

SENATE BILL No. 1378

June 12, 2008, Introduced by Senator ALLEN and referred to the Committee on Finance.

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.

2 (2) The credit allowed under this section shall be 25% of the
3 qualified expenditures that are eligible for the credit under
4 section 47(a)(2) of the internal revenue code if the taxpayer is
5 eligible for the credit under section 47(a)(2) of the internal
6 revenue code or, if the taxpayer is not eligible for the credit
7 under section 47(a)(2) of the internal revenue code, 25% of the
8 qualified expenditures that would qualify under section 47(a)(2) of
9 the internal revenue code except that the expenditures are made to
10 a historic resource that is not eligible for the credit under
11 section 47(a)(2) of the internal revenue code, subject to both of
12 the following:

13 (a) A taxpayer with qualified expenditures that are eligible
14 for the credit under section 47(a)(2) of the internal revenue code
15 may not claim a credit under this section for those qualified
16 expenditures unless the taxpayer has claimed and received a credit
17 for those qualified expenditures under section 47(a)(2) of the
18 internal revenue code.

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

22 (3) To be eligible for the credit under this section, the
23 taxpayer shall apply to and receive from the Michigan historical
24 center certification that the historic significance, the
25 rehabilitation plan, and the completed rehabilitation of the
26 historic resource meet the criteria under subsection (6) and either
27 of the following:

1 (a) All of the following criteria:

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

4 (ii) Both the rehabilitation plan and completed rehabilitation
5 of the historic resource meet the federal secretary of the
6 interior's standards for rehabilitation and guidelines for
7 rehabilitating historic buildings, 36 CFR part 67.

8 (iii) All rehabilitation work has been done to or within the
9 walls, boundaries, or structures of the historic resource or to
10 historic resources located within the property boundaries of the
11 resource.

12 (b) The taxpayer has received certification from the national
13 park service that the historic resource's significance, the
14 rehabilitation plan, and the completed rehabilitation qualify for
15 the credit allowed under section 47(a)(2) of the internal revenue
16 code.

17 (4) If a qualified taxpayer is eligible for the credit allowed
18 under section 47(a)(2) of the internal revenue code, the qualified
19 taxpayer shall file for certification with the center to qualify
20 for the credit allowed under section 47(a)(2) of the internal
21 revenue code. If the qualified taxpayer has previously filed for
22 certification with the center to qualify for the credit allowed
23 under section 47(a)(2) of the internal revenue code, additional
24 filing for the credit allowed under this section is not required.

25 (5) The center may inspect a historic resource at any time
26 during the rehabilitation process and may revoke certification of
27 completed rehabilitation if the rehabilitation was not undertaken

as represented in the rehabilitation plan or if unapproved alterations to the completed rehabilitation are made during the 5 years after the tax year in which the credit was claimed. The center shall promptly notify the department of a revocation.

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

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

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

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

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

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

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

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

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

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

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

(7) A credit amount assigned under section 39c(7) of ~~the single business tax act, FORMER~~ 1975 PA 228 ~~, MCL 208.39e, or~~ section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, may be claimed against the partner's, member's, or shareholder's tax liability under this act as provided in section 39c(7) of ~~the single business tax act, FORMER~~ 1975 PA 228 ~~, MCL 208.39e, or~~ section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435. **FOR PROJECTS FOR WHICH A CERTIFICATE OF COMPLETED REHABILITATION IS ISSUED ON OR AFTER JANUARY 1, 2008, A QUALIFIED TAXPAYER MAY ASSIGN ALL OR A PORTION OF A CREDIT ALLOWED UNDER THIS SECTION. A CREDIT ASSIGNMENT UNDER THIS SUBSECTION IS IRREVOCABLE AND SHALL BE MADE IN THE TAX YEAR IN WHICH A CERTIFICATE OF COMPLETED REHABILITATION IS ISSUED. A QUALIFIED TAXPAYER MAY CLAIM A PORTION OF A CREDIT AND ASSIGN THE REMAINING CREDIT AMOUNT. IF**

