

SENATE BILL No. 405

May 24, 2017, Introduced by Senators SCHUITMAKER, COLBECK and HANSEN and referred to the Committee on Finance.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
(MCL 206.1 to 206.713) by adding section 261.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 261. (1) FOR TAX YEARS BEGINNING ON AND AFTER JANUARY 1,
2 2018 AND SUBJECT TO THE APPLICABLE LIMITATIONS IN THIS SECTION, A
3 TAXPAYER MAY CREDIT AGAINST THE TAX IMPOSED BY THIS PART 50% OF THE
4 SUM OF THE CASH AMOUNT AND, IF FOOD ITEMS ARE CONTRIBUTED IN
5 CONJUNCTION WITH A PROGRAM IN WHICH A VENDOR MAKES A MATCHING
6 CONTRIBUTION OF SIMILAR ITEMS, THE VALUE OF THOSE FOOD ITEMS THE
7 TAXPAYER CONTRIBUTES DURING THE TAX YEAR TO A SHELTER FOR HOMELESS
8 PERSONS, FOOD KITCHEN, FOOD BANK, OR OTHER ENTITY LOCATED IN THIS
9 STATE, THE PRIMARY PURPOSE OF WHICH IS TO PROVIDE OVERNIGHT
10 ACCOMMODATION, FOOD, OR MEALS TO PERSONS WHO ARE INDIGENT IF A

1 CONTRIBUTION TO THAT ENTITY IS TAX DEDUCTIBLE FOR THE DONOR UNDER
2 THE INTERNAL REVENUE CODE.

3 (2) FOR A TAXPAYER OTHER THAN A RESIDENT ESTATE OR TRUST, THE
4 CREDIT ALLOWED BY THIS SECTION FOR A CONTRIBUTION TO A COMMUNITY
5 FOUNDATION SHALL NOT EXCEED \$100.00, OR \$200.00 FOR A JOINT RETURN.
6 A TAXPAYER MAY CLAIM AN ADDITIONAL CREDIT UNDER THIS SECTION NOT TO
7 EXCEED \$100.00, OR \$200.00 FOR A JOINT RETURN, FOR TOTAL CASH
8 CONTRIBUTIONS MADE, INCLUDING THE VALUE OF FOOD ITEMS CONTRIBUTED
9 AS DESCRIBED IN SUBSECTION (1) IN THE TAX YEAR TO SHELTERS FOR
10 HOMELESS PERSONS, FOOD KITCHENS, FOOD BANKS, AND, EXCEPT FOR
11 COMMUNITY FOUNDATIONS, OTHER ENTITIES ALLOWED UNDER SUBSECTION (1).
12 A RESIDENT ESTATE OR TRUST MAY CLAIM A CREDIT UNDER THIS SECTION
13 NOT TO EXCEED 10% OF THE TAXPAYER'S TAX LIABILITY FOR THE TAX YEAR
14 BEFORE CLAIMING ANY CREDITS ALLOWED BY THIS ACT OR \$5,000.00,
15 WHICHEVER IS LESS, FOR TOTAL CASH CONTRIBUTIONS MADE, INCLUDING THE
16 VALUE OF FOOD ITEMS CONTRIBUTED AS DESCRIBED IN SUBSECTION (1) IN
17 THE TAX YEAR TO SHELTERS FOR HOMELESS PERSONS, FOOD KITCHENS, FOOD
18 BANKS, AND, EXCEPT FOR COMMUNITY FOUNDATIONS, OTHER ENTITIES
19 ALLOWED UNDER SUBSECTION (1). FOR A RESIDENT ESTATE OR TRUST, THE
20 AMOUNT USED TO CALCULATE THE CREDITS UNDER THIS SECTION SHALL NOT
21 HAVE BEEN DEDUCTED IN ARRIVING AT FEDERAL TAXABLE INCOME.

