

**SUBSTITUTE FOR
HOUSE BILL NO. 5787**

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.

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

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

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

26 (3) ~~To~~ **SUBJECT TO SUBSECTION (5)**, TO be eligible for the
27 credit under this section, the taxpayer shall apply to and receive

1 from the Michigan historical center certification that the historic
2 significance, the rehabilitation plan, and the completed
3 rehabilitation of the historic resource meet the criteria under
4 subsection ~~(6)~~-(8) and either of the following:

5 (a) All of the following criteria:

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

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

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

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

21 **(4) BEGINNING JULY 1, 2008, WHEN DETERMINING IF AN APPLICANT**
22 **QUALIFIES FOR THE CREDIT UNDER THIS SECTION, IF ALL OTHER**
23 **CONSIDERATIONS ARE EQUAL, THE CENTER SHALL GIVE PREFERENCE TO AN**
24 **APPLICANT THAT AGREES, IN WRITING, TO DO ALL OF THE FOLLOWING:**

25 **(A) HIRE ONLY RESIDENTS OF THIS STATE TO ASSIST IN THE**
26 **REHABILITATION OF A HISTORIC RESOURCE UNLESS THE CENTER DETERMINES**
27 **THAT THE REHABILITATION CANNOT BE COMPLETED BY USING ONLY RESIDENTS**

House Bill No. 5787 (H-3) as amended April 9, 2008
1 OF THIS STATE FOR 1 OR MORE OF THE FOLLOWING:

2 (i) TO THE EXTENT NECESSARY TO COMPLY WITH FEDERAL LAW OR
3 REGULATION CONCERNING THE USE OF FEDERAL FUNDS.

4 (ii) TO THE EXTENT THAT KEY MANAGEMENT PERSONNEL OR INDIVIDUALS
5 WITH SPECIAL SKILLS, WHO ARE NOT RESIDENTS OF THIS STATE, ARE
6 NEEDED.

7 (B) CONTRACT WITH BUSINESSES THAT AGREE TO HIRE ONLY RESIDENTS
8 OF THIS STATE TO ASSIST IN THE REHABILITATION OF A HISTORIC
9 RESOURCE UNLESS THE CENTER DETERMINES THAT THE REHABILITATION
10 CANNOT BE COMPLETED BY USING ONLY RESIDENTS OF THIS STATE FOR 1 OR
11 MORE OF THE FOLLOWING:

12 (i) TO THE EXTENT NECESSARY TO COMPLY WITH FEDERAL LAW OR
13 REGULATION CONCERNING THE USE OF FEDERAL FUNDS.

14 (ii) TO THE EXTENT THAT KEY MANAGEMENT PERSONNEL OR INDIVIDUALS
15 WITH SPECIAL SKILLS, WHO ARE NOT RESIDENTS OF THIS STATE, ARE
16 NEEDED.

17 (5) A QUALIFIED TAXPAYER THAT IS A BUSINESS IS NOT ABLE TO
18 CLAIM THE CREDIT UNDER THIS SECTION UNLESS THAT QUALIFIED TAXPAYER
19 ENTERS INTO A CONTRACT WITH THE CENTER THAT PROVIDES THAT, FOR ANY
20 WORK ON THE REHABILITATION PLAN, THE QUALIFIED TAXPAYER WILL NOT
21 KNOWINGLY HIRE OR CONTRACT WITH ANY BUSINESS ENTITY THAT KNOWINGLY
22 HIRES AN INDIVIDUAL WHO IS NOT AUTHORIZED UNDER FEDERAL LAW TO WORK
23 IN THE UNITED STATES [.

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

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(7) ~~(5)~~—The center may inspect an historic resource at any time during the rehabilitation process and may revoke certification of 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

1 revocation.

2 (8) ~~(6)~~—Qualified expenditures for the rehabilitation of an
3 historic resource may be used to calculate the credit under this
4 section if the historic resource meets 1 of the criteria listed in
5 subdivision (a) and 1 of the criteria listed in subdivision (b):

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

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

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

14 (iii) A contributing resource located within an historic
15 district designated by a local unit pursuant to an ordinance
16 adopted under the local historic districts act, 1970 PA 169, MCL
17 399.201 to 399.215.

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

21 (i) The historic resource is located in a designated historic
22 district in a local unit of government with an existing ordinance
23 under the local historic districts act, 1970 PA 169, MCL 399.201 to
24 399.215.

25 (ii) The historic resource is located in an incorporated local
26 unit of government that does not have an ordinance under the local
27 historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and

1 has a population of less than 5,000.

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

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

9 (9) ~~(7)~~—If a qualified taxpayer is a partnership, limited
10 liability company, or subchapter S corporation, the qualified
11 taxpayer may assign all or any portion of a credit allowed under
12 this section to its partners, members, or shareholders, based on
13 the partner's, member's, or shareholder's proportionate share of
14 ownership or based on an alternative method approved by the
15 department. A credit assignment under this subsection is
16 irrevocable and shall be made in the tax year in which a
17 certificate of completed rehabilitation is issued. A qualified
18 taxpayer may claim a portion of a credit and assign the remaining
19 credit amount. A partner, member, or shareholder that is an
20 assignee shall not subsequently assign a credit or any portion of a
21 credit assigned to the partner, member, or shareholder under this
22 subsection. A credit amount assigned under this subsection may be
23 claimed against the partner's, member's, or shareholder's tax
24 liability under this act or under the income tax act of 1967, 1967
25 PA 281, MCL 206.1 to 206.532. A credit assignment under this
26 subsection shall be made on a form prescribed by the department.
27 The qualified taxpayer and assignees shall send a copy of the

1 completed assignment form to the department in the tax year in
2 which the assignment is made and attach a copy of the completed
3 assignment form to the annual return required to be filed under
4 this act for that tax year.