1 THE QUALIFIED TAXPAYER BOTH CLAIMS AND ASSIGNS PORTIONS OF THE
2 CREDIT, THE QUALIFIED TAXPAYER SHALL CLAIM THE PORTION IT CLAIMS IN
3 THE TAX YEAR IN WHICH A CERTIFICATE OF COMPLETED REHABILITATION IS
4 ISSUED. AN ASSIGNEE MAY SUBSEQUENTLY ASSIGN A CREDIT OR ANY PORTION
5 OF A CREDIT ASSIGNED UNDER THIS SECTION TO 1 OR MORE ASSIGNEES. A
6 CREDIT AMOUNT ASSIGNED UNDER THIS SUBSECTION MAY BE CLAIMED AGAINST
7 THE ASSIGNEES' TAX LIABILITY UNDER THIS ACT OR UNDER THE MICHIGAN
8 BUSINESS TAX ACT, 2007 PA 36, MCL 208.1101 TO 208.1601. A CREDIT
9 ASSIGNMENT OR SUBSEQUENT REASSIGNMENT UNDER THIS SECTION SHALL BE
10 MADE ON A FORM PRESCRIBED BY THE DEPARTMENT. THE QUALIFIED TAXPAYER
11 AND ASSIGNEES SHALL SEND A COPY OF THE COMPLETED ASSIGNMENT FORM TO
12 THE DEPARTMENT IN THE TAX YEAR IN WHICH THE ASSIGNMENT IS MADE AND
13 ATTACH A COPY OF THE COMPLETED ASSIGNMENT FORM TO THE ANNUAL RETURN
14 REQUIRED TO BE FILED UNDER THIS ACT FOR THAT TAX YEAR.

15 (8) If the credit allowed under this section for the tax year
16 and any unused carryforward of the credit allowed by this section
17 exceed the taxpayer's tax liability for the tax year, that portion
18 that exceeds the tax liability for the tax year shall not be
19 refunded but may be carried forward to offset tax liability in
20 subsequent tax years for 10 years or until used up, whichever
21 occurs first.

22 ~~—— (9) If the taxpayer sells a historic resource for which a~~
23 ~~credit under this section was claimed less than 5 years after the~~
24 ~~year in which the credit was claimed, the following percentage of~~
25 ~~the credit amount previously claimed relative to that historic~~
26 ~~resource shall be added back to the tax liability of the taxpayer~~
27 ~~in the year of the sale.~~

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

~~3 (b) If the sale is at least 1 year but less than 2 years after~~
~~4 the year in which the credit was claimed, 80%.~~

~~5 (c) If the sale is at least 2 years but less than 3 years~~
~~6 after the year in which the credit was claimed, 60%.~~

~~7 (d) If the sale is at least 3 years but less than 4 years~~
~~8 after the year in which the credit was claimed, 40%.~~

~~9 (e) If the sale is at least 4 years but less than 5 years~~
~~10 after the year in which the credit was claimed, 20%.~~

~~11 (f) If the sale is 5 years or more after the year in which the~~
~~12 credit was claimed, an addback to the taxpayer's tax liability~~
~~13 shall not be made.~~

14 (9) ~~(10)~~ If a certification of completed rehabilitation is
15 revoked under subsection (5) less than 5 years after the year in
16 which a credit was claimed, the following percentage of the credit
17 amount previously claimed relative to that historic resource shall
18 be added back to the tax liability of the **QUALIFIED** taxpayer **THAT**
19 **RECEIVED THE CERTIFICATE OF COMPLETED REHABILITATION AND NOT THE**
20 **ASSIGNEE** in the year of the revocation:

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

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

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

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

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

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

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

7 (10) ~~(11)~~—The department of history, arts, and libraries
8 through the Michigan historical center may impose a fee to cover
9 the administrative cost of implementing the program under this
10 section. NOT LATER THAN MARCH 1, 2008, THE DEPARTMENT OF HISTORY,
11 ARTS, AND LIBRARIES THROUGH THE MICHIGAN HISTORICAL CENTER SHALL
12 ESTABLISH AN EXPEDITED REVIEW PROCESS FOR APPLICATIONS FOR
13 CERTIFICATION UNDER THIS SECTION. TO BE ELIGIBLE FOR EXPEDITED
14 REVIEW, THE APPLICANT SHALL, AT LEAST 10 BUSINESS DAYS PRIOR TO
15 SUBMITTING AN APPLICATION FOR EXPEDITED REVIEW, NOTIFY THE
16 DEPARTMENT OF HIS OR HER INTENT TO REQUEST AN EXPEDITED REVIEW AND
17 THEN SUBMIT A COMPLETED APPLICATION WITH THE REQUEST FOR AN
18 EXPEDITED REVIEW ALONG WITH THE APPROPRIATE FEE FOR EXPEDITED
19 REVIEW OF \$1,000.00. THE CENTER SHALL REVIEW AND MAKE A DECISION ON
20 COMPLETE APPLICATIONS SUBMITTED WITH A REQUEST FOR EXPEDITED REVIEW
21 WITHIN 14 BUSINESS DAYS OF RECEIPT BY THE DEPARTMENT OF THE
22 COMPLETED APPLICATION. IF THE CENTER FAILS TO MEET THE DEADLINE,
23 THE CENTER SHALL CONTINUE TO EXPEDITE THE APPLICATION REVIEW
24 PROCESS FOR AN APPLICATION SUBMITTED UNDER THIS SUBSECTION.
25 HOWEVER, THE FEE FOR AN EXPEDITED REVIEW REQUIRED UNDER THIS
26 SECTION SHALL BE REFUNDED IF THE CENTER FAILS TO MEET THE DEADLINE.
27 AS USED IN THIS SUBSECTION, "COMPLETED APPLICATION" MEANS THAT A

1 CENTER-PROVIDED APPLICATION FORM IS COMPLETED, ALL REQUESTED
2 INFORMATION HAS BEEN PROVIDED, AND THE APPLICATION CAN BE PROCESSED
3 WITHOUT ADDITIONAL INFORMATION.