22 (3) SUBJECT TO THE APPLICABLE LIMITATIONS IN THIS SECTION,
23 WHEN CALCULATING THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS
24 SECTION A TAXPAYER MAY INCLUDE AS A CASH CONTRIBUTION AN AMOUNT
25 EQUAL TO THE VALUE OF FOOD ITEMS CONTRIBUTED AS DESCRIBED IN
26 SUBSECTION (1) IN THE TAX YEAR TO A SHELTER FOR HOMELESS PERSONS,
27 FOOD KITCHEN, FOOD BANK, OR OTHER ENTITY LOCATED IN THIS STATE AS

1 DESCRIBED IN SUBSECTION (1) .

2 (4) IF THE AMOUNT OF THE CREDITS ALLOWED UNDER THIS SECTION
3 EXCEEDS THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THE
4 PORTION THAT EXCEEDS THE TAX LIABILITY SHALL NOT BE REFUNDED.

5 (5) AN ENTITY OTHER THAN A COMMUNITY FOUNDATION MAY REQUEST
6 THAT THE DEPARTMENT DETERMINE IF A CONTRIBUTION TO THAT ENTITY
7 QUALIFIES FOR THE CREDIT UNDER THIS SECTION. THE DEPARTMENT SHALL
8 MAKE A DETERMINATION AND RESPOND TO A REQUEST NO LATER THAN 30 DAYS
9 AFTER THE DEPARTMENT RECEIVES THE REQUEST.

10 (6) A TAXPAYER MAY CLAIM A CREDIT UNDER THIS SECTION FOR
11 CONTRIBUTIONS TO A COMMUNITY FOUNDATION MADE BEFORE THE EXPIRATION
12 OF THE 18-MONTH PERIOD AFTER A COMMUNITY FOUNDATION WAS
13 INCORPORATED OR ESTABLISHED DURING WHICH THE COMMUNITY FOUNDATION
14 MUST BUILD AN ENDOWMENT VALUE OF \$100,000.00 AS PROVIDED IN
15 SUBSECTION (8) (G) . IF THE COMMUNITY FOUNDATION DOES NOT REACH THE
16 REQUIRED \$100,000.00 ENDOWMENT VALUE DURING THAT 18-MONTH PERIOD,
17 CONTRIBUTIONS TO THE COMMUNITY FOUNDATION MADE AFTER THE DATE ON
18 WHICH THE 18-MONTH PERIOD EXPIRES SHALL NOT BE USED TO CALCULATE A
19 CREDIT UNDER THIS SECTION. AT ANY TIME AFTER THE EXPIRATION OF THE
20 18-MONTH PERIOD UNDER SUBSECTION (8) (G) THAT THE COMMUNITY
21 FOUNDATION HAS AN ENDOWMENT VALUE OF \$100,000.00, THE COMMUNITY
22 FOUNDATION MAY APPLY TO THE DEPARTMENT FOR CERTIFICATION UNDER THIS
23 SECTION.

24 (7) ON OR BEFORE JULY 1 OF EACH YEAR, THE DEPARTMENT SHALL
25 REPORT TO THE HOUSE COMMITTEE ON TAX POLICY AND THE SENATE FINANCE
26 COMMITTEE THE TOTAL AMOUNT OF TAX CREDITS CLAIMED UNDER THIS
27 SECTION FOR THE IMMEDIATELY PRECEDING TAX YEAR.

1 (8) AS USED IN THIS SECTION, "COMMUNITY FOUNDATION" MEANS AN
2 ORGANIZATION THAT APPLIES FOR CERTIFICATION ON OR BEFORE MAY 15 OF
3 THE TAX YEAR FOR WHICH THE TAXPAYER IS CLAIMING THE CREDIT AND THAT
4 THE DEPARTMENT CERTIFIES FOR THAT TAX YEAR AS MEETING ALL OF THE
5 FOLLOWING REQUIREMENTS:

6 (A) QUALIFIES FOR EXEMPTION FROM FEDERAL INCOME TAXATION UNDER
7 SECTION 501(C) (3) OF THE INTERNAL REVENUE CODE.

8 (B) SUPPORTS A BROAD RANGE OF CHARITABLE ACTIVITIES WITHIN THE
9 SPECIFIC GEOGRAPHIC AREA OF THIS STATE THAT IT SERVES, SUCH AS A
10 MUNICIPALITY OR COUNTY.