5 (10) ~~(8)~~—If the credit allowed under this section for the tax
6 year and any unused carryforward of the credit allowed by this
7 section exceed the taxpayer's tax liability for the tax year, that
8 portion that exceeds the tax liability for the tax year shall not
9 be refunded but may be carried forward to offset tax liability in
10 subsequent tax years for 10 years or until used up, whichever
11 occurs first. An unused carryforward of a credit under section 39c
12 of former 1975 PA 228 that was unused at the end of the last tax
13 year for which former 1975 PA 228 was in effect may be claimed
14 against the tax imposed under this act for the years the
15 carryforward would have been available under section 39c of former
16 1975 PA 228.

17 (11) ~~(9)~~—If the taxpayer sells an historic resource for which
18 a credit was claimed under this section or under section 39c of
19 former 1975 PA 228 less than 5 years after the year in which the
20 credit was claimed, the following percentage of the credit amount
21 previously claimed relative to that historic resource shall be
22 added back to the tax liability of the taxpayer in the year of the
23 sale:

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

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

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

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

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

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

10 (12) ~~(10)~~—If a certification of completed rehabilitation is
11 revoked under subsection ~~(5)~~ ~~(7)~~ less than 5 years after the year
12 in which a credit was claimed under this section or under section
13 39c of former 1975 PA 228, the following percentage of the credit
14 amount previously claimed relative to that historic resource shall
15 be added back to the tax liability of the taxpayer in the year of
16 the revocation:

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

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

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

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

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

27 (f) If the revocation is 5 years or more after the year in

1 which the credit was claimed, an addback to the taxpayer's tax
2 liability shall not be made.

3 (13) ~~(11)~~—The department of history, arts, and libraries
4 through the Michigan historical center may impose a fee to cover
5 the administrative cost of implementing the program under this
6 section.

7 (14) ~~(12)~~—The qualified taxpayer shall attach all of the
8 following to the qualified taxpayer's annual return required under
9 this act or under the income tax act of 1967, 1967 PA 281, MCL
10 206.1 to 206.532, if applicable, on which the credit is claimed:

11 (a) Certification of completed rehabilitation.

12 (b) Certification of historic significance related to the
13 historic resource and the qualified expenditures used to claim a
14 credit under this section.

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

19 (15) ~~(13)~~—The department of history, arts, and libraries shall
20 promulgate rules to implement this section pursuant to the
21 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
22 24.328.

23 (16) ~~(14)~~—The total of the credits claimed under this section
24 and section 266 of the income tax act of 1967, 1967 PA 281, MCL
25 206.266, for a rehabilitation project shall not exceed 25% of the
26 total qualified expenditures eligible for the credit under this
27 section for that rehabilitation project.

1 (17) ~~(15)~~—The department of history, arts, and libraries
 2 through the Michigan historical center shall report all of the
 3 following to the legislature **AND THE BOARD OF THE MICHIGAN**
 4 **STRATEGIC FUND** annually for the immediately preceding state fiscal
 5 year:

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

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

9 (c) The location of each new and ongoing rehabilitation
 10 project.

11 (D) **THE NUMBER OF MICHIGAN RESIDENTS EMPLOYED IN NEW JOBS IN**
 12 **THE IMMEDIATELY PRECEDING YEAR.**

13 (E) **THE TOTAL NUMBER OF NEW JOBS CREATED IN THE IMMEDIATELY**
 14 **PRECEDING YEAR.**

15 (F) **THE SPECIFIC REASONS FOR EACH DETERMINATION OF EXEMPTION**
 16 **FROM THE PROVISIONS OF SUBSECTION (4) (A) OR (B) MADE BY THE CENTER**
 17 **AND THE NUMBER OF JOBS RELATED TO EACH DETERMINATION.**

18 (18) ~~(16)~~—For purposes of this section, taxpayer includes a
 19 person subject to the tax imposed under chapter 2A or 2B.

20 (19) ~~(17)~~—As used in this section:

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

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

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

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

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

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

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

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

23 (d) "Last tax year" means the taxpayer's tax year under former
24 1975 PA 228 that begins after December 31, 2006 and before January
25 1, 2008.

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

27 (f) "Long-term lease" means a lease term of at least 27.5

1 years for a residential resource or at least 31.5 years for a
2 nonresidential resource.

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

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

10 (i) "Person" means an individual, partnership, corporation,
11 association, governmental entity, or other legal entity.

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

1 historic preservation, safety, or accessibility.

2 (k) "Qualified taxpayer" means a person that is an assignee
3 under subsection ~~(7)~~—(9) or either owns the resource to be
4 rehabilitated or has a long-term lease agreement with the owner of
5 the historic resource and that has qualified expenditures for the
6 rehabilitation of the historic resource equal to or greater than
7 10% of the state equalized valuation of the property. If the
8 historic resource to be rehabilitated is a portion of an historic
9 or nonhistoric resource, the state equalized valuation of only that
10 portion of the property shall be used for purposes of this
11 subdivision. If the assessor for the local tax collecting unit in
12 which the historic resource is located determines the state
13 equalized valuation of that portion, that assessor's determination
14 shall be used for purposes of this subdivision. If the assessor
15 does not determine that state equalized valuation of that portion,
16 qualified expenditures, for purposes of this subdivision, shall be
17 equal to or greater than 5% of the appraised value as determined by
18 a certified appraiser. If the historic resource to be rehabilitated
19 does not have a state equalized valuation, qualified expenditures
20 for purposes of this subdivision shall be equal to or greater than
21 5% of the appraised value of the resource as determined by a
22 certified appraiser.

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

27 Enacting section 1. This amendatory act is retroactive and is

1 effective for taxes levied on and after January 1, 2008.