

**SUBSTITUTE FOR
SENATE BILL NO. 973**

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 435 (MCL 208.1435), as amended by 2007 PA 216.

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

1 certification of completed rehabilitation of the historic resource
2 is issued. ~~provided that the certification of completed~~
3 ~~rehabilitation was issued not more than 5 years after the~~
4 ~~rehabilitation plan was certified by the Michigan historical~~
5 ~~center.~~ **ONLY THOSE EXPENDITURES THAT ARE PAID OR INCURRED DURING**
6 **THE TIME PERIODS PRESCRIBED FOR THE CREDIT UNDER SECTION 47(A)(2)**
7 **OF THE INTERNAL REVENUE CODE AND ANY RELATED TREASURY REGULATIONS**
8 **SHALL BE CONSIDERED QUALIFIED EXPENDITURES.**

9 (2) The credit allowed under this ~~section~~ **SUBSECTION** shall be
10 25% of the qualified expenditures that are eligible, **OR WOULD HAVE**
11 **BEEN ELIGIBLE EXCEPT THAT THE TAXPAYER ENTERED INTO AN AGREEMENT**
12 **UNDER SUBSECTION (13)**, for the credit under section 47(a)(2) of the
13 internal revenue code if the taxpayer is eligible for the credit
14 under section 47(a)(2) of the internal revenue code or, if the
15 taxpayer is not eligible for the credit under section 47(a)(2) of
16 the internal revenue code, 25% of the qualified expenditures that
17 would qualify under section 47(a)(2) of the internal revenue code
18 except that the expenditures are made to an historic resource that
19 is not eligible for the credit under section 47(a)(2) of the
20 internal revenue code, subject to both of the following:

21 (a) A taxpayer with qualified expenditures that are eligible
22 for the credit under section 47(a)(2) of the internal revenue code
23 may not claim a credit under this section for those qualified
24 expenditures unless the taxpayer has claimed and received a credit
25 for those qualified expenditures under section 47(a)(2) of the
26 internal revenue code **OR THE TAXPAYER HAS ENTERED INTO AN AGREEMENT**
27 **UNDER SUBSECTION (13).**

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

5 (3) To be eligible for the credit under ~~this section~~
6 **SUBSECTION (2)**, the taxpayer shall apply to and receive from the
7 Michigan historical center certification that the historic
8 significance, the rehabilitation plan, and the completed
9 rehabilitation of the historic resource meet the criteria under
10 subsection (6) and either of the following:

11 (a) All of the following criteria:

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

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

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

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

27 (4) If a qualified taxpayer is eligible for the credit allowed

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

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

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

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

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

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

27 (iii) A contributing resource located within an historic

1 district designated by a local unit pursuant to an ordinance
2 adopted under the local historic districts act, 1970 PA 169, MCL
3 399.201 to 399.215.

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

7 (i) The historic resource is located in a designated historic
8 district in a local unit of government with an existing ordinance
9 under the local historic districts act, 1970 PA 169, MCL 399.201 to
10 399.215.

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

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

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

22 (v) **THE HISTORIC RESOURCE IS SUBJECT TO A HISTORIC**
23 **PRESERVATION EASEMENT.**

24 (7) ~~IF~~ **FOR PROJECTS FOR WHICH A CERTIFICATE OF COMPLETED**
25 **REHABILITATION IS ISSUED BEFORE JANUARY 1, 2009, IF** a qualified
26 taxpayer is a partnership, limited liability company, or subchapter
27 S corporation, the qualified taxpayer may assign all or any portion

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

21 **(8) FOR PROJECTS FOR WHICH A CERTIFICATE OF COMPLETED**
22 **REHABILITATION IS ISSUED AFTER DECEMBER 31, 2008, A QUALIFIED**
23 **TAXPAYER MAY ASSIGN ALL OR ANY PORTION OF THE CREDIT ALLOWED UNDER**
24 **THIS SECTION. A CREDIT ASSIGNMENT UNDER THIS SUBSECTION IS**
25 **IRREVOCABLE AND SHALL BE MADE IN THE TAX YEAR IN WHICH A**
26 **CERTIFICATE OF COMPLETED REHABILITATION IS ISSUED. A QUALIFIED**
27 **TAXPAYER MAY CLAIM A PORTION OF A CREDIT AND ASSIGN THE REMAINING**

