

SUBSTITUTE FOR  
HOUSE BILL NO. 6496

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending section 266 (MCL 206.266), as amended by 2007 PA 94.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 266. (1) A qualified taxpayer with a rehabilitation plan  
2 certified after December 31, 1998 may credit against the tax  
3 imposed by this act the amount determined pursuant to subsection  
4 (2) for the qualified expenditures for the rehabilitation of a  
5 historic resource pursuant to the rehabilitation plan in the year  
6 in which the certification of completed rehabilitation of the  
7 historic resource is issued. ~~provided that the certification of~~  
8 ~~completed rehabilitation was issued not more than 5 years after the~~  
9 ~~rehabilitation plan was certified by the Michigan historical~~

1 ~~center.~~ 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 section shall be 25% of the  
6 qualified expenditures that are eligible, **OR WOULD HAVE BEEN**  
7 **ELIGIBLE EXCEPT THAT THE TAXPAYER ELECTED TO TRANSFER THE CREDIT**  
8 **UNDER SUBSECTION (12)**, 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 a 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 ELECTED TO TRANSFER THE**  
23 **CREDIT UNDER SUBSECTION (12)**.

24 (b) A credit under this section shall be reduced by the amount  
25 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 this section, the

1 taxpayer shall apply to and receive from the Michigan historical  
2 center certification 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 resource.

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 center 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 center 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 center may inspect a 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 center shall promptly notify the department of a revocation.

10 (6) Qualified expenditures for the rehabilitation of a  
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 a historic district  
20 listed on the national register of historic places or the state  
21 register of historic sites.

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

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) A credit amount assigned under section 39c(7) of ~~the~~  
20 ~~single business tax act, FORMER~~ 1975 PA 228 ~~, MCL 208.39e,~~ or  
21 section 435 of the Michigan business tax act, 2007 PA 36, MCL  
22 208.1435, may be claimed against the partner's, member's, or  
23 shareholder's tax liability under this act as provided in section  
24 39c(7) of ~~the single business tax act, FORMER~~ 1975 PA 228 ~~, MCL~~  
25 ~~208.39e,~~ or section 435 of the Michigan business tax act, 2007 PA  
26 36, MCL 208.1435.

27 (8) If the credit allowed under this section for the tax year

1 and any unused carryforward of the credit allowed by this section  
2 exceed the taxpayer's tax liability for the tax year, that portion  
3 that exceeds the tax liability for the tax year shall not be  
4 refunded but may be carried forward to offset tax liability in  
5 subsequent tax years for 10 years or until used up, whichever  
6 occurs first. **FOR PROJECTS FOR WHICH A CERTIFICATE OF COMPLETED**  
7 **REHABILITATION IS ISSUED FOR A TAX YEAR BEGINNING AFTER DECEMBER**  
8 **31, 2008 AND FOR WHICH THE CREDIT AMOUNT ALLOWED IS LESS THAN**  
9 **\$250,000.00, A QUALIFIED TAXPAYER MAY ELECT TO FORGO THE CARRYOVER**  
10 **PERIOD AND RECEIVE A REFUND OF THE AMOUNT OF THE CREDIT THAT**  
11 **EXCEEDS THE QUALIFIED TAXPAYER'S TAX LIABILITY. THE AMOUNT OF THE**  
12 **REFUND SHALL BE EQUAL TO 90% OF THE AMOUNT OF THE CREDIT THAT**  
13 **EXCEEDS THE QUALIFIED TAXPAYER'S TAX LIABILITY. AN ELECTION UNDER**  
14 **THIS SUBSECTION SHALL BE MADE IN THE YEAR THAT A CERTIFICATE OF**  
15 **COMPLETED REHABILITATION IS ISSUED AND SHALL BE IRREVOCABLE.**

16 (9) ~~If the~~ **FOR TAX YEARS BEGINNING BEFORE JANUARY 1, 2009, IF**  
17 **A taxpayer sells a historic resource for which a credit under this**  
18 **section was claimed less than 5 years after the year in which the**  
19 **credit was claimed, the following percentage of the credit amount**  
20 **previously claimed relative to that historic resource shall be**  
21 **added back to the tax liability of the taxpayer in the year of the**  
22 **sale:**

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

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

27 (c) If the sale is at least 2 years but less than 3 years

1 after the year in which the credit was claimed, 60%.

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

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

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

9 (10) ~~If~~ **FOR TAX YEARS BEGINNING BEFORE JANUARY 1, 2009, IF** a  
10 certification of completed rehabilitation is revoked under  
11 subsection (5) less than 5 years after the year in which a credit  
12 was claimed, the following percentage of the credit amount  
13 previously claimed relative to that historic resource shall be  
14 added back to the tax liability of the taxpayer in the year of the  
15 revocation:

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

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

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

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

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

26 (f) If the revocation is 5 years or more after the year in  
27 which the credit was claimed, an addback to the taxpayer's tax

1 liability shall not be made.

