

HOUSE BILL No. 4755

April 1, 2009, Introduced by Rep. Jackson and referred to the Committee on Energy and Technology.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
(MCL 208.1101 to 208.1601) by adding section 465.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 465. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,
2 2008, A TAXPAYER THAT FURNISHES BROADBAND SERVICES TO UNDERSERVED
3 AND RURAL AREAS MAY CLAIM A CREDIT AGAINST THE TAX IMPOSED UNDER
4 THIS ACT EQUAL TO THE APPLICABLE PERCENTAGE OF THE COST OF EACH
5 QUALIFIED BROADBAND PROPERTY PLACED IN SERVICE DURING THE TAX YEAR.

6 (2) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION AND
7 ANY UNUSED CARRYFORWARD OF THE CREDIT ALLOWED BY THIS SECTION
8 EXCEED THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THAT
9 PORTION THAT EXCEEDS THE TAX LIABILITY SHALL NOT BE REFUNDED, BUT

1 MAY BE CARRIED FORWARD TO OFFSET TAX LIABILITY IN SUBSEQUENT TAX
2 YEARS.

3 (3) IF THE TAXPAYER DISPOSES OF OR CEASES TO USE THE QUALIFIED
4 BROADBAND PROPERTY TO PROVIDE SERVICE TO UNDERSERVED AND RURAL
5 AREAS FOR WHICH A CREDIT WAS CLAIMED UNDER THIS SECTION LESS THAN 5
6 YEARS AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED, THE FOLLOWING
7 PERCENTAGE OF THE CREDIT AMOUNT PREVIOUSLY CLAIMED RELATIVE TO THAT
8 QUALIFIED BROADBAND PROPERTY SHALL BE ADDED BACK TO THE TAX
9 LIABILITY OF THE TAXPAYER IN THE YEAR THAT THE TAXPAYER DISPOSED OF
10 OR CEASED TO USE THAT QUALIFIED BROADBAND PROPERTY:

11 (A) IF THE DISPOSAL OR CEASE OF USE IS LESS THAN 1 YEAR AFTER
12 THE YEAR IN WHICH THE CREDIT WAS CLAIMED, 100%.

13 (B) IF THE DISPOSAL OR CEASE OF USE IS AT LEAST 1 YEAR BUT
14 LESS THAN 2 YEARS AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED,
15 80%.

16 (C) IF THE DISPOSAL OR CEASE OF USE IS AT LEAST 2 YEARS BUT
17 LESS THAN 3 YEARS AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED,
18 60%.

19 (D) IF THE DISPOSAL OR CEASE OF USE IS AT LEAST 3 YEARS BUT
20 LESS THAN 4 YEARS AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED,
21 40%.

22 (E) IF THE DISPOSAL OR CEASE OF USE IS AT LEAST 4 YEARS BUT
23 LESS THAN 5 YEARS AFTER THE YEAR IN WHICH THE CREDIT WAS CLAIMED,
24 20%.

25 (F) IF THE DISPOSAL OR CEASE OF USE IS 5 YEARS OR MORE AFTER
26 THE YEAR IN WHICH THE CREDIT WAS CLAIMED, AN ADDBACK TO THE
27 TAXPAYER'S TAX LIABILITY SHALL NOT BE MADE.

1 (4) AS USED IN THIS SECTION:

2 (A) "APPLICABLE PERCENTAGE" MEANS 50% FOR QUALIFIED BROADBAND
3 PROPERTY THAT IS PLACED IN SERVICE IN AN UNDERSERVED OR RURAL AREA
4 WHERE ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
5 SECTION ONLY 5% OF THE HOUSEHOLDS HAVE BROADBAND ACCESS AND 30% FOR
6 ALL OTHER UNDERSERVED OR RURAL AREAS WHERE MORE THAN 5% OF
7 HOUSEHOLDS HAVE BROADBAND ACCESS ON THE EFFECTIVE DATE OF THE
8 AMENDATORY ACT THAT ADDED THIS SECTION.

9 (B) "BROADBAND" MEANS AN INTERNET PROTOCOL-BASED TRANSMISSION
10 SERVICE AT A SPEED THAT IS NOT LESS THAN 5 MEGABITS PER SECOND
11 DOWNSTREAM AND 1 MEGABIT PER SECOND UPSTREAM THAT ENABLES USERS TO
12 SEND AND RECEIVE VOICE, VIDEO, DATA, GRAPHICS, OR A COMBINATION
13 THEREOF WITHOUT REGARD TO ANY TRANSMISSION MEDIA OR TECHNOLOGY.

14 (C) "QUALIFIED BROADBAND PROPERTY" MEANS SECTION 1245 PROPERTY
15 THAT IS TANGIBLE PROPERTY OR COMPUTER SOFTWARE USED TO PROVIDE
16 BROADBAND SERVICES IN UNDERSERVED OR RURAL AREAS TO PURCHASERS OF
17 THOSE BROADBAND SERVICES AND THE ORIGINAL USE OF THAT PROPERTY
18 COMMENCES WITH THE TAXPAYER. QUALIFIED BROADBAND PROPERTY DOES NOT
19 INCLUDE ANY PROPERTY DESCRIBED UNDER SECTION 50(B) OF THE INTERNAL
20 REVENUE CODE.

21 (D) "RURAL AREA" MEANS ANY CENSUS TRACT OUTSIDE A METROPOLITAN
22 STATISTICAL AREA.

23 (E) "SECTION 1245 PROPERTY" MEANS THAT TERM AS DEFINED UNDER
24 SECTION 1245 OF THE INTERNAL REVENUE CODE.

25 (F) "UNDERSERVED AREA" MEANS ANY OF THE FOLLOWING:

26 (i) ANY CENSUS TRACT THAT IS LOCATED IN AN EMPOWERMENT ZONE OR
27 ENTERPRISE COMMUNITY DESIGNATED UNDER SECTION 1391 OF THE INTERNAL

1 REVENUE CODE OR IN THE DISTRICT OF COLUMBIA ENTERPRISE ZONE
2 ESTABLISHED UNDER SECTION 1400 OF THE INTERNAL REVENUE CODE.

3 (ii) ANY CENSUS TRACT LOCATED IN A METROPOLITAN STATISTICAL
4 AREA IN WHICH THE POVERTY LEVEL BASED ON THE MOST RECENT CENSUS
5 DATA IS AT LEAST 30% AND THE MEDIAN FAMILY INCOME DOES NOT EXCEED
6 70% OF THE GREATER OF THE METROPOLITAN AREA MEDIAN FAMILY INCOME OR
7 THE STATEWIDE MEDIAN FAMILY INCOME.

8 (iii) ANY CENSUS TRACT LOCATED IN A NONMETROPOLITAN STATISTICAL
9 AREA IN WHICH THE POVERTY LEVEL BASED ON THE MOST RECENT CENSUS
10 DATA IS AT LEAST 30% AND THE MEDIAN FAMILY INCOME DOES NOT EXCEED
11 70% OF THE NONMETROPOLITAN STATEWIDE MEDIAN FAMILY INCOME.