1 AMOUNT. IF THE QUALIFIED TAXPAYER BOTH CLAIMS AND ASSIGNS PORTIONS
2 OF THE CREDIT, THE QUALIFIED TAXPAYER SHALL CLAIM THE PORTION IT
3 CLAIMS IN THE TAX YEAR IN WHICH A CERTIFICATE OF COMPLETED
4 REHABILITATION IS ISSUED PURSUANT TO THIS SECTION. AN ASSIGNEE MAY
5 SUBSEQUENTLY ASSIGN THE CREDIT OR ANY PORTION OF THE CREDIT
6 ASSIGNED UNDER THIS SUBSECTION TO 1 OR MORE ASSIGNEES. AN
7 ASSIGNMENT OR SUBSEQUENT REASSIGNMENT OF A CREDIT CAN BE MADE IN
8 THE YEAR THE CERTIFICATE OF COMPLETED REHABILITATION IS ISSUED. A
9 CREDIT ASSIGNMENT OR SUBSEQUENT REASSIGNMENT UNDER THIS SECTION
10 SHALL BE MADE ON A FORM PRESCRIBED BY THE DEPARTMENT. THE
11 DEPARTMENT OR ITS DESIGNEE SHALL REVIEW AND ISSUE A COMPLETED
12 ASSIGNMENT OR REASSIGNMENT CERTIFICATE TO THE ASSIGNEE OR
13 REASSIGNEE. A CREDIT AMOUNT ASSIGNED UNDER THIS SUBSECTION MAY BE
14 CLAIMED AGAINST THE ASSIGNEES' TAX UNDER THIS ACT OR UNDER THE
15 INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.1 TO 206.532. AN
16 ASSIGNEE OR SUBSEQUENT REASSIGNEE SHALL ATTACH A COPY OF THE
17 COMPLETED ASSIGNMENT CERTIFICATE TO THE ANNUAL RETURN REQUIRED TO
18 BE FILED UNDER THIS ACT OR UNDER THE INCOME TAX ACT OF 1967, 1967
19 PA 281, MCL 206.1 TO 206.532, FOR THE TAX YEAR IN WHICH THE
20 ASSIGNMENT OR REASSIGNMENT IS MADE AND THE ASSIGNEE OR REASSIGNEE
21 FIRST CLAIMS THE CREDIT, WHICH SHALL BE THE SAME TAX YEAR.

22 (9) ~~(8)~~—If the credit allowed under this section for the tax
23 year and any unused carryforward of the credit allowed by this
24 section exceed the taxpayer's tax liability for the tax year, that
25 portion that exceeds the tax liability for the tax year shall not
26 be refunded but may be carried forward to offset tax liability in
27 subsequent tax years for 10 years or until used up, whichever

1 occurs first. An unused carryforward of a credit under section 39c
2 of former 1975 PA 228 that was unused at the end of the last tax
3 year for which former 1975 PA 228 was in effect may be claimed
4 against the tax imposed under this act for the years the
5 carryforward would have been available under section 39c of former
6 1975 PA 228. **FOR PROJECTS FOR WHICH A CERTIFICATE OF COMPLETED
7 REHABILITATION IS ISSUED AFTER DECEMBER 31, 2008 AND FOR WHICH THE
8 CREDIT AMOUNT ALLOWED IS LESS THAN \$250,000.00, A QUALIFIED
9 TAXPAYER MAY ELECT TO FORGO THE CARRYOVER PERIOD AND RECEIVE A
10 REFUND OF THE AMOUNT OF THE CREDIT THAT EXCEEDS THE QUALIFIED
11 TAXPAYER'S TAX LIABILITY. THE AMOUNT OF THE REFUND SHALL BE EQUAL
12 TO 90% OF THE AMOUNT OF THE CREDIT THAT EXCEEDS THE QUALIFIED
13 TAXPAYER'S TAX LIABILITY. AN ELECTION UNDER THIS SUBSECTION SHALL
14 BE MADE IN THE YEAR THAT A CERTIFICATE OF COMPLETED REHABILITATION
15 IS ISSUED AND SHALL BE IRREVOCABLE.**

