

HOUSE BILL No. 6337

August 9, 2006, Introduced by Reps. McDowell, Donigan, Byrnes, Gonzales, Miller, Alma Smith, Tobocman, Polidori, Hood, Kolb, Sheltroun, Hunter, Sak, Espinoza, Mayes, Vagnozzi, Zelenko, Clack, Kathleen Law, Cushingberry, Plakas, Accavitti, Condino, Angerer, Bennett, Bieda, Leland, Lemmons, Jr., Byrum, Gillard, Murphy, Meisner and Lemmons, III and referred to the Committee on Commerce.

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 39c (MCL 208.39c), as amended by 2006 PA 240.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 39c. (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

1 rehabilitation plan was certified by the Michigan historical
2 center.

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

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

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

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

1 of the following:

2 (a) All of the following criteria:

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

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

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

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

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

26 (5) The center may inspect a historic resource at any time
27 during the rehabilitation process and may revoke certification of

1 completed rehabilitation if the rehabilitation was not undertaken
2 as represented in the rehabilitation plan or if unapproved
3 alterations to the completed rehabilitation are made during the 5
4 years after the tax year in which the credit was claimed. The
5 center shall promptly notify the department of a revocation.

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

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

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

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

18 (iii) A contributing resource located within a historic district
19 designated by a local unit pursuant to an ordinance adopted under
20 the local historic districts act, 1970 PA 169, MCL 399.201 to
21 399.215.

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

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

1 399.215.

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

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

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

13 (7) If a qualified taxpayer is a partnership, limited
14 liability company, or subchapter S corporation, the qualified
15 taxpayer may assign all or any portion of a credit allowed under
16 this section to its partners, members, or shareholders, based on
17 the partner's, member's, or shareholder's proportionate share of
18 ownership or based on an alternative method approved by the
19 department. A credit assignment under this subsection is
20 irrevocable and shall be made in the tax year in which a
21 certificate of completed rehabilitation is issued. A qualified
22 taxpayer may claim a portion of a credit and assign the remaining
23 credit amount. A partner, member, or shareholder that is an
24 assignee shall not subsequently assign a credit or any portion of a
25 credit assigned to the partner, member, or shareholder under this
26 subsection. A credit amount assigned under this subsection may be
27 claimed against the partner's, member's, or shareholder's tax

1 liability under this act or under the income tax act of 1967, 1967
2 PA 281, MCL 206.1 to 206.532. A credit assignment under this
3 subsection shall be made on a form prescribed by the department.

4 The qualified taxpayer and assignees shall send a copy of the
5 completed assignment form to the department in the tax year in
6 which the assignment is made and attach a copy of the completed
7 assignment form to the annual return required to be filed under
8 this act for that tax year.

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

16 (9) If the taxpayer sells a historic resource for which a
17 credit under this section was claimed less than 5 years after the
18 year in which the credit was claimed, the following percentage of
19 the credit amount previously claimed relative to that historic
20 resource shall be added back to the tax liability of the taxpayer
21 in the year of the sale:

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

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

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

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

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

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

8 (10) If a certification of completed rehabilitation is revoked
9 under subsection (5) less than 5 years after the year in which a
10 credit was claimed, the following percentage of the credit amount
11 previously claimed relative to that historic resource shall be
12 added back to the tax liability of the taxpayer in the year of the
13 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 (11) The department of history, arts, and libraries through

1 the Michigan historical center may impose a fee to cover the
2 administrative cost of implementing the program under this section.

3 (12) The qualified taxpayer shall attach all of the following
4 to the qualified taxpayer's annual return required under this act
5 or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to
6 206.532, if applicable, on which the credit is claimed:

7 (a) Certification of completed rehabilitation.

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

11 (c) A completed assignment form if the qualified taxpayer has
12 assigned any portion of a credit allowed under this section to a
13 partner, member, or shareholder, or if the taxpayer is an assignee
14 of any portion of a credit allowed under this section.

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

19 (14) The total of the credits claimed under this section and
20 section 266 of the income tax act of 1967, 1967 PA 281, MCL
21 206.266, for a rehabilitation project shall not exceed 25% of the
22 total qualified expenditures eligible for the credit under this
23 section for that rehabilitation project.

24 (15) The department of history, arts, and libraries through
25 the Michigan historical center shall report all of the following to
26 the legislature annually for the immediately preceding state fiscal
27 year:

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

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

4 (c) The location of each new and ongoing rehabilitation
5 project.

