

# HOUSE BILL No. 6495

September 24, 2008, Introduced by Reps. Hammel, Tobocman, Alma Smith, Gonzales, Byrnes, Brown, Johnson, Palsrok, Huizenga and Dean and referred to the Committee on New Economy and Quality of Life.

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  
11 certification of completed rehabilitation of the historic resource  
12 is issued. ~~provided that the certification of completed~~

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

7 (2) The credit allowed under this ~~section~~ **SUBSECTION** shall be  
8 25% of the qualified expenditures that are eligible, **OR WOULD HAVE**  
9 **BEEN ELIGIBLE EXCEPT THAT THE TAXPAYER ENTERED INTO AN AGREEMENT**  
10 **UNDER SUBSECTION (13)**, for the credit under section 47(a)(2) of the  
11 internal revenue code if the taxpayer is eligible for the credit  
12 under section 47(a)(2) of the internal revenue code or, if the  
13 taxpayer is not eligible for the credit under section 47(a)(2) of  
14 the internal revenue code, 25% of the qualified expenditures that  
15 would qualify under section 47(a)(2) of the internal revenue code  
16 except that the expenditures are made to an historic resource that  
17 is not eligible for the credit under section 47(a)(2) of the  
18 internal revenue code, subject to both of the following:

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

26 (b) A credit under this ~~section~~ **SUBSECTION** shall be reduced by  
27 the amount of a credit received by the taxpayer for the same

1 qualified expenditures under section 47(a)(2) of the internal  
2 revenue code.

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

9 (a) All of the following criteria:

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

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

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

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

25 (4) If a qualified taxpayer is eligible for the credit allowed  
26 under section 47(a)(2) of the internal revenue code, the qualified  
27 taxpayer shall file for certification with the center to qualify

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

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

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

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

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

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

25 (iii) A contributing resource located within an historic  
26 district designated by a local unit pursuant to an ordinance  
27 adopted under the local historic districts act, 1970 PA 169, MCL

1 399.201 to 399.215.

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

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

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

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

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

20 (v) **THE HISTORIC RESOURCE IS SUBJECT TO A HISTORIC**  
21 **PRESERVATION EASEMENT.**

22 (7) ~~IF~~ **FOR PROJECTS FOR WHICH A CERTIFICATE OF COMPLETED**  
23 **REHABILITATION IS ISSUED BEFORE JANUARY 1, 2009, IF** a qualified  
24 taxpayer is a partnership, limited liability company, or subchapter  
25 S corporation, the qualified taxpayer may assign all or any portion  
26 of a credit allowed under this section to its partners, members, or  
27 shareholders, based on the partner's, member's, or shareholder's

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

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

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

20 (9) ~~(8)~~—If the credit allowed under this section for the tax  
21 year and any unused carryforward of the credit allowed by this  
22 section exceed the taxpayer's tax liability for the tax year, that  
23 portion that exceeds the tax liability for the tax year shall not  
24 be refunded but may be carried forward to offset tax liability in  
25 subsequent tax years for 10 years or until used up, whichever  
26 occurs first. An unused carryforward of a credit under section 39c  
27 of former 1975 PA 228 that was unused at the end of the last tax

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

14 (10) ~~(9) If~~ **FOR TAX YEARS BEGINNING BEFORE JANUARY 1, 2009, IF**  
15 the taxpayer sells an historic resource for which a credit was  
16 claimed under this section or under section 39c of former 1975 PA  
17 228 less than 5 years after the year in which the credit was  
18 claimed, the following percentage of the credit amount previously  
19 claimed relative to that historic resource shall be added back to  
20 the tax liability of the taxpayer in the year of the sale:

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

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

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

27 (d) If the sale is at least 3 years but less than 4 years



1 after the year in which the credit was claimed, 40%.