16 (10) ~~(9) If~~ **FOR TAX YEARS BEGINNING BEFORE JANUARY 1, 2009, IF**
17 the taxpayer sells an historic resource for which a credit was
18 claimed under this section or under section 39c of former 1975 PA
19 228 less than 5 years after the year in which the credit was
20 claimed, the following percentage of the credit amount previously
21 claimed relative to that historic resource shall be added back to
22 the tax liability of the taxpayer in the year of the 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 (11) ~~(10) If~~ **FOR TAX YEARS BEGINNING BEFORE JANUARY 1, 2009,**
10 **IF** a certification of completed rehabilitation is revoked under
11 subsection (5) less than 5 years after the year in which a credit
12 was claimed under this section or under section 39c of former 1975
13 PA 228, the following percentage of the credit amount previously
14 claimed relative to that historic resource shall be added back to
15 the tax liability of the taxpayer in the year of the 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 (12) EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (13), FOR
3 TAX YEARS BEGINNING AFTER DECEMBER 31, 2008, IF A CERTIFICATE OF
4 COMPLETED REHABILITATION IS REVOKED UNDER SUBSECTION (5) OR (22) OR
5 IS SOLD OR DISPOSED OF LESS THAN 5 YEARS AFTER THE HISTORIC
6 RESOURCE IS PLACED IN SERVICE AS DEFINED IN SECTION 47(B)(1) OF THE
7 INTERNAL REVENUE CODE AND RELATED TREASURY REGULATIONS, THE
8 FOLLOWING PERCENTAGE OF THE CREDIT AMOUNT PREVIOUSLY CLAIMED
9 RELATIVE TO THAT HISTORIC RESOURCE SHALL BE ADDED BACK TO THE TAX
10 LIABILITY OF THE QUALIFIED TAXPAYER THAT RECEIVED THE CERTIFICATE
11 OF COMPLETED REHABILITATION AND NOT THE ASSIGNEE IN THE YEAR OF THE
12 REVOCATION:

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

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

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

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

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

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

26 (13) SUBSECTION (12) SHALL NOT APPLY IF THE QUALIFIED TAXPAYER
27 ENTERS INTO A WRITTEN AGREEMENT WITH THE STATE HISTORIC

1 PRESERVATION OFFICE THAT WILL ALLOW FOR THE TRANSFER OR SALE OF THE
2 HISTORIC RESOURCE AND PROVIDES THE FOLLOWING:

3 (A) REASONABLE ASSURANCE THAT SUBSEQUENT TO THE TRANSFER THE
4 PROPERTY WILL REMAIN A HISTORIC RESOURCE DURING THE 5-YEAR PERIOD
5 AFTER THE HISTORIC RESOURCE IS PLACED IN SERVICE.

6 (B) A METHOD THAT THE DEPARTMENT CAN RECOVER AN AMOUNT FROM
7 THE TAXPAYER EQUAL TO THE APPROPRIATE PERCENTAGE OF CREDIT ADDED
8 BACK AS DESCRIBED UNDER SUBSECTION (12).

9 (C) AN ENCUMBRANCE ON THE TITLE TO THE HISTORIC RESOURCE BEING
10 SOLD OR TRANSFERRED, STATING THAT THE PROPERTY MUST REMAIN A
11 HISTORIC RESOURCE THROUGHOUT THE 5-YEAR PERIOD AFTER THE HISTORIC
12 RESOURCE IS PLACED IN SERVICE.

13 (D) A PROVISION FOR THE PAYMENT BY THE TAXPAYER OF ALL LEGAL
14 AND PROFESSIONAL FEES ASSOCIATED WITH THE DRAFTING, REVIEW, AND
15 RECORDING OF THE WRITTEN AGREEMENT REQUIRED UNDER THIS SUBSECTION.

16 (14) ~~(11)~~—The department of history, arts, and libraries
17 through the Michigan historical center may impose a fee to cover
18 the administrative cost of implementing the program under this
19 section.

20 (15) ~~(12)~~—The qualified taxpayer shall attach all of the
21 following to the qualified taxpayer's annual return required under
22 this act or under the income tax act of 1967, 1967 PA 281, MCL
23 206.1 to 206.532, if applicable, on which the credit is claimed:

24 (a) Certification of completed rehabilitation.

25 (b) Certification of historic significance related to the
26 historic resource and the qualified expenditures used to claim a
27 credit under this section.

1 (c) A completed assignment form if the qualified taxpayer **OR**
2 **ASSIGNEE** has assigned any portion of a credit allowed under this
3 section ~~to a partner, member, or shareholder~~ or if the taxpayer is
4 an assignee of any portion of a credit allowed under this section.

5 (16) ~~(13)~~—The department of history, arts, and libraries shall
6 promulgate rules to implement this section pursuant to the
7 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
8 24.328.

9 (17) ~~(14)~~—The total of the credits claimed under ~~this section~~
10 **SUBSECTION (2)** and section 266 of the income tax act of 1967, 1967
11 PA 281, MCL 206.266, for a rehabilitation project shall not exceed
12 25% of the total qualified expenditures eligible for the credit
13 under ~~this section~~ **SUBSECTION (2)** for that rehabilitation project.

14 (18) ~~(15)~~—The department of history, arts, and libraries
15 through the Michigan historical center shall report all of the
16 following to the legislature annually for the immediately preceding
17 state fiscal year:

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

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

21 (c) The location of each new and ongoing rehabilitation
22 project.