6 (16) If this act is repealed for tax years beginning after
7 December 31, 2007, all of the following apply:

8 (a) Except as otherwise provided in this subsection, a
9 qualified taxpayer that has a rehabilitation plan certified before
10 January 1, 2007 for the rehabilitation of a historic resource for
11 which a certification of completed rehabilitation has been issued
12 after the end of the taxpayer's last tax year but before January 1,
13 2010 or an assignee may claim the historic preservation credit
14 amount for the year in which the certification of completed
15 rehabilitation is issued against the taxpayer's or assignee's tax
16 liability under this act on the taxpayer's or assignee's timely
17 filed original or amended annual return filed under this act, for
18 the taxpayer's or assignee's last tax year.

19 (b) A credit under this subsection shall be taken after all
20 other credits the taxpayer claims for the tax year under this act
21 and all of the following apply:

22 (i) The historic preservation credit amount that the taxpayer
23 or assignee would have been allowed to claim for historic
24 rehabilitation completed in 2008 after the end of the taxpayer's or
25 assignee's last tax year or for the rehabilitation of a historic
26 resource completed in 2009 is in addition to the historic
27 preservation credit amount that the taxpayer or assignee is allowed

1 to claim for the rehabilitation of a historic resource completed
2 before the end of the taxpayer's or assignee's last tax year.

3 (ii) The historic preservation credit amount that the taxpayer
4 or assignee is allowed to claim for the rehabilitation of a
5 historic resource completed in 2008 after the end of the taxpayer's
6 or assignee's last tax year or for the rehabilitation of a historic
7 resource completed in 2009 on the taxpayer's or assignee's annual
8 return for the taxpayer's or assignee's last tax year or the sum of
9 both historic preservation credit amounts shall not exceed the
10 taxpayer's or assignee's tax liability for the taxpayer's or
11 assignee's last tax year after all other credits for that tax year
12 except the taxpayer's or assignee's historic preservation credit
13 for the taxpayer's or assignee's last tax year have been taken.

14 (iii) The historic preservation credit amount that the taxpayer
15 or assignee is allowed to claim for its last tax year under this
16 subsection shall not exceed the sum of the amount that the taxpayer
17 or assignee would have been allowed to claim for the rehabilitation
18 of a historic resource completed in 2008 after the end of the
19 taxpayer's or assignee's last tax year plus the amount that the
20 taxpayer or assignee would have been allowed to claim for the
21 rehabilitation of a historic resource completed in 2009.

22 (c) If the amount of the total of all historic preservation
23 credit amounts that may be claimed by the taxpayer or assignee
24 under this subsection exceeds the taxpayer's or assignee's tax
25 liability for the taxpayer's or assignee's last tax year, the
26 amount by which the total of all historic preservation credit
27 amounts exceeds the taxpayer's or assignee's tax liability for the

1 taxpayer's or assignee's last tax year shall be refunded.

2 (d) A historic preservation credit under this subsection shall
3 not be claimed before a certification of completed rehabilitation
4 is issued for the rehabilitation of a historic resource on which
5 the historic preservation credit is based.

6 (e) This subsection does not apply to any amount the taxpayer
7 or assignee may claim for the same rehabilitation plan for a tax
8 year that begins after December 31, 2007 under any other tax act.

9 (f) As used in this subsection:

10 (i) "Assignee" means an assignee under subsection (7).

11 (ii) "Historic preservation credit" means the credit allowed
12 under this section.

13 (iii) "Last tax year" means the taxpayer's tax year under this
14 act that begins after December 31, 2006 and before January 1, 2008.

15 **(17) FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2007, AN**
16 **OTHERWISE QUALIFIED TAXPAYER WHO FAILS TO COMPLY WITH SECTION 3 OF**
17 **THE MICHIGAN CORPORATE RESPONSIBILITY ACT OR WHO FAILS TO DISCLOSE**
18 **A CIVIL OR CRIMINAL OFFENSE AS REQUIRED BY SECTION 3 OF THE**
19 **MICHIGAN CORPORATE RESPONSIBILITY ACT IS NOT ELIGIBLE FOR THE**
20 **CREDIT UNDER THIS SECTION.**

21 **(18) —(17)—** As used in this section:

22 (a) "Contributing resource" means a historic resource that
23 contributes to the significance of the historic district in which
24 it is located.

25 (b) "Historic district" means an area, or group of areas not
26 necessarily having contiguous boundaries, that contains 1 resource
27 or a group of resources that are related by history, architecture,

1 archaeology, engineering, or culture.

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

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

12 (ii) An income-producing commercial, industrial, or residential
13 resource or a historic resource located within the property
14 boundaries of that resource.

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

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

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

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

25 (e) "Long-term lease" means a lease term of at least 27.5
26 years for a residential resource or at least 31.5 years for a
27 nonresidential resource.

1 (f) "Michigan historical center" or "center" means the state
2 historic preservation office of the Michigan historical center of
3 the department of history, arts, and libraries or its successor
4 agency.

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

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

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

27 (j) "Qualified taxpayer" means a person that is an assignee

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

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