

**SUBSTITUTE FOR
SENATE BILL NO. 296**

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 435 (MCL 208.1435), as amended by 2008 PA 448.

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. Only those expenditures that are paid or incurred during
3 the time periods prescribed for the credit under section 47(a)(2)
4 of the internal revenue code and any related treasury regulations
5 shall be considered qualified expenditures.

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

18 (a) A taxpayer with qualified expenditures that are eligible
19 for the credit under section 47(a)(2) of the internal revenue code
20 may not claim a credit under this section for those qualified
21 expenditures unless the taxpayer has claimed and received a credit
22 for those qualified expenditures under section 47(a)(2) of the
23 internal revenue code or the taxpayer has entered into an agreement
24 under subsection (13).

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

Senate Bill No. 296 as amended May 7, 2009

1 (3) ~~TO~~**SUBJECT TO <<SUBSECTIONS (29) AND (30)>>**, TO be eligible for
the

2 credit under subsection (2), the taxpayer shall apply to and
3 receive from the Michigan historical center certification that the
4 historic significance, the rehabilitation plan, and the completed
5 rehabilitation of the historic resource meet the criteria under
6 subsection (6) and either of the following:

7 (a) All of the following criteria:

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

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

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

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

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

1 certification with the center to qualify for the credit allowed
2 under section 47(a)(2) of the internal revenue code, additional
3 filing for the credit allowed under this section is not required.

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

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

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

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

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

23 (iii) A contributing resource located within an historic
24 district designated by a local unit pursuant to an ordinance
25 adopted under the local historic districts act, 1970 PA 169, MCL
26 399.201 to 399.215.

27 (b) The resource meets 1 of the following criteria during the

1 tax year in which a credit under this section is claimed for those
2 qualified expenditures:

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

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

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

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

18 (v) The historic resource is subject to a historic
19 preservation easement.

20 (7) For projects for which a certificate of completed
21 rehabilitation is issued for a tax year beginning before January 1,
22 2009, if a qualified taxpayer is a partnership, limited liability
23 company, or subchapter S corporation, the qualified taxpayer may
24 assign all or any portion of a credit allowed under this section to
25 its partners, members, or shareholders, based on the partner's,
26 member's, or shareholder's proportionate share of ownership or
27 based on an alternative method approved by the department. A credit

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

17 (8) For projects for which a certificate of completed
18 rehabilitation is issued for a tax year beginning after December
19 31, 2008, a qualified taxpayer may assign all or any portion of the
20 credit allowed under this section. A credit assignment under this
21 subsection is irrevocable and shall be made in the tax year in
22 which a certificate of completed rehabilitation is issued. A
23 qualified taxpayer may claim a portion of a credit and assign the
24 remaining amount. If the qualified taxpayer both claims and assigns
25 portions of the credit, the qualified taxpayer shall claim the
26 portion it claims in the tax year in which a certificate of
27 completed rehabilitation is issued pursuant to this section. An

1 assignee may subsequently assign the credit or any portion of the
2 credit assigned under this subsection to 1 or more assignees. An
3 assignment or subsequent reassignment of a credit can be made in
4 the year the certificate of completed rehabilitation is issued. A
5 credit assignment or subsequent reassignment under this section
6 shall be made on a form prescribed by the department. The
7 department or its designee shall review and issue a completed
8 assignment or reassignment certificate to the assignee or
9 reassignee. A credit amount assigned under this subsection may be
10 claimed against the assignees' tax under this act or under the
11 income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. An
12 assignee or subsequent reassignee shall attach a copy of the
13 completed assignment certificate to the annual return required to
14 be filed under this act or under the income tax act of 1967, 1967
15 PA 281, MCL 206.1 to 206.532, for the tax year in which the
16 assignment or reassignment is made and the assignee or reassignee
17 first claims the credit, which shall be the same tax year.

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

1 carryforward would have been available under section 39c of former
2 1975 PA 228. For projects for which a certificate of completed
3 rehabilitation is issued for a tax year beginning after December
4 31, 2008 and for which the credit amount allowed is less than
5 \$250,000.00, a qualified taxpayer may elect to forgo the carryover
6 period and receive a refund of the amount of the credit that
7 exceeds the qualified taxpayer's tax liability. The amount of the
8 refund shall be equal to 90% of the amount of the credit that
9 exceeds the qualified taxpayer's tax liability. An election under
10 this subsection shall be made in the year that a certificate of
11 completed rehabilitation is issued and shall be irrevocable.