23 (19) **IN ADDITION TO THE CREDIT ALLOWED UNDER SUBSECTION (2)**
24 **AND SUBJECT TO THE CRITERIA UNDER THIS SUBSECTION AND SUBSECTIONS**
25 **(21), (22), AND (23), FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY**
26 **1, 2009 A QUALIFIED TAXPAYER THAT HAS A PREAPPROVAL LETTER ISSUED**
27 **ON OR BEFORE DECEMBER 31, 2013 MAY CLAIM AN ADDITIONAL CREDIT THAT**

1 HAS BEEN APPROVED UNDER THIS SUBSECTION OR SUBSECTION (20) AGAINST
2 THE TAX IMPOSED BY THIS ACT EQUAL TO A PERCENTAGE ESTABLISHED IN
3 THE TAXPAYER'S PREAPPROVAL LETTER OF THE QUALIFIED TAXPAYER'S
4 QUALIFIED EXPENDITURES FOR THE REHABILITATION OF AN HISTORIC
5 RESOURCE OR THE ACTUAL AMOUNT OF THE QUALIFIED TAXPAYER'S QUALIFIED
6 EXPENDITURES INCURRED DURING THE COMPLETION OF THE REHABILITATION
7 OF AN HISTORIC RESOURCE, WHICHEVER IS LESS. THE TOTAL AMOUNT OF ALL
8 ADDITIONAL CREDITS APPROVED UNDER THIS SUBSECTION SHALL NOT EXCEED
9 \$8,000,000.00 IN CALENDAR YEAR ENDING DECEMBER 31, 2009;
10 \$9,000,000.00 IN CALENDAR YEAR ENDING DECEMBER 31, 2010;
11 \$10,000,000.00 IN CALENDAR YEAR ENDING DECEMBER 31, 2011;
12 \$11,000,000.00 IN CALENDAR YEAR ENDING DECEMBER 31, 2012; AND
13 \$12,000,000.00 IN CALENDAR YEAR ENDING DECEMBER 31, 2013 AND,
14 EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION, AT LEAST, 25%
15 OF THE ALLOTTED AMOUNT FOR ADDITIONAL CREDITS APPROVED UNDER THIS
16 SUBSECTION DURING EACH CALENDAR YEAR SHALL BE ALLOCATED TO
17 REHABILITATION PLANS THAT HAVE \$1,000,000.00 OR LESS IN QUALIFIED
18 EXPENDITURES. ON OCTOBER 1 OF EACH CALENDAR YEAR, IF THE TOTAL OF
19 ALL CREDITS APPROVED UNDER SUBSECTION (19) (A) FOR THE CALENDAR YEAR
20 IS LESS THAN THE MINIMUM ALLOTTED AMOUNT, THE DEPARTMENT OF
21 HISTORY, ARTS, AND LIBRARIES MAY USE THE REMAINDER OF THAT ALLOTTED
22 AMOUNT TO APPROVE APPLICATIONS FOR ADDITIONAL CREDITS SUBMITTED
23 UNDER SUBSECTION (19) (B) FOR THAT CALENDAR YEAR. TO BE ELIGIBLE FOR
24 THE ADDITIONAL CREDIT UNDER THIS SUBSECTION, THE TAXPAYER SHALL
25 APPLY TO AND RECEIVE A PREAPPROVAL LETTER AND COMPLY WITH THE
26 FOLLOWING:

27 (A) FOR A REHABILITATION PLAN THAT HAS \$1,000,000.00 OR LESS

1 IN QUALIFIED EXPENDITURES, THE TAXPAYER SHALL APPLY TO THE
2 DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES FOR APPROVAL OF THE
3 ADDITIONAL CREDIT UNDER THIS SUBSECTION. SUBJECT TO THE LIMITATION
4 PROVIDED UNDER THIS SUBSECTION, THE DIRECTOR OF THE DEPARTMENT OF
5 HISTORY, ARTS, AND LIBRARIES OR HIS OR HER DESIGNEE IS AUTHORIZED
6 TO APPROVE AN APPLICATION UNDER THIS SUBDIVISION AND DETERMINE THE
7 PERCENTAGE OF AT LEAST 10% BUT NOT MORE THAN 15% OF THE TAXPAYER'S
8 QUALIFIED EXPENDITURES FOR WHICH HE OR SHE MAY CLAIM AN ADDITIONAL
9 CREDIT. IF THE DIRECTOR OF THE DEPARTMENT OF HISTORY, ARTS, AND
10 LIBRARIES OR HIS OR HER DESIGNEE APPROVES THE APPLICATION UNDER
11 THIS SUBDIVISION, THEN HE OR SHE SHALL ISSUE A PREAPPROVAL LETTER
12 TO THE TAXPAYER THAT STATES THAT THE TAXPAYER IS A QUALIFIED
13 TAXPAYER AND THE MAXIMUM PERCENTAGE OF THE QUALIFIED EXPENDITURES
14 ON WHICH A CREDIT MAY BE CLAIMED FOR THE REHABILITATION PLAN WHEN
15 IT IS COMPLETE AND A CERTIFICATION OF COMPLETED REHABILITATION IS
16 ISSUED.

