

HOUSE BILL No. 4079

January 27, 2015, Introduced by Rep. Cochran and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 435 (MCL 208.1435), as amended by 2012 PA 605.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 is issued. Only those expenditures that are paid or incurred during
2 the time periods prescribed for the credit under section 47(a)(2)
3 of the internal revenue code and any related treasury regulations
4 shall be considered qualified expenditures.

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

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

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

27 (3) To be eligible for the credit under subsection (2), the

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

6 (a) All of the following criteria:

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

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

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

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

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

1 under section 47(a) (2) of the internal revenue code, additional
2 filing for the credit allowed under this section is not required.

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

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

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

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

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

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

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

1 qualified expenditures:

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

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

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

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

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

19 (7) For projects for which a certificate of completed
20 rehabilitation is issued for a tax year beginning before January 1,
21 2009, if a qualified taxpayer is a partnership, limited liability
22 company, or subchapter S corporation, the qualified taxpayer may
23 assign all or any portion of a credit allowed under this section to
24 its partners, members, or shareholders, based on the partner's,
25 member's, or shareholder's proportionate share of ownership or
26 based on an alternative method approved by the department. A credit
27 assignment under this subsection is irrevocable and shall be made

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

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

1 credit assigned under this subsection to 1 or more assignees. An
 2 assignment or subsequent reassignment of a credit can be made in
 3 the year the certificate of completed rehabilitation is issued. **IF**
 4 **A CREDIT HAS NOT BEEN SUBSEQUENTLY REASSIGNED UNDER THIS SUBSECTION**
 5 **AND A PORTION OF THE ASSIGNED CREDIT IS STILL AVAILABLE, THE**
 6 **QUALIFIED TAXPAYER MAY, AT ANY TIME, REVOKE THE ORIGINAL ASSIGNMENT**
 7 **FOR THE REMAINING AMOUNT OF THAT CREDIT.** A credit assignment, ~~or~~
 8 subsequent reassignment, **OR REVOCATION** under this section shall be
 9 made on a form prescribed by the department. The department or its
 10 designee shall review and issue a completed assignment, ~~or~~
 11 reassignment, **OR REVOCATION** certificate to the assignee, ~~or~~
 12 reassignee, **OR QUALIFIED TAXPAYER.** A credit amount assigned under
 13 this subsection may be claimed against the assignees' tax under
 14 this act or under **PART 1 OF** the income tax act of 1967, 1967 PA
 15 281, MCL 206.1 to 206.532. An assignee, ~~or~~ subsequent reassignee,
 16 **OR QUALIFIED TAXPAYER** shall attach a copy of the completed
 17 assignment certificate **OR REVOCATION CERTIFICATE** to the annual
 18 return required to be filed under this act or under **PART 1 OF** the
 19 income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, for the
 20 tax year in which the assignment, ~~or~~ reassignment, **OR REVOCATION** is
 21 made and the assignee or reassignee first claims the credit **OR THE**
 22 **QUALIFIED TAXPAYER RECLAIMS THE CREDIT,** which shall be the same tax
 23 year.

24 (9) If the credit allowed under this section for the tax year
 25 and any unused carryforward of the credit allowed by this section
 26 exceed the taxpayer's tax liability for the tax year, that portion
 27 that exceeds the tax liability for the tax year shall not be

1 refunded but may be carried forward to offset tax liability in
2 subsequent tax years for 10 years or until used up, whichever
3 occurs first. If a qualified taxpayer has an unused carryforward of
4 a credit under this section, the amount otherwise added under
5 subsection (10), (11), or (12) to the qualified taxpayer's tax
6 liability may instead be used to reduce the qualified taxpayer's
7 carryforward under this section. An unused carryforward of a credit
8 under section 39c of former 1975 PA 228 that was unused at the end
9 of the last tax year for which former 1975 PA 228 was in effect may
10 be claimed against the tax imposed under this act for the years the
11 carryforward would have been available under section 39c of former
12 1975 PA 228. For projects for which a certificate of completed
13 rehabilitation is issued for a tax year beginning after December
14 31, 2008 and for which the credit amount allowed is less than
15 \$250,000.00, a qualified taxpayer may elect to forgo the carryover
16 period and receive a refund of the amount of the credit that
17 exceeds the qualified taxpayer's tax liability. The amount of the
18 refund shall be equal to 90% of the amount of the credit that
19 exceeds the qualified taxpayer's tax liability. An election under
20 this subsection shall be made in the year that a certificate of
21 completed rehabilitation is issued and shall be irrevocable.

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

1 liability of the taxpayer in the year of the sale:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (a) If the revocation is less than 1 year after the historic

1 resource is placed in service, 100%.

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

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

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

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

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

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

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

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

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

27 (d) A provision for the payment by the taxpayer of all legal

1 and professional fees associated with the drafting, review, and
2 recording of the written agreement required under this subsection.