12 (10) For tax years beginning before January 1, 2009, if the
13 taxpayer sells an historic resource for which a credit was claimed
14 under this section or under section 39c of former 1975 PA 228 less
15 than 5 years after the year in which the credit was claimed, the
16 following percentage of the credit amount previously claimed
17 relative to that historic resource shall be added back to the tax
18 liability of the taxpayer in the year of the sale:

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

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

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

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

27 (e) If the sale is at least 4 years but less than 5 years

1 after the year in which the credit was claimed, 20%.

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

5 (11) For tax years beginning before January 1, 2009, if a
6 certification of completed rehabilitation is revoked under
7 subsection (5) less than 5 years after the year in which a credit
8 was claimed under this section or under section 39c of former 1975
9 PA 228, the following percentage of the credit amount previously
10 claimed relative to that historic resource shall be added back to
11 the tax liability of the taxpayer in the year of the revocation:

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

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

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

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

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

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

25 (12) Except as otherwise provided under subsection (13), for
26 tax years beginning after December 31, 2008, if a certificate of
27 completed rehabilitation is revoked under subsection (5) or (22) or

1 an historic resource is sold or disposed of less than 5 years after
2 the historic resource is placed in service as defined in section
3 47(b)(1) of the internal revenue code and related treasury
4 regulations or if a certificate of completed rehabilitation issued
5 after December 1, 2008 is revoked under subsection (5) or (22)
6 during a tax year beginning after December 31, 2008 or an historic
7 resource is sold or disposed of less than 5 years after the
8 historic resource is placed in service during a tax year beginning
9 after December 31, 2008, the following percentage of the credit
10 amount previously claimed relative to that historic resource shall
11 be added back to the tax liability of the qualified taxpayer that
12 received the certificate of completed rehabilitation and not the
13 assignee in the year of the revocation:

14 (a) If the revocation is less than 1 year after the historic
15 resource is placed in service, 100%.

16 (b) If the revocation is at least 1 year but less than 2 years
17 after the historic resource is placed in service, 80%.

18 (c) If the revocation is at least 2 years but less than 3
19 years after the historic resource is placed in service, 60%.

20 (d) If the revocation is at least 3 years but less than 4
21 years after the historic resource is placed in service, 40%.

22 (e) If the revocation is at least 4 years but less than 5
23 years after the historic resource is placed in service, 20%.

24 (f) If the revocation is at least 5 years or more after the
25 historic resource is placed in service, an addback to the qualified
26 taxpayer tax liability shall not be required.

27 (13) Subsection (12) shall not apply if the qualified taxpayer

1 enters into a written agreement with the state historic
2 preservation office that will allow for the transfer or sale of the
3 historic resource and provides the following:

4 (a) Reasonable assurance that subsequent to the transfer the
5 property will remain a historic resource during the 5-year period
6 after the historic resource is placed in service.

7 (b) A method that the department can recover an amount from
8 the taxpayer equal to the appropriate percentage of credit added
9 back as described under subsection (12).

10 (c) An encumbrance on the title to the historic resource being
11 sold or transferred, stating that the property must remain a
12 historic resource throughout the 5-year period after the historic
13 resource is placed in service.

14 (d) A provision for the payment by the taxpayer of all legal
15 and professional fees associated with the drafting, review, and
16 recording of the written agreement required under this subsection.

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

20 (15) The qualified taxpayer shall attach all of the following
21 to the qualified taxpayer's annual return required under this act
22 or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to
23 206.532, if applicable, on which the credit is claimed:

24 (a) Certification of completed rehabilitation.

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

1 (c) A completed assignment form if the qualified taxpayer or
2 assignee has assigned any portion of a credit allowed under this
3 section or if the taxpayer is an assignee of any portion of a
4 credit allowed under this section.

5 (16) The department of history, arts, and libraries shall
6 promulgate rules to implement this section pursuant to the
7 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
8 24.328.

9 (17) The total of the credits claimed under subsection (2) and
10 section 266 of the income tax act of 1967, 1967 PA 281, MCL
11 206.266, for a rehabilitation project shall not exceed 25% of the
12 total qualified expenditures eligible for the credit under
13 subsection (2) for that rehabilitation project.

14 (18) The department of history, arts, and libraries through
15 the Michigan historical center shall report all of the following to
16 the legislature **AND THE BOARD OF THE MICHIGAN STRATEGIC FUND**
17 annually for the immediately preceding state fiscal year:

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

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

21 (c) The location of each new and ongoing rehabilitation
22 project.