17 (B) FOR A REHABILITATION PLAN THAT HAS MORE THAN \$1,000,000.00
18 IN QUALIFIED EXPENDITURES, THE TAXPAYER SHALL APPLY TO THE
19 DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES FOR APPROVAL OF THE
20 ADDITIONAL CREDIT UNDER THIS SUBSECTION. THE DIRECTOR OF THE
21 DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES OR HIS OR HER DESIGNEE,
22 SUBJECT TO THE APPROVAL OF THE PRESIDENT OF THE MICHIGAN STRATEGIC
23 FUND OR HIS OR HER DESIGNEE, IS AUTHORIZED TO APPROVE AN
24 APPLICATION UNDER THIS SUBDIVISION AND DETERMINE THE PERCENTAGE OF
25 UP TO 15% OF THE TAXPAYER'S QUALIFIED EXPENDITURES FOR WHICH HE OR
26 SHE MAY CLAIM AN ADDITIONAL CREDIT. AN APPLICATION SHALL BE
27 APPROVED OR DENIED NOT MORE THAN 15 BUSINESS DAYS AFTER THE

1 DIRECTOR OF THE DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES OR HIS
2 OR HER DESIGNEE HAS REVIEWED THE APPLICATION, DETERMINED THE
3 PERCENTAGE AMOUNT OF THE CREDIT FOR THAT APPLICANT, AND SUBMITTED
4 THE SAME TO THE PRESIDENT OF THE MICHIGAN STRATEGIC FUND OR HIS OR
5 HER DESIGNEE. IF THE PRESIDENT OF THE MICHIGAN STRATEGIC FUND OR
6 HIS OR HER DESIGNEE DOES NOT APPROVE OR DENY THE APPLICATION WITHIN
7 15 BUSINESS DAYS AFTER THE APPLICATION IS RECEIVED FROM THE
8 DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES, THE APPLICATION IS
9 CONSIDERED APPROVED AND THE CREDIT AWARDED IN THE AMOUNT AS
10 DETERMINED BY THE DIRECTOR OF THE DEPARTMENT OF HISTORY, ARTS, AND
11 LIBRARIES OR HIS OR HER DESIGNEE. IF THE PRESIDENT OF THE MICHIGAN
12 STRATEGIC FUND OR HIS OR HER DESIGNEE APPROVES THE APPLICATION
13 UNDER THIS SUBDIVISION, THE DIRECTOR OF THE DEPARTMENT OF HISTORY,
14 ARTS, AND LIBRARIES OR HIS OR HER DESIGNEE SHALL ISSUE A
15 PREAPPROVAL LETTER TO THE TAXPAYER THAT STATES THAT THE TAXPAYER IS
16 A QUALIFIED TAXPAYER AND THE MAXIMUM PERCENTAGE OF THE QUALIFIED
17 EXPENDITURES ON WHICH A CREDIT MAY BE CLAIMED FOR THE
18 REHABILITATION PLAN WHEN IT IS COMPLETE AND A CERTIFICATION OF
19 COMPLETED REHABILITATION IS ISSUED.

20 (20) THE DIRECTOR OF THE DEPARTMENT OF HISTORY, ARTS, AND
21 LIBRARIES OR HIS OR HER DESIGNEE, SUBJECT TO THE APPROVAL OF THE
22 PRESIDENT OF THE MICHIGAN STRATEGIC FUND AND THE STATE TREASURER,
23 MAY APPROVE 1 ADDITIONAL CREDIT DURING THE 2009 CALENDAR YEAR OF UP
24 TO 15% OF THE QUALIFIED TAXPAYER'S QUALIFIED EXPENDITURES, AND 2
25 ADDITIONAL CREDITS DURING THE 2010, 2011, 2012, AND 2013 CALENDAR
26 YEARS OF UP TO 15% OF THE QUALIFIED TAXPAYER'S QUALIFIED
27 EXPENDITURES, FOR CERTAIN REHABILITATION PLANS THAT THE DIRECTOR OF