2 (11) FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 2008, IF A  
3 CERTIFICATE OF COMPLETED REHABILITATION IS REVOKED UNDER SUBSECTION  
4 (5) OR IF THE HISTORIC RESOURCE IS SOLD OR DISPOSED OF LESS THAN 5  
5 YEARS AFTER BEING PLACED IN SERVICE AS DEFINED IN SECTION 47(B)(1)  
6 OF THE INTERNAL REVENUE CODE AND RELATED TREASURY REGULATIONS, THE  
7 FOLLOWING PERCENTAGE OF THE CREDIT AMOUNT PREVIOUSLY CLAIMED  
8 RELATIVE TO THAT HISTORIC RESOURCE SHALL BE ADDED BACK TO THE TAX  
9 LIABILITY OF THE QUALIFIED TAXPAYER THAT RECEIVED THE CERTIFICATE  
10 OF COMPLETED REHABILITATION AND NOT THE ASSIGNEE IN THE YEAR OF THE  
11 REVOCATION:

12 (A) IF THE REVOCATION IS LESS THAN 1 YEAR AFTER THE HISTORIC  
13 RESOURCE IS PLACED IN SERVICE, 100%.

14 (B) IF THE REVOCATION IS AT LEAST 1 YEAR BUT LESS THAN 2 YEARS  
15 AFTER THE HISTORIC RESOURCE IS PLACED IN SERVICE, 80%.

16 (C) IF THE REVOCATION IS AT LEAST 2 YEARS BUT LESS THAN 3  
17 YEARS AFTER THE HISTORIC RESOURCE IS PLACED IN SERVICE, 60%.

18 (D) IF THE REVOCATION IS AT LEAST 3 YEARS BUT LESS THAN 4  
19 YEARS AFTER THE HISTORIC RESOURCE IS PLACED IN SERVICE, 40%.

20 (E) IF THE REVOCATION IS AT LEAST 4 YEARS BUT LESS THAN 5  
21 YEARS AFTER THE HISTORIC RESOURCE IS PLACED IN SERVICE, 20%.

22 (F) IF THE REVOCATION IS AT LEAST 5 YEARS OR MORE AFTER THE  
23 HISTORIC RESOURCE IS PLACED IN SERVICE, AN ADD BACK TO THE  
24 QUALIFIED TAXPAYER TAX LIABILITY SHALL NOT BE REQUIRED.

25 (12) A QUALIFIED TAXPAYER WHO RECEIVES A CERTIFICATE OF  
26 COMPLETED REHABILITATION AFTER DECEMBER 31, 2008 MAY ELECT TO FORGO  
27 CLAIMING THE CREDIT AND TRANSFER THE CREDIT ALONG WITH THE



1 OWNERSHIP OF THE PROPERTY FOR WHICH THE CREDIT MAY BE CLAIMED TO A  
 2 NEW OWNER. THE NEW OWNER SHALL BE TREATED AS THE QUALIFIED TAXPAYER  
 3 HAVING INCURRED THE REHABILITATION COSTS AND SHALL BE SUBJECT TO  
 4 THE RECAPTURE PROVISIONS UNDER SUBSECTION (11) IF THE NEW OWNER  
 5 SELLS OR DISPOSES OF THE PROPERTY WITHIN 5 YEARS AFTER THE NEW  
 6 OWNER ACQUIRED THE PROPERTY. FOR PURPOSES OF THIS SUBSECTION AND  
 7 SUBSECTION (11), THE PLACED IN SERVICE DATE FOR A NEW OWNER IS THE  
 8 DATE THE NEW OWNER ACQUIRED THE PROPERTY FOR WHICH THE CREDIT IS  
 9 CLAIMED.

10 (13) ~~(11)~~—The department of history, arts, and libraries  
 11 through the Michigan historical center may impose a fee to cover  
 12 the administrative cost of implementing the program under this  
 13 section.

14 (14) ~~(12)~~—The qualified taxpayer shall attach all of the  
 15 following to the qualified taxpayer's annual return under this act:

16 (a) Certification of completed rehabilitation.

17 (b) Certification of historic significance related to the  
 18 historic resource and the qualified expenditures used to claim a  
 19 credit under this section.

20 (c) A completed assignment form if the qualified taxpayer is  
 21 an assignee under section 39c of ~~the single business tax act,~~  
 22 **FORMER** 1975 PA 228, ~~MCL 208.39e,~~ or section 435 of the Michigan  
 23 business tax act, 2007 PA 36, MCL 208.1435, of any portion of a  
 24 credit allowed under that section.

25 (15) ~~(13)~~—The department of history, arts, and libraries shall  
 26 promulgate rules to implement this section pursuant to the  
 27 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to

1 24.328.

2 (16) ~~(14)~~—The total of the credits claimed under this section  
3 and section 39c of ~~the single business tax act, FORMER~~ 1975 PA 228  
4 ~~, MCL 208.39e,~~ or section 435 of the Michigan business tax act,  
5 2007 PA 36, MCL 208.1435, for a rehabilitation project shall not  
6 exceed 25% of the total qualified expenditures eligible for the  
7 credit under this section for that rehabilitation project.