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

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

7 **(11) ~~(10) If~~ FOR TAX YEARS BEGINNING BEFORE JANUARY 1, 2009,**  
8 **IF** a certification of completed rehabilitation is revoked under  
9 subsection (5) less than 5 years after the year in which a credit  
10 was claimed under this section or under section 39c of former 1975  
11 PA 228, the following percentage of the credit amount previously  
12 claimed relative to that historic resource shall be added back to  
13 the tax liability of the taxpayer in the year of the revocation:

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

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

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

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

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

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

27 **(12) EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (13), FOR**

1 TAX YEARS BEGINNING AFTER DECEMBER 31, 2008, IF A CERTIFICATE OF  
2 COMPLETED REHABILITATION IS REVOKED UNDER SUBSECTION (5) OR (23) OR  
3 IS SOLD OR DISPOSED OF LESS THAN 5 YEARS AFTER THE HISTORIC  
4 RESOURCE IS PLACED IN SERVICE AS DEFINED IN SECTION 47(B)(1) OF THE  
5 INTERNAL REVENUE CODE AND RELATED TREASURY REGULATIONS, THE  
6 FOLLOWING PERCENTAGE OF THE CREDIT AMOUNT PREVIOUSLY CLAIMED  
7 RELATIVE TO THAT HISTORIC RESOURCE SHALL BE ADDED BACK TO THE TAX  
8 LIABILITY OF THE QUALIFIED TAXPAYER THAT RECEIVED THE CERTIFICATE  
9 OF COMPLETED REHABILITATION AND NOT THE ASSIGNEE IN THE YEAR OF THE  
10 REVOCATION:

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

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

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

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

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

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

24 (13) SUBSECTION (12) SHALL NOT APPLY IF THE QUALIFIED TAXPAYER  
25 ENTERS INTO A WRITTEN AGREEMENT WITH THE STATE HISTORIC  
26 PRESERVATION OFFICE THAT WILL ALLOW FOR THE TRANSFER OR SALE OF THE  
27 HISTORIC RESOURCE AND PROVIDES THE FOLLOWING:

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

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

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

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

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

18 (15) ~~(12)~~—The qualified taxpayer shall attach all of the  
19 following to the qualified taxpayer's annual return required under  
20 this act or under the income tax act of 1967, 1967 PA 281, MCL  
21 206.1 to 206.532, if applicable, on which the credit is claimed:

22 (a) Certification of completed rehabilitation.

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

26 (c) A completed assignment form if the qualified taxpayer **OR**  
27 **ASSIGNEE** has assigned any portion of a credit allowed under this

1 section ~~to a partner, member, or shareholder~~ or if the taxpayer is  
2 an assignee of any portion of a credit allowed under this section.

3 (16) ~~(13)~~—The department of history, arts, and libraries shall  
4 promulgate rules to implement this section pursuant to the  
5 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
6 24.328.

7 (17) ~~(14)~~—The total of the credits claimed under ~~this section~~  
8 **SUBSECTION (2)** and section 266 of the income tax act of 1967, 1967  
9 PA 281, MCL 206.266, for a rehabilitation project shall not exceed  
10 25% of the total qualified expenditures eligible for the credit  
11 under ~~this section~~ **SUBSECTION (2)** for that rehabilitation project.

12 (18) ~~(15)~~—The department of history, arts, and libraries  
13 through the Michigan historical center shall report all of the  
14 following to the legislature annually for the immediately preceding  
15 state fiscal year:

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

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

19 (c) The location of each new and ongoing rehabilitation  
20 project.

21 (19) **IN ADDITION TO THE CREDIT ALLOWED UNDER SUBSECTION (2)**  
22 **AND SUBJECT TO THE CRITERIA UNDER THIS SUBSECTION AND SUBSECTIONS**  
23 **(21), (22), AND (23), FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY**  
24 **1, 2009 A QUALIFIED TAXPAYER THAT HAS A PREAPPROVAL LETTER ISSUED**  
25 **ON OR BEFORE DECEMBER 31, 2013 MAY CLAIM AN ADDITIONAL CREDIT THAT**  
26 **HAS BEEN APPROVED UNDER THIS SUBSECTION OR SUBSECTION (20) AGAINST**  
27 **THE TAX IMPOSED BY THIS ACT EQUAL TO A PERCENTAGE ESTABLISHED IN**

