio of gross receipts from passenger transportation to total gross receipts from all transportation, and by the ratio of gross receipts from freight transportation to total gross receipts from all transportation, respectively.

(d) Receipts attributable to this state of a person whose business activity consists of the transportation of oil by pipeline shall be proportioned based on the ratio that the gross receipts for the barrel miles transported in this state bear to the gross receipts for the barrel miles transported by the person everywhere.

(e) Receipts attributable to this state of a person whose business activities consist of the transportation of gas by pipeline shall be proportioned based on the ratio that the gross receipts for the 1,000 cubic feet miles transported in this state bear to the gross receipts for the 1,000 cubic feet miles transported by the person everywhere.

(12) For purposes of subsection (11), if a taxpayer can show that revenue mile information is not available or cannot be obtained without unreasonable expense to the taxpayer, receipts attributable to this state shall be that portion of the revenue derived from transportation services everywhere performed that the miles of transportation services performed in this state bears to the miles of transportation services performed everywhere. If the department determines that the information required for the calculations under subsection (11) are not available or cannot be obtained without unreasonable expense to the taxpayer, the department may use other available information that in the opinion of the department will result in an equitable allocation of the taxpayer's receipts to this state.

(13) Except as provided in subsections (14) through (19), receipts from the sale of telecommunications service or mobile telecommunications service are in this state if the customer's place of primary use of the service is in this state. As used in this subsection, "place of primary use" means the customer's residential street address or primary business street address where the customer's use of the telecommunications service primarily occurs. For mobile telecommunications service, the customer's residential street address or primary business street address is the place of primary use only if it is within the licensed service area of the customer's home service provider.

(14) Receipts from the sale of telecommunications service sold on an individual call-by-call basis are in this state if either of the following applies:

(a) The call both originates and terminates in this state.

(b) The call either originates or terminates in this state and the service address is located in this state.

(15) Receipts from the sale of postpaid telecommunications service are in this state if the origination point of the telecommunication signal, as first identified by the service provider's telecommunication system or as identified by information received by the seller from its service provider if the system used to transport telecommunication signals is not the seller's, is located in this state.

(16) Receipts from the sale of prepaid telecommunications service or prepaid mobile telecommunications service are in this state if the purchaser obtains the prepaid card or similar means of conveyance at a location in this state. Receipts from recharging a prepaid telecommunications service or mobile telecommunications service is in this state if the purchaser's billing information indicates a location in this state.

(17) Receipts from the sale of private communication services are in this state as follows:

(a) 100% of the receipts from the sale of each channel termination point within this state.

(b) 100% of the receipts from the sale of the total channel mileage between each termination point within this state.

(c) 50% of the receipts from the sale of service segments for a channel between 2 customer channel termination points, 1 of which is located in this state and the other is located outside of this state, which segments are separately charged.

(d) The receipts from the sale of service for segments with a channel termination point located in this state and in 2 or more other states or equivalent jurisdictions, and which segments are not separately billed, are in this state based on a percentage determined by dividing the number of customer channel termination points in this state by the total number of customer channel termination points.

(18) Receipts from the sale of billing services and ancillary services for telecommunications service are in this state based on the location of the purchaser's customers. If the location of the purchaser's customers is not known or cannot be determined, the sale of billing services and ancillary services for telecommunications service are in this state based on the location of the purchaser.

(19) Receipts to access a carrier's network or from the sale of telecommunications services for resale are in this state as follows:

(a) 100% of the receipts from access fees attributable to intrastate telecommunications service that both originates and terminates in this state.

(b) 50% of the receipts from access fees attributable to interstate telecommunications service if the interstate call either originates or terminates in this state.

(c) 100% of the receipts from interstate end user access line charges, if the customer's service address is in this state. As used in this subdivision, "interstate end user access line charges" includes, but is not limited to, the surcharge approved by the

federal communications commission and levied pursuant to 47 CFR 69.