4 (11) ~~(12)~~—The qualified taxpayer shall attach all of the
5 following to the qualified taxpayer's annual return under this act:

6 (a) Certification of completed rehabilitation.

7 (b) Certification of historic significance related to the
8 historic resource and the qualified expenditures used to claim a
9 credit under this section.

10 (c) A completed assignment form if **THE QUALIFIED TAXPAYER HAS**
11 **ASSIGNED ANY PORTION OF A CREDIT ALLOWED UNDER THIS SECTION OR IF**
12 the qualified taxpayer is an assignee under **THIS SECTION**, section
13 39c of ~~the single business tax act, FORMER~~ 1975 PA 228, ~~MCL~~
14 ~~208.39c~~, or section 435 of the Michigan business tax act, 2007 PA
15 36, MCL 208.1435, of any portion of a credit allowed under ~~that~~
16 ~~section~~ **THOSE SECTIONS**.

17 (12) ~~(13)~~—The department of history, arts, and libraries shall
18 promulgate rules to implement this section pursuant to the
19 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
20 24.328.

21 (13) ~~(14)~~—The total of the credits claimed under this section
22 and section 39c of ~~the single business tax act, FORMER~~ 1975 PA 228
23 ~~, MCL 208.39c~~, or section 435 of the Michigan business tax act,
24 2007 PA 36, MCL 208.1435, for a rehabilitation project shall not
25 exceed 25% of the total qualified expenditures eligible for the
26 credit under this section for that rehabilitation project.

27 (14) ~~(15)~~—The department of history, arts, and libraries

1 through the Michigan historical center shall report all of the
2 following to the legislature annually for the immediately preceding
3 state fiscal year:

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

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

7 (c) The location of each new and ongoing rehabilitation
8 project.

9 **(15)** ~~(16)~~—As used in this section:

10 (a) "Contributing resource" means a historic resource that
11 contributes to the significance of the historic district in which
12 it is located.

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

17 (c) "Historic resource" means a publicly or privately owned
18 historic building, structure, site, object, feature, or open space
19 located within a historic district designated by the national
20 register of historic places, the state register of historic sites,
21 or a local unit acting under the local historic districts act, 1970
22 PA 169, MCL 399.201 to 399.215; or that is individually listed on
23 the state register of historic sites or national register of
24 historic places and includes all of the following:

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

27 (ii) An income-producing commercial, industrial, or residential

1 resource or a historic resource located within the property
2 boundaries of that resource.

3 (iii) A resource owned by a governmental body, nonprofit
4 organization, or tax-exempt entity that is used primarily by a
5 taxpayer lessee in a trade or business unrelated to the
6 governmental body, nonprofit organization, or tax-exempt entity and
7 that is subject to tax under this act.

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

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

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

13 (e) "Long-term lease" means a lease term of at least 27.5
14 years for a residential resource or at least 31.5 years for a
15 nonresidential resource.

16 (f) "Michigan historical center" or "center" means the state
17 historic preservation office of the Michigan historical center of
18 the department of history, arts, and libraries or its successor
19 agency.

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

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

25 (i) "Qualified expenditures" means capital expenditures that
26 qualify for a rehabilitation credit under section 47(a)(2) of the
27 internal revenue code if the taxpayer is eligible for the credit

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

15 (j) "Qualified taxpayer" means a person that ~~is an assignee~~
16 ~~under section 39c of the single business tax act, 1975 PA 228, MCL~~
17 ~~208.39c, or section 435 of the Michigan business tax act, 2007 PA~~
18 ~~36, MCL 208.1435, or~~ either owns the resource to be rehabilitated
19 or has a long-term lease agreement with the owner of the historic
20 resource and that has qualified expenditures for the rehabilitation
21 of the historic resource equal to or greater than 10% of the state
22 equalized valuation of the property. If the historic resource to be
23 rehabilitated is a portion of a historic or nonhistoric resource,
24 the state equalized valuation of only that portion of the property
25 shall be used for purposes of this subdivision. If the assessor for
26 the local tax collecting unit in which the historic resource is
27 located determines the state equalized valuation of that portion,

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

10 (k) "Rehabilitation plan" means a plan for the rehabilitation
11 of a historic resource that meets the federal secretary of the
12 interior's standards for rehabilitation and guidelines for
13 rehabilitation of historic buildings under 36 CFR part 67.