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

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

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

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

17 (20) THE DIRECTOR OF THE DEPARTMENT OF HISTORY, ARTS, AND  
18 LIBRARIES OR HIS OR HER DESIGNEE, SUBJECT TO THE APPROVAL OF THE  
19 PRESIDENT OF THE MICHIGAN STRATEGIC FUND AND THE STATE TREASURER,  
20 MAY APPROVE 1 ADDITIONAL CREDIT DURING THE 2009 CALENDAR YEAR OF UP  
21 TO 15% OF THE QUALIFIED TAXPAYER'S QUALIFIED EXPENDITURES, AND 2  
22 ADDITIONAL CREDITS DURING THE 2010, 2011, 2012, AND 2013 CALENDAR  
23 YEARS OF UP TO 15% OF THE QUALIFIED TAXPAYER'S QUALIFIED  
24 EXPENDITURES, FOR CERTAIN REHABILITATION PLANS THAT THE DIRECTOR OF  
25 THE DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES OR HIS OR HER  
26 DESIGNEE DETERMINES IS A HIGH COMMUNITY IMPACT REHABILITATION PLAN  
27 THAT WILL HAVE A SIGNIFICANTLY GREATER HISTORIC, SOCIAL, AND

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



1 REASONABLY APPLICABLE:

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

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

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

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

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

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

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

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

21 (21) THE MAXIMUM AMOUNT OF CREDIT THAT A TAXPAYER OR AN  
22 ASSIGNEE MAY CLAIM UNDER SUBSECTION (20) DURING A TAX YEAR IS  
23 \$3,000,000.00. IF THE AMOUNT OF THE CREDIT APPROVED IN THE  
24 TAXPAYER'S CERTIFICATE OF COMPLETED RENOVATION IS GREATER THAN  
25 \$3,000,000.00 THAT PORTION THAT EXCEEDS THE CAP SHALL BE CARRIED  
26 FORWARD TO OFFSET TAX LIABILITY IN SUBSEQUENT TAX YEARS UNTIL USED  
27 UP.

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

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

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

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

10 (D) THE OVERALL ECONOMIC IMPACT THE RENOVATION WILL HAVE ON  
11 THE COMMUNITY.

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

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

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

25 (B) REVOKE THE PREAPPROVAL LETTER IF HE OR SHE DETERMINES THAT  
26 THERE HAS NOT BEEN SUBSTANTIAL PROGRESS TOWARD COMPLETION OF THE  
27 REHABILITATION PLAN OR THAT THE REHABILITATION PLAN CANNOT BE

1 COMPLETED. THE DIRECTOR OF THE DEPARTMENT OF HISTORY, ARTS, AND  
2 LIBRARIES OR HIS OR HER DESIGNEE SHALL PROVIDE THE QUALIFIED  
3 TAXPAYER WITH A NOTICE OF HIS OR HER INTENT TO REVOKE THE  
4 PREAPPROVAL LETTER 45 DAYS PRIOR TO THE PROPOSED DATE OF  
5 REVOCATION.

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

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

23 (26) ~~(16)~~ For purposes of this section, taxpayer includes a  
24 person subject to the tax imposed under chapter 2A or 2B.

25 (27) ~~(17)~~ As used in this section:

26 (a) "Contributing resource" means an historic resource that  
27 contributes to the significance of the historic district in which

1 it is located.

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

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

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

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

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

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

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

1 (d) "Last tax year" means the taxpayer's tax year under former  
2 1975 PA 228 that begins after December 31, 2006 and before January  
3 1, 2008.

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

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

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

12 **(H) "MICHIGAN STRATEGIC FUND" MEANS THE MICHIGAN STRATEGIC**  
13 **FUND CREATED UNDER THE MICHIGAN STRATEGIC FUND ACT, 1984 PA 270,**  
14 **MCL 125.2001 TO 125.2094.**

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

18 (J) ~~(i)~~—"Person" means an individual, partnership,  
19 corporation, association, governmental entity, or other legal  
20 entity.

21 **(K) "PREAPPROVAL LETTER" MEANS A LETTER ISSUED BY THE DIRECTOR**  
22 **OF THE DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES OR HIS OR HER**  
23 **DESIGNEE THAT INDICATES THE DATE THAT THE COMPLETE PART 2**  
24 **APPLICATION WAS RECEIVED AND THE AMOUNT OF THE CREDIT ALLOCATED TO**  
25 **THE PROJECT BASED ON THE ESTIMATED REHABILITATION COST INCLUDED IN**  
26 **THE APPLICATION.**

27 (L) ~~(j)~~—"Qualified expenditures" means capital expenditures

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

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

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

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

18 Enacting section 1. This amendatory act takes effect January  
19 1, 2009.