(d) Gross receipts from sales of telecommunications services to other telecommunication service providers for resale shall be sourced to this state using the apportionment concepts used for non-resale receipts of telecommunications services if the information is readily available to make that determination. If the information is not readily available, then the taxpayer may use any other reasonable and consistent method.

(20) Except as otherwise provided under this subsection, for a taxpayer whose business activities include live radio or television programming as described in subsector code 7922 of industry group 792 under the standard industrial classification code as compiled by the United States department of labor or are included in industry ~~groups~~ **GROUP** 483, 484, 781, or 782 under the standard industrial classification code as compiled by the United States department of labor, or any combination of the business activities included in those groups, media receipts are in this state and attributable to this state only if the commercial domicile of the customer is in this state and the customer has a direct connection or relationship with the taxpayer pursuant to a contract under which the media receipts are derived. For media receipts from the sale of advertising, if the customer of that advertising is commercially domiciled in this state and receives some of the benefit of the sale of that advertising in this state, the media receipts from the advertising to that customer are included in the numerator of the apportionment factor in proportion to the extent that the customer receives the benefit of the advertising in this

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state. For purposes of this subsection, if the taxpayer is a broadcaster and if the customer receives some of the benefit of the advertising in this state, the media receipts for that sale of advertising from that customer shall be proportioned based on the ratio that the broadcaster's viewing or listening audience in this state bears to its total viewing or listening audience everywhere. As used in this subsection:

(a) "Media property" means motion pictures, television programs, internet programs and websites, other audiovisual works, and any other similar property embodying words, ideas, concepts, images, or sound without regard to the means or methods of distribution or the medium in which the property is embodied.

(b) "Media receipts" means receipts from the sale, license, broadcast, transmission, distribution, exhibition, or other use of media property and receipts from the sale of media services. Media receipts do not include receipts from the sale of media property that is a consumer product that is ultimately sold at retail.

(c) "Media services" means services in which the use of the media property is integral to the performance of those services.

(21) Terms used in subsections (13) through (20) have the same meaning as those terms defined in the streamlined sales and use tax agreement administered under the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.801 to 205.833.

(22) For purposes of this section, a borrower is considered located in this state if the borrower's billing address is in this state.

[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 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 state housing development authority 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 authority to qualify for the credit allowed under section 47(a)(2) of the internal revenue code.

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If the qualified taxpayer has previously filed for certification with the authority 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 authority 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 authority 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), a preapproval letter is revoked under subsection (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) during a tax year beginning after December 31, 2008, a preapproval letter issued after December 1, 2008 is revoked under subsection (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 authority 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.

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(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 authority 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 authority may 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 authority shall report all of the following to the legislature annually for the immediately preceding state fiscal year:

(a) The fee schedule used by the authority 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 authority may approve 1 credit under this subsection for a qualified taxpayer that receives a certificate of completed rehabilitation for a credit under subsection (2) on or after January 1, 2009 and before November 15, 2009 notwithstanding that the qualified taxpayer has not received a preapproval letter for a credit under this subsection. The qualified taxpayer must apply for the additional credit under this subsection before January 1, 2010. If the additional credit approved under this subsection for a qualified taxpayer that has not

received a preapproval letter on or before December 31, 2009 exceeds the allotted amount available for additional credits approved under this subsection in the calendar year ending December 31, 2009, then $2,800,000.00 of the allotted amount available in the calendar year ending December 31, 2010 may be allocated to that 1 credit. 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 subdivision (a) for the calendar year is less than the minimum allotted amount, the authority may use the remainder of that allotted amount to approve applications for additional credits submitted under 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 authority for approval of the additional credit under this subsection. Subject to the limitation provided under this subsection, the authority 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 authority approves the application under this subdivision, then the authority 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 authority for approval of the additional credit under this subsection. The authority, 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 authority 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 authority, the application is considered approved and the credit awarded in the amount