11 (C) MAINTAINS AN ONGOING PROGRAM TO ATTRACT NEW ENDOWMENT
12 FUNDS BY SEEKING GIFTS AND BEQUESTS FROM A WIDE RANGE OF POTENTIAL
13 DONORS IN THE COMMUNITY OR AREA SERVED.

14 (D) IS PUBLICLY SUPPORTED AS DEFINED BY THE REGULATIONS OF THE
15 UNITED STATES DEPARTMENT OF TREASURY, 26 CFR 1.170A-9(F) (10). TO
16 MAINTAIN CERTIFICATION, THE COMMUNITY FOUNDATION SHALL SUBMIT
17 DOCUMENTATION TO THE DEPARTMENT ANNUALLY THAT DEMONSTRATES
18 COMPLIANCE WITH THIS SUBDIVISION.

19 (E) IS NOT A SUPPORTING ORGANIZATION AS DESCRIBED IN SECTION
20 509(A) (3) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS OF THE
21 UNITED STATES DEPARTMENT OF TREASURY, 26 CFR 1.509(A) -4 AND
22 1.509(A) -5.

23 (F) MEETS THE REQUIREMENTS FOR TREATMENT AS A SINGLE ENTITY
24 CONTAINED IN THE REGULATIONS OF THE UNITED STATES DEPARTMENT OF
25 TREASURY, 26 CFR 1.170A-9(F) (11).

26 (G) EXCEPT AS PROVIDED IN SUBSECTION (6), IS INCORPORATED OR
27 ESTABLISHED AS A TRUST AT LEAST 6 MONTHS BEFORE THE BEGINNING OF

1 THE TAX YEAR FOR WHICH THE CREDIT UNDER THIS SECTION IS CLAIMED AND
2 HAS AN ENDOWMENT VALUE OF AT LEAST \$100,000.00 BEFORE THE
3 EXPIRATION OF 18 MONTHS AFTER THE COMMUNITY FOUNDATION IS
4 INCORPORATED OR ESTABLISHED.

5 (H) HAS AN INDEPENDENT GOVERNING BODY REPRESENTING THE GENERAL
6 PUBLIC'S INTEREST AND THAT IS NOT APPOINTED BY A SINGLE OUTSIDE
7 ENTITY.

8 (I) PROVIDES EVIDENCE TO THE DEPARTMENT THAT THE COMMUNITY
9 FOUNDATION HAS, BEFORE THE EXPIRATION OF 6 MONTHS AFTER THE
10 COMMUNITY FOUNDATION IS INCORPORATED OR ESTABLISHED, AND MAINTAINS
11 CONTINUALLY DURING THE TAX YEAR FOR WHICH THE CREDIT UNDER THIS
12 SECTION IS CLAIMED, AT LEAST 1 PART-TIME OR FULL-TIME EMPLOYEE.

13 (J) FOR COMMUNITY FOUNDATIONS THAT HAVE AN ENDOWMENT VALUE OF
14 \$1,000,000.00 OR MORE ONLY, THE COMMUNITY FOUNDATION IS SUBJECT TO
15 AN ANNUAL INDEPENDENT FINANCIAL AUDIT AND PROVIDES COPIES OF THAT
16 AUDIT TO THE DEPARTMENT NOT MORE THAN 3 MONTHS AFTER THE COMPLETION
17 OF THE AUDIT. FOR COMMUNITY FOUNDATIONS THAT HAVE AN ENDOWMENT
18 VALUE OF LESS THAN \$1,000,000.00, THE COMMUNITY FOUNDATION IS
19 SUBJECT TO AN ANNUAL REVIEW AND AN AUDIT EVERY THIRD YEAR.

20 (K) IN ADDITION TO ALL OTHER CRITERIA LISTED IN THIS
21 SUBSECTION FOR A COMMUNITY FOUNDATION THAT IS INCORPORATED OR
22 ESTABLISHED AFTER JUNE 22, 2000, OPERATES IN A COUNTY OF THIS STATE
23 THAT WAS NOT SERVED BY A COMMUNITY FOUNDATION WHEN THE COMMUNITY
24 FOUNDATION WAS INCORPORATED OR ESTABLISHED OR OPERATES AS A
25 GEOGRAPHIC COMPONENT OF AN EXISTING CERTIFIED COMMUNITY FOUNDATION.