1 THE DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES OR HIS OR HER
2 DESIGNEE DETERMINES IS A HIGH COMMUNITY IMPACT REHABILITATION PLAN
3 THAT WILL HAVE A SIGNIFICANTLY GREATER HISTORIC, SOCIAL, AND
4 ECONOMIC IMPACT THAN THOSE PLANS DESCRIBED UNDER SUBSECTION (19) (A)
5 AND (B). TO BE ELIGIBLE FOR THE ADDITIONAL CREDIT UNDER THIS
6 SUBSECTION, THE TAXPAYER SHALL APPLY TO AND RECEIVE A PREAPPROVAL
7 LETTER FROM THE DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES. AN
8 APPLICATION SHALL BE APPROVED OR DENIED NOT MORE THAN 15 BUSINESS
9 DAYS AFTER THE DIRECTOR OF THE DEPARTMENT OF HISTORY, ARTS, AND
10 LIBRARIES OR HIS OR HER DESIGNEE HAS REVIEWED THE APPLICATION,
11 DETERMINED THE PERCENTAGE AMOUNT OF THE CREDIT FOR THAT APPLICANT,
12 AND SUBMITTED THE SAME TO THE PRESIDENT OF THE MICHIGAN STRATEGIC
13 FUND AND THE STATE TREASURER. IF THE PRESIDENT OF THE MICHIGAN
14 STRATEGIC FUND AND THE STATE TREASURER DO NOT APPROVE OR DENY THE
15 APPLICATION WITHIN 15 BUSINESS DAYS AFTER THE APPLICATION IS
16 RECEIVED FROM THE DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES, THE
17 APPLICATION IS CONSIDERED APPROVED AND THE CREDIT AWARDED IN THE
18 AMOUNT AS DETERMINED BY THE DIRECTOR OF THE DEPARTMENT OF HISTORY,
19 ARTS, AND LIBRARIES OR HIS OR HER DESIGNEE. IF THE PRESIDENT OF THE
20 MICHIGAN STRATEGIC FUND AND THE STATE TREASURER APPROVE THE
21 APPLICATION UNDER THIS SUBDIVISION, THE DIRECTOR OF THE DEPARTMENT
22 OF HISTORY, ARTS, AND LIBRARIES OR HIS OR HER DESIGNEE SHALL ISSUE
23 A PREAPPROVAL LETTER TO THE TAXPAYER THAT STATES THAT THE TAXPAYER
24 IS A QUALIFIED TAXPAYER AND THE MAXIMUM PERCENTAGE OF THE QUALIFIED
25 EXPENDITURES ON WHICH A CREDIT MAY BE CLAIMED FOR THE HIGH
26 COMMUNITY IMPACT REHABILITATION PLAN WHEN IT IS COMPLETE AND A
27 CERTIFICATION OF COMPLETED REHABILITATION IS ISSUED. BEFORE

1 APPROVING A CREDIT UNDER THIS SUBSECTION, THE DIRECTOR OF THE
2 DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES OR HIS OR HER DESIGNEE
3 SHALL CONSIDER ALL OF THE FOLLOWING CRITERIA TO THE EXTENT
4 REASONABLY APPLICABLE:

5 (A) THE IMPORTANCE OF THE HISTORIC RESOURCE TO THE COMMUNITY
6 IN WHICH IT IS LOCATED.

7 (B) IF THE REHABILITATION OF THE HISTORIC RESOURCE WILL ACT AS
8 A CATALYST FOR ADDITIONAL REHABILITATION OR REVITALIZATION OF THE
9 COMMUNITY IN WHICH IT IS LOCATED.

10 (C) THE POTENTIAL THAT THE REHABILITATION OF THE HISTORIC
11 RESOURCE WILL HAVE FOR CREATING OR PRESERVING JOBS AND EMPLOYMENT
12 IN THE COMMUNITY IN WHICH IT IS LOCATED.

13 (D) OTHER SOCIAL BENEFITS THE REHABILITATION OF THE HISTORIC
14 RESOURCE WILL BRING TO THE COMMUNITY IN WHICH IT IS LOCATED.

15 (E) THE AMOUNT OF LOCAL COMMUNITY AND FINANCIAL SUPPORT FOR
16 THE REHABILITATION OF THE HISTORIC RESOURCE.

17 (F) THE TAXPAYER'S FINANCIAL NEED OF THE ADDITIONAL CREDIT.

18 (G) WHETHER THE TAXPAYER IS ELIGIBLE FOR THE CREDIT ALLOWED
19 UNDER SECTION 47(A)(2) OF THE INTERNAL REVENUE CODE.

20 (H) ANY OTHER CRITERIA THAT THE DIRECTOR OF THE DEPARTMENT OF
21 HISTORY, ARTS, AND LIBRARIES, THE PRESIDENT OF THE MICHIGAN
22 STRATEGIC FUND, AND THE STATE TREASURER CONSIDER APPROPRIATE FOR
23 THE DETERMINATION OF APPROVAL UNDER THIS SUBSECTION.