as determined by the authority. If the president of the Michigan strategic fund or his or her designee approves the application under this subdivision, the director of the authority 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) Except as otherwise provided under this subsection, the authority, 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 authority 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). The authority, subject to the approval of the president of the Michigan strategic fund and the state treasurer, may use 1 of the 2 additional credits available during the 2010 calendar year to approve an additional credit during the 2009 calendar year of up to 15% of the qualified taxpayer's qualified expenditures and 1 of the 2 additional credits available during the 2011 calendar year to approve an additional credit during the 2010 calendar year of up to 15% of the qualified taxpayer's qualified expenditures. Subject to the limitations provided under subsection (21), for the 2011, 2012, and 2013 calendar years, of the additional credits available under this subsection the authority may use 1 of those credits to approve a combined rehabilitation plan that the authority determines would allow for the rehabilitation of several multiple historic resources within the same geographic district and would have a greater impact on the community than the approval of a plan for the rehabilitation of a single larger historic resource. To be eligible for the additional credit under this subsection, the taxpayer shall apply to and receive a preapproval letter from the authority. The authority, subject to the approval of the president of the Michigan strategic fund and the state treasurer, may combine applications that are received for the rehabilitation of historic resources that are located within the same geographic district and that taken as a whole satisfy the additional requirements under subsection (28) and consider the approval of the combination of those applications as the approval of a single credit for a combined rehabilitation plan. An application shall be approved or denied not more than 15 business days after the authority 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 authority, the application is considered approved and the credit awarded in the amount as determined by the authority. If the president of the Michigan strategic fund and the state treasurer approve the

application under this subsection, the authority 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 authority 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 authority, 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. The aggregate amount of credits approved under subsection (20) for a combined rehabilitation plan shall not exceed $24,000,000.00. Except as otherwise provided in the preapproval letter, the amount of the credit allowed for a combined rehabilitation plan shall be applied pro rata to each of the qualified taxpayers that submitted an application under subsection (20) that was considered a part of a combined rehabilitation plan. The taxpayer's pro rata share shall be the total amount of the credit allowed multiplied by a fraction the numerator of which is the amount of investment made by the taxpayer for the rehabilitation of the taxpayer's historic resource during the tax year and the denominator of which is the sum of the investments made by all taxpayers for the rehabilitation of all historic resources included within the combined rehabilitation plan during the tax year.

(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 authority 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 authority and the president of the Michigan strategic fund, as applicable, consider appropriate for the determination of approval under subsection (19).

(23) The authority 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 the authority determines that there has not been substantial progress toward completion of the rehabilitation plan or that the rehabilitation plan cannot be completed. The authority 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 authority 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), 3 of the credits available under subsection (20), including the credit used from the 2010 calendar year, and approved 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 70 years old.

(*ii*) The historic resource must comprise at least 500,000 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.

(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.

(c) All of the following:

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

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

(*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 must be located in a historic district that contains a park bifurcated by an all-American road designated by the federal highway administration in a city with a population of more than 750,000.

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

(27) In addition to meeting the criteria in subsection (20)(a) through (h), 1 of the credits available under subsection (20), including the credit used from the 2011 calendar year, and approved during the 2010 calendar year for a high community impact rehabilitation plan shall be for an application that meets all of the following criteria:

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

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

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

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

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

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

Senate Bill No. 1037 (H-2) as amended December 11, 2012.

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

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

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

(c) The historic resources to be rehabilitated combined must be redeveloped into residential, commercial, and retail establishments.

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

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

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

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

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

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

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

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

(c) "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.

(d) "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.

(e) "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.

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

(g) "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.

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

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

(j) "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.

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

(*l*) "Preapproval letter" means a letter issued by the authority 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.

(m) "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.

(n) "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.

(o) "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.]

Enacting section 1. This amendatory act is curative and

intended to clarify the original intent of 2007 PA 36 and shall be retroactively applied.