8 (17) ~~(15)~~—The department of history, arts, and libraries  
9 through the Michigan historical center shall report all of the  
10 following to the legislature annually for the immediately preceding  
11 state fiscal year:

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

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

15 (c) The location of each new and ongoing rehabilitation  
16 project.

17 (18) ~~(16)~~—As used in this section:

18 (a) "Contributing resource" means a historic resource that  
19 contributes to the significance of the historic district in which  
20 it is located.

21 (b) "Historic district" means an area, or group of areas not  
22 necessarily having contiguous boundaries, that contains 1 resource  
23 or a group of resources that are related by history, architecture,  
24 archaeology, engineering, or culture.

25 (c) "Historic resource" means a publicly or privately owned  
26 historic building, structure, site, object, feature, or open space  
27 located within a historic district designated by the national

1 register of historic places, the state register of historic sites,  
2 or a local unit acting under the local historic districts act, 1970  
3 PA 169, MCL 399.201 to 399.215; or that is individually listed on  
4 the state register of historic sites or national register of  
5 historic places and includes all of the following:

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

8 (ii) An income-producing commercial, industrial, or residential  
9 resource or a historic resource located within the property  
10 boundaries of that resource.

11 (iii) A resource owned by a governmental body, nonprofit  
12 organization, or tax-exempt entity that is used primarily by a  
13 taxpayer lessee in a trade or business unrelated to the  
14 governmental body, nonprofit organization, or tax-exempt entity and  
15 that is subject to tax under this act.

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

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

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

21 (e) "Long-term lease" means a lease term of at least 27.5  
22 years for a residential resource or at least 31.5 years for a  
23 nonresidential resource.

24 (f) "Michigan historical center" or "center" means the state  
25 historic preservation office of the Michigan historical center of  
26 the department of history, arts, and libraries or its successor  
27 agency.

1 (g) "Open space" means undeveloped land, a naturally  
2 landscaped area, or a formal or man-made landscaped area that  
3 provides a connective link or a buffer between other resources.

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

6 (i) "Qualified expenditures" means capital expenditures that  
7 qualify, **OR WOULD QUALIFY EXCEPT THAT THE TAXPAYER ELECTED TO**  
8 **TRANSFER THE CREDIT UNDER SUBSECTION (12)**, for a rehabilitation  
9 credit under section 47(a)(2) of the internal revenue code if the  
10 taxpayer is eligible for the credit under section 47(a)(2) of the  
11 internal revenue code or, if the taxpayer is not eligible for the  
12 credit under section 47(a)(2) of the internal revenue code, the  
13 qualified expenditures that would qualify under section 47(a)(2) of  
14 the internal revenue code except that the expenditures are made to  
15 a historic resource that is not eligible for the credit under  
16 section 47(a)(2) of the internal revenue code, that were paid. ~~not~~  
17 ~~more than 5 years after the certification of the rehabilitation~~  
18 ~~plan that included those expenditures was approved by the center,~~  
19 ~~and that were paid after December 31, 1998 for the rehabilitation~~  
20 ~~of a historic resource.~~ Qualified expenditures do not include  
21 capital expenditures for nonhistoric additions to a historic  
22 resource except an addition that is required by state or federal  
23 regulations that relate to historic preservation, safety, or  
24 accessibility.

25 (j) "Qualified taxpayer" means a person that is an assignee  
26 under section 39c of ~~the single business tax act,~~ **FORMER** 1975 PA  
27 228, ~~MCL 208.39e,~~ or section 435 of the Michigan business tax act,

1 2007 PA 36, MCL 208.1435, or either owns the resource to be  
2 rehabilitated or has a long-term lease agreement with the owner of  
3 the historic resource and that has qualified expenditures for the  
4 rehabilitation of the historic resource equal to or greater than  
5 10% of the state equalized valuation of the property. If the  
6 historic resource to be rehabilitated is a portion of a historic or  
7 nonhistoric resource, the state equalized valuation of only that  
8 portion of the property shall be used for purposes of this  
9 subdivision. If the assessor for the local tax collecting unit in  
10 which the historic resource is located determines the state  
11 equalized valuation of that portion, that assessor's determination  
12 shall be used for purposes of this subdivision. If the assessor  
13 does not determine that state equalized valuation of that portion,  
14 qualified expenditures, for purposes of this subdivision, shall be  
15 equal to or greater than 5% of the appraised value as determined by  
16 a certified appraiser. If the historic resource to be rehabilitated  
17 does not have a state equalized valuation, qualified expenditures  
18 for purposes of this subdivision shall be equal to or greater than  
19 5% of the appraised value of the resource as determined by a  
20 certified appraiser.

21 (k) "Rehabilitation plan" means a plan for the rehabilitation  
22 of a historic resource that meets the federal secretary of the  
23 interior's standards for rehabilitation and guidelines for  
24 rehabilitation of historic buildings under 36 CFR part 67.

25 Enacting section 1. This amendatory act takes effect January  
26 1, 2009.