23 **(D) THE NUMBER OF MICHIGAN RESIDENTS EMPLOYED IN JOBS FROM THE**
24 **REHABILITATION OF HISTORIC RESOURCES IN THE IMMEDIATELY PRECEDING**
25 **YEAR.**

26 **(E) THE TOTAL NUMBER OF JOBS CREATED FROM THE REHABILITATION**
27 **OF HISTORIC RESOURCES IN THE IMMEDIATELY PRECEDING YEAR.**

1 (F) THE SPECIFIC REASONS FOR EACH DETERMINATION OF EXEMPTION
2 FROM THE PROVISIONS OF SUBSECTION (28) (A) OR (B) MADE BY THE CENTER
3 AND THE NUMBER OF JOBS RELATED TO EACH DETERMINATION.

4 (19) In addition to the credit allowed under subsection (2)
5 and subject to the criteria under this subsection and subsections
6 (21), (22), ~~and (23)~~, **AND (29)**, for tax years that begin on and
7 after January 1, 2009 a qualified taxpayer that has a preapproval
8 letter issued on or before December 31, 2013 may claim an
9 additional credit that has been approved under this subsection or
10 subsection (20) against the tax imposed by this act equal to a
11 percentage established in the taxpayer's preapproval letter of the
12 qualified taxpayer's qualified expenditures for the rehabilitation
13 of an historic resource or the actual amount of the qualified
14 taxpayer's qualified expenditures incurred during the completion of
15 the rehabilitation of an historic resource, whichever is less. The
16 total amount of all additional credits approved under this
17 subsection shall not exceed \$8,000,000.00 in calendar year ending
18 December 31, 2009; \$9,000,000.00 in calendar year ending December
19 31, 2010; \$10,000,000.00 in calendar year ending December 31, 2011;
20 \$11,000,000.00 in calendar year ending December 31, 2012; and
21 \$12,000,000.00 in calendar year ending December 31, 2013 and,
22 except as otherwise provided under this subsection, at least, 25%
23 of the allotted amount for additional credits approved under this
24 subsection during each calendar year shall be allocated to
25 rehabilitation plans that have \$1,000,000.00 or less in qualified
26 expenditures. On October 1 of each calendar year, if the total of
27 all credits approved under subsection (19)(a) for the calendar year

1 is less than the minimum allotted amount, the department of
2 history, arts, and libraries may use the remainder of that allotted
3 amount to approve applications for additional credits submitted
4 under subsection (19)(b) for that calendar year. To be eligible for
5 the additional credit under this subsection, the taxpayer shall
6 apply to and receive a preapproval letter and comply with the
7 following:

8 (a) For a rehabilitation plan that has \$1,000,000.00 or less
9 in qualified expenditures, the taxpayer shall apply to the
10 department of history, arts, and libraries for approval of the
11 additional credit under this subsection. Subject to the limitation
12 provided under this subsection, the director of the department of
13 history, arts, and libraries or his or her designee is authorized
14 to approve an application under this subdivision and determine the
15 percentage of at least 10% but not more than 15% of the taxpayer's
16 qualified expenditures for which he or she may claim an additional
17 credit. If the director of the department of history, arts, and
18 libraries or his or her designee approves the application under
19 this subdivision, then he or she shall issue a preapproval letter
20 to the taxpayer that states that the taxpayer is a qualified
21 taxpayer and the maximum percentage of the qualified expenditures
22 on which a credit may be claimed for the rehabilitation plan when
23 it is complete and a certification of completed rehabilitation is
24 issued.

25 (b) For a rehabilitation plan that has more than \$1,000,000.00
26 in qualified expenditures, the taxpayer shall apply to the
27 department of history, arts, and libraries for approval of the

1 additional credit under this subsection. The director of the
2 department of history, arts, and libraries or his or her designee,
3 subject to the approval of the president of the Michigan strategic
4 fund or his or her designee, is authorized to approve an
5 application under this subdivision and determine the percentage of
6 up to 15% of the taxpayer's qualified expenditures for which he or
7 she may claim an additional credit. An application shall be
8 approved or denied not more than 15 business days after the
9 director of the department of history, arts, and libraries or his
10 or her designee has reviewed the application, determined the
11 percentage amount of the credit for that applicant, and submitted
12 the same to the president of the Michigan strategic fund or his or
13 her designee. If the president of the Michigan strategic fund or
14 his or her designee does not approve or deny the application within
15 15 business days after the application is received from the
16 department of history, arts, and libraries, the application is
17 considered approved and the credit awarded in the amount as
18 determined by the director of the department of history, arts, and
19 libraries or his or her designee. If the president of the Michigan
20 strategic fund or his or her designee approves the application
21 under this subdivision, the director of the department of history,
22 arts, and libraries or his or her designee shall issue a
23 preapproval letter to the taxpayer that states that the taxpayer is
24 a qualified taxpayer and the maximum percentage of the qualified
25 expenditures on which a credit may be claimed for the
26 rehabilitation plan when it is complete and a certification of
27 completed rehabilitation is issued.