24 (21) THE MAXIMUM AMOUNT OF CREDIT THAT A TAXPAYER OR AN
25 ASSIGNEE MAY CLAIM UNDER SUBSECTION (20) DURING A TAX YEAR IS
26 \$3,000,000.00. IF THE AMOUNT OF THE CREDIT APPROVED IN THE
27 TAXPAYER'S CERTIFICATE OF COMPLETED RENOVATION IS GREATER THAN

1 \$3,000,000.00 THAT PORTION THAT EXCEEDS THE CAP SHALL BE CARRIED
2 FORWARD TO OFFSET TAX LIABILITY IN SUBSEQUENT TAX YEARS UNTIL USED
3 UP.

4 (22) BEFORE APPROVING A CREDIT, DETERMINING THE AMOUNT OF SUCH
5 CREDIT, AND ISSUING A PREAPPROVAL LETTER FOR SUCH CREDIT UNDER
6 SUBSECTION (19) OR BEFORE CONSIDERING AN AMENDMENT TO THE
7 PREAPPROVAL LETTER, THE DIRECTOR OF THE DEPARTMENT OF HISTORY,
8 ARTS, AND LIBRARIES OR HIS OR HER DESIGNEE SHALL CONSIDER THE
9 FOLLOWING CRITERIA TO THE EXTENT REASONABLY APPLICABLE:

10 (A) THE IMPORTANCE OF THE HISTORIC RESOURCE TO THE COMMUNITY.

11 (B) THE PHYSICAL CONDITION OF THE HISTORIC RESOURCE.

12 (C) THE TAXPAYER'S FINANCIAL NEED OF THE ADDITIONAL CREDIT.

13 (D) THE OVERALL ECONOMIC IMPACT THE RENOVATION WILL HAVE ON
14 THE COMMUNITY.

15 (E) ANY OTHER CRITERIA THAT THE DIRECTOR OF THE DEPARTMENT OF
16 HISTORY, ARTS, AND LIBRARIES AND THE PRESIDENT OF THE MICHIGAN
17 STRATEGIC FUND, AS APPLICABLE, CONSIDER APPROPRIATE FOR THE
18 DETERMINATION OF APPROVAL UNDER SUBSECTION (19).

19 (23) THE DIRECTOR OF THE DEPARTMENT OF HISTORY, ARTS, AND
20 LIBRARIES OR HIS OR HER DESIGNEE MAY AT ANY TIME BEFORE A
21 CERTIFICATION OF COMPLETED REHABILITATION IS ISSUED FOR A CREDIT
22 FOR WHICH A PREAPPROVAL LETTER WAS ISSUED PURSUANT TO SUBSECTION
23 (19) DO THE FOLLOWING:

24 (A) SUBJECT TO THE LIMITATIONS AND PARAMETERS UNDER SUBSECTION
25 (19), MAKE AMENDMENTS TO THE PREAPPROVAL LETTER, WHICH MAY INCLUDE
26 REVISING THE AMOUNT OF QUALIFIED EXPENDITURES FOR WHICH THE
27 TAXPAYER MAY CLAIM THE ADDITIONAL CREDIT UNDER SUBSECTION (19).

1 (B) REVOKE THE PREAPPROVAL LETTER IF HE OR SHE DETERMINES THAT
2 THERE HAS NOT BEEN SUBSTANTIAL PROGRESS TOWARD COMPLETION OF THE
3 REHABILITATION PLAN OR THAT THE REHABILITATION PLAN CANNOT BE
4 COMPLETED. THE DIRECTOR OF THE DEPARTMENT OF HISTORY, ARTS, AND
5 LIBRARIES OR HIS OR HER DESIGNEE SHALL PROVIDE THE QUALIFIED
6 TAXPAYER WITH A NOTICE OF HIS OR HER INTENT TO REVOKE THE
7 PREAPPROVAL LETTER 45 DAYS PRIOR TO THE PROPOSED DATE OF
8 REVOCATION.

9 (24) IF A PREAPPROVAL LETTER IS REVOKED UNDER SUBSECTION
10 (23) (B), THE AMOUNT OF THE CREDIT APPROVED UNDER THAT PREAPPROVAL
11 LETTER SHALL BE ADDED TO THE ANNUAL CAP IN THE CALENDAR YEAR THAT
12 THE PREAPPROVAL LETTER IS REVOKED. AFTER A CERTIFICATION OF
13 COMPLETED REHABILITATION IS ISSUED FOR A REHABILITATION PLAN
14 APPROVED UNDER SUBSECTION (19), IF THE DIRECTOR OF THE DEPARTMENT
15 OF HISTORY, ARTS, AND LIBRARIES OR HIS OR HER DESIGNEE DETERMINES
16 THAT THE ACTUAL AMOUNT OF THE ADDITIONAL CREDIT TO BE CLAIMED BY
17 THE TAXPAYER FOR THE CALENDAR YEAR IS LESS THAN THE AMOUNT APPROVED
18 UNDER THE PREAPPROVAL LETTER, THE DIFFERENCE SHALL BE ADDED TO THE
19 ANNUAL CAP IN THE CALENDAR YEAR THAT THE CERTIFICATION OF COMPLETED
20 REHABILITATION IS ISSUED.