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

5 (15) The qualified taxpayer shall attach all of the following
6 to the qualified taxpayer's annual return required under this act
7 or under **PART 1 OF** the income tax act of 1967, 1967 PA 281, MCL
8 206.1 to 206.532, if applicable, on which the credit is claimed:

9 (a) Certification of completed rehabilitation.

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

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

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

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

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

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

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

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

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

1 additional credits approved under this subsection in the calendar
2 year ending December 31, 2009, then \$2,800,000.00 of the allotted
3 amount available in the calendar year ending December 31, 2010 may
4 be allocated to that 1 credit. The total amount of all additional
5 credits approved under this subsection shall not exceed
6 \$8,000,000.00 in calendar year ending December 31, 2009;
7 \$9,000,000.00 in calendar year ending December 31, 2010;
8 \$10,000,000.00 in calendar year ending December 31, 2011;
9 \$11,000,000.00 in calendar year ending December 31, 2012; and
10 \$12,000,000.00 in calendar year ending December 31, 2013 and,
11 except as otherwise provided under this subsection, at least, 25%
12 of the allotted amount for additional credits approved under this
13 subsection during each calendar year shall be allocated to
14 rehabilitation plans that have \$1,000,000.00 or less in qualified
15 expenditures. On October 1 of each calendar year, if the total of
16 all credits approved under subdivision (a) for the calendar year is
17 less than the minimum allotted amount, the authority may use the
18 remainder of that allotted amount to approve applications for
19 additional credits submitted under subdivision (b) for that
20 calendar year. To be eligible for the additional credit under this
21 subsection, the taxpayer shall apply to and receive a preapproval
22 letter and comply with the following:

23 (a) For a rehabilitation plan that has \$1,000,000.00 or less
24 in qualified expenditures, the taxpayer shall apply to the
25 authority for approval of the additional credit under this
26 subsection. Subject to the limitation provided under this
27 subsection, the authority is authorized to approve an application

1 under this subdivision and determine the percentage of at least 10%
2 but not more than 15% of the taxpayer's qualified expenditures for
3 which he or she may claim an additional credit. If the authority
4 approves the application under this subdivision, then the authority
5 shall issue a preapproval letter to the taxpayer that states that
6 the taxpayer is a qualified taxpayer and the maximum percentage of
7 the qualified expenditures on which a credit may be claimed for the
8 rehabilitation plan when it is complete and a certification of
9 completed rehabilitation is issued.

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

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

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

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

1 states that the taxpayer is a qualified taxpayer and the maximum
2 percentage of the qualified expenditures on which a credit may be
3 claimed for the high community impact rehabilitation plan when it
4 is complete and a certification of completed rehabilitation is
5 issued. Before approving a credit under this subsection, the
6 authority shall consider all of the following criteria to the
7 extent reasonably applicable:

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

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

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

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

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

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

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

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

27 (21) The maximum amount of credit that a taxpayer or an

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

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

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

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

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

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

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

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

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

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

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

1 under the preapproval letter, the difference shall be added to the
2 annual cap in the calendar year that the certification of completed
3 rehabilitation is issued.

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

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

15 (a) All of the following:

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

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

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

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

24 (b) All of the following:

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

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

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

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

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

8 (c) All of the following:

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

10 (ii) The historic resource must comprise at least 180,000 total
11 square feet but not more than 250,000 square feet and must exceed
12 30 stories in height.

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

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

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

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

27 (27) In addition to meeting the criteria in subsection (20) (a)

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

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

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

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

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

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

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

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

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

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

1 comprise more than 1,000,000 square feet.

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

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

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

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

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

13 (30) Notwithstanding subsections (7) and (8), for projects for
14 which a certificate of completed rehabilitation is issued for a tax
15 year beginning after December 31, 2007 and ending before January 1,
16 2012, an assignment by a qualified taxpayer of all or any portion
17 of a credit allowed under subsection (1), (19), or (20), made
18 within the 12 months immediately succeeding the tax year in which
19 the certificate of completed rehabilitation is issued, will qualify
20 as an assignment under subsections (7) and (8).

21 (31) As used in this section:

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

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

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

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

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

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

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

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

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

27 (e) "Last tax year" means the taxpayer's tax year under former

1 1975 PA 228 that begins after December 31, 2006 and before January
2 1, 2008.

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

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

7 (h) "Michigan state housing development authority" or
8 "authority" means the public body corporate and politic created by
9 section 21 of the state housing development authority act of 1966,
10 1966 PA 346, MCL 125.1421.

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

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

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

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

24 (m) "Qualified expenditures" means capital expenditures that
25 qualify, or would qualify except that the taxpayer entered into an
26 agreement under subsection (13), for a rehabilitation credit under
27 section 47(a)(2) of the internal revenue code if the taxpayer is

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

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

1 the historic resource to be rehabilitated does not have a state
2 equalized valuation, qualified expenditures for purposes of this
3 subdivision shall be equal to or greater than 5% of the appraised
4 value of the resource as determined by a certified appraiser.

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