1 (20) The director of the department of history, arts, and
2 libraries or his or her designee, subject to the approval of the
3 president of the Michigan strategic fund and the state treasurer,
4 may approve 3 additional credits during the 2009 calendar year of
5 up to 15% of the qualified taxpayer's qualified expenditures, and 2
6 additional credits during the 2010, 2011, 2012, and 2013 calendar
7 years of up to 15% of the qualified taxpayer's qualified
8 expenditures, for certain rehabilitation plans that the director of
9 the department of history, arts, and libraries or his or her
10 designee determines is a high community impact rehabilitation plan
11 that will have a significantly greater historic, social, and
12 economic impact than those plans described under subsection (19) (a)
13 and (b). To be eligible for the additional credit under this
14 subsection, the taxpayer shall apply to and receive a preapproval
15 letter from the department of history, arts, and libraries. An
16 application shall be approved or denied not more than 15 business
17 days after the director of the department of history, arts, and
18 libraries or his or her designee has reviewed the application,
19 determined the percentage amount of the credit for that applicant,
20 and submitted the same to the president of the Michigan strategic
21 fund and the state treasurer. If the president of the Michigan
22 strategic fund and the state treasurer do not approve or deny the
23 application within 15 business days after the application is
24 received from the department of history, arts, and libraries, the
25 application is considered approved and the credit awarded in the
26 amount as determined by the director of the department of history,
27 arts, and libraries or his or her designee. If the president of the

1 Michigan strategic fund and the state treasurer approve the
2 application under this subdivision, the director of the department
3 of history, arts, and libraries or his or her designee shall issue
4 a preapproval letter to the taxpayer that states that the taxpayer
5 is a qualified taxpayer and the maximum percentage of the qualified
6 expenditures on which a credit may be claimed for the high
7 community impact rehabilitation plan when it is complete and a
8 certification of completed rehabilitation is issued. Before
9 approving a credit under this subsection, the director of the
10 department of history, arts, and libraries or his or her designee
11 shall consider all of the following criteria to the extent
12 reasonably applicable:

13 (a) The importance of the historic resource to the community
14 in which it is located.

15 (b) If the rehabilitation of the historic resource will act as
16 a catalyst for additional rehabilitation or revitalization of the
17 community in which it is located.

18 (c) The potential that the rehabilitation of the historic
19 resource will have for creating or preserving jobs and employment
20 in the community in which it is located.

21 (d) Other social benefits the rehabilitation of the historic
22 resource will bring to the community in which it is located.

23 (e) The amount of local community and financial support for
24 the rehabilitation of the historic resource.

25 (f) The taxpayer's financial need of the additional credit.

26 (g) Whether the taxpayer is eligible for the credit allowed
27 under section 47(a)(2) of the internal revenue code.

1 (h) Any other criteria that the director of the department of
2 history, arts, and libraries, the president of the Michigan
3 strategic fund, and the state treasurer consider appropriate for
4 the determination of approval under this subsection.

5 (21) The maximum amount of credit that a taxpayer or an
6 assignee may claim under subsection (20) during a tax year is
7 \$3,000,000.00. If the amount of the credit approved in the
8 taxpayer's certificate of completed renovation is greater than
9 \$3,000,000.00 that portion that exceeds the cap shall be carried
10 forward to offset tax liability in subsequent tax years until used
11 up.

12 (22) Before approving a credit, determining the amount of such
13 credit, and issuing a preapproval letter for such credit under
14 subsection (19) or before considering an amendment to the
15 preapproval letter, the director of the department of history,
16 arts, and libraries or his or her designee shall consider the
17 following criteria to the extent reasonably applicable:

18 (a) The importance of the historic resource to the community.

19 (b) The physical condition of the historic resource.

20 (c) The taxpayer's financial need of the additional credit.

21 (d) The overall economic impact the renovation will have on
22 the community.

23 (e) Any other criteria that the director of the department of
24 history, arts, and libraries and the president of the Michigan
25 strategic fund, as applicable, consider appropriate for the
26 determination of approval under subsection (19).

27 (23) The director of the department of history, arts, and

1 libraries or his or her designee may at any time before a
2 certification of completed rehabilitation is issued for a credit
3 for which a preapproval letter was issued pursuant to subsection
4 (19) do the following:

5 (a) Subject to the limitations and parameters under subsection
6 (19), make amendments to the preapproval letter, which may include
7 revising the amount of qualified expenditures for which the
8 taxpayer may claim the additional credit under subsection (19).

9 (b) Revoke the preapproval letter if he or she determines that
10 there has not been substantial progress toward completion of the
11 rehabilitation plan or that the rehabilitation plan cannot be
12 completed. The director of the department of history, arts, and
13 libraries or his or her designee shall provide the qualified
14 taxpayer with a notice of his or her intent to revoke the
15 preapproval letter 45 days prior to the proposed date of
16 revocation.

17 (24) If a preapproval letter is revoked under subsection
18 (23)(b), the amount of the credit approved under that preapproval
19 letter shall be added to the annual cap in the calendar year that
20 the preapproval letter is revoked. After a certification of
21 completed rehabilitation is issued for a rehabilitation plan
22 approved under subsection (19), if the director of the department
23 of history, arts, and libraries or his or her designee determines
24 that the actual amount of the additional credit to be claimed by
25 the taxpayer for the calendar year is less than the amount approved
26 under the preapproval letter, the difference shall be added to the
27 annual cap in the calendar year that the certification of completed

1 rehabilitation is issued.

2 (25) Unless otherwise specifically provided under subsections
3 (19) through (24), all other provisions under this section such as
4 the recapture of credits, assignment of credits, and refundability
5 of credits in excess of a qualified taxpayer's tax liability apply
6 to the additional credits issued under subsections (19) and (20).

7 (26) In addition to meeting the criteria in subsection (20) (a)
8 through (h), 2 of the 3 credits available under subsection (20)
9 during the 2009 calendar year for a high community impact
10 rehabilitation plan shall be for an application meeting 1 of the
11 following criteria:

12 (a) All of the following:

13 (i) The historic resource must be at least 80 years old.

14 (ii) The historic resource must comprise at least 75,000 total
15 square feet.

16 (iii) The historic resource must be located in a county with a
17 population of more than 1,500,000.

18 (iv) The historic resource must be located in a city with an
19 unemployment rate that is at least 2% higher than the current state
20 average unemployment rate at the time of the application.

21 (v) The historic resource receives a federal earmark
22 appropriation and is the former home of a former professional
23 sports team.

24 (b) All of the following:

25 (i) The historic resource must be at least 85 years old.

26 (ii) The historic resource must comprise at least 120,000 total
27 square feet.

Senate Bill No. 296 as amended May 7, 2009

1 (iii) The historic resource must be located in a county with a
2 population of more than 400,000 and less than 500,000.

3 (iv) The historic resource must be located in a city with a
4 population of more than 100,000 and less than 125,000.

5 (v) The historic resource must be located in a city with an
6 unemployment rate that is at least 2% higher than the current state
7 average unemployment rate at the time of the application.

8 (27) For purposes of this section, taxpayer includes a person
9 subject to the tax imposed under chapter 2A or 2B.

10 (28) BEGINNING JULY 1, 2009, WHEN DETERMINING IF AN APPLICANT
11 QUALIFIES FOR THE CREDIT UNDER THIS SECTION, IF ALL OTHER
12 CONSIDERATIONS ARE EQUAL, THE CENTER SHALL GIVE PREFERENCE TO AN
13 APPLICANT THAT AGREES, IN WRITING, TO DO ALL OF THE FOLLOWING:

14 (A) HIRE ONLY RESIDENTS OF THIS STATE OR INDIVIDUALS WHO PLAN
15 ON BECOMING RESIDENTS OF THIS STATE <<WITHIN 90 DAYS AFTER COMMENCEMENT
16 OF THE REHABILITATION WORK>> TO ASSIST IN THE REHABILITATION
17 OF A HISTORIC RESOURCE UNLESS THE CENTER DETERMINES THAT THE
18 REHABILITATION CANNOT BE COMPLETED BY USING ONLY RESIDENTS OF THIS
19 STATE OR INDIVIDUALS WHO PLAN ON BECOMING RESIDENTS OF THIS STATE
20 <<WITHIN 90 DAYS AFTER COMMENCEMENT OF THE REHABILITATION WORK>>
21 FOR 1 OR MORE OF THE FOLLOWING:

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

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

27 (iii) HOWEVER, FOR HISTORIC RESOURCES LOCATED IN A COUNTY THAT
BORDERS ON ANOTHER STATE, IF THE CENTER DETERMINES THAT THE USE OF
NONRESIDENTS FOR THE REHABILITATION OF THE