21 (25) UNLESS OTHERWISE SPECIFICALLY PROVIDED UNDER SUBSECTIONS
22 (19) THROUGH (24), ALL OTHER PROVISIONS UNDER THIS SECTION SUCH AS
23 THE RECAPTURE OF CREDITS, ASSIGNMENT OF CREDITS, AND REFUNDABILITY
24 OF CREDITS IN EXCESS OF A QUALIFIED TAXPAYER'S TAX LIABILITY APPLY
25 TO THE ADDITIONAL CREDITS ISSUED UNDER SUBSECTIONS (19) AND (20).

26 (26) ~~(16)~~ For purposes of this section, taxpayer includes a
27 person subject to the tax imposed under chapter 2A or 2B.

1 (27) ~~(17)~~—As used in this section:

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

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

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

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

19 (ii) An income-producing commercial, industrial, or residential
20 resource or an historic resource located within the property
21 boundaries of that resource.

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

27 (iv) A resource that is occupied or utilized by a governmental

1 body, nonprofit organization, or tax-exempt entity pursuant to a
2 long-term lease or lease with option to buy agreement.

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

4 (d) "Last tax year" means the taxpayer's tax year under former
5 1975 PA 228 that begins after December 31, 2006 and before January
6 1, 2008.

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

8 (f) "Long-term lease" means a lease term of at least 27.5
9 years for a residential resource or at least 31.5 years for a
10 nonresidential resource.

11 (g) "Michigan historical center" or "center" means the state
12 historic preservation office of the Michigan historical center of
13 the department of history, arts, and libraries or its successor
14 agency.

15 **(H) "MICHIGAN STRATEGIC FUND" MEANS THE MICHIGAN STRATEGIC**
16 **FUND CREATED UNDER THE MICHIGAN STRATEGIC FUND ACT, 1984 PA 270,**
17 **MCL 125.2001 TO 125.2094.**

18 (I) ~~(h)~~—"Open space" means undeveloped land, a naturally
19 landscaped area, or a formal or man-made landscaped area that
20 provides a connective link or a buffer between other resources.

21 (J) ~~(i)~~—"Person" means an individual, partnership,
22 corporation, association, governmental entity, or other legal
23 entity.

24 **(K) "PREAPPROVAL LETTER" MEANS A LETTER ISSUED BY THE DIRECTOR**
25 **OF THE DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES OR HIS OR HER**
26 **DESIGNEE THAT INDICATES THE DATE THAT THE COMPLETE PART 2**
27 **APPLICATION WAS RECEIVED AND THE AMOUNT OF THE CREDIT ALLOCATED TO**

1 THE PROJECT BASED ON THE ESTIMATED REHABILITATION COST INCLUDED IN
2 THE APPLICATION.

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

22 (M) ~~(k)~~—"Qualified taxpayer" means a person that ~~is an~~
23 ~~assignee under subsection (7) or~~ either owns the resource to be
24 rehabilitated or has a long-term lease agreement with the owner of
25 the historic resource and that has qualified expenditures for the
26 rehabilitation of the historic resource equal to or greater than
27 10% of the state equalized valuation of the property. If the

1 historic resource to be rehabilitated is a portion of an historic
2 or nonhistoric resource, the state equalized valuation of only that
3 portion of the property shall be used for purposes of this
4 subdivision. If the assessor for the local tax collecting unit in
5 which the historic resource is located determines the state
6 equalized valuation of that portion, that assessor's determination
7 shall be used for purposes of this subdivision. If the assessor
8 does not determine that state equalized valuation of that portion,
9 qualified expenditures, for purposes of this subdivision, shall be
10 equal to or greater than 5% of the appraised value as determined by
11 a certified appraiser. If the historic resource to be rehabilitated
12 does not have a state equalized valuation, qualified expenditures
13 for purposes of this subdivision shall be equal to or greater than
14 5% of the appraised value of the resource as determined by a
15 certified appraiser.

16 (N) ~~(H)~~—"Rehabilitation plan" means a plan for the
17 rehabilitation of an historic resource that meets the federal
18 secretary of the interior's standards for rehabilitation and
19 guidelines for rehabilitation of historic buildings under 36 CFR
20 part 67.

21 Enacting section 1. This amendatory act takes effect January
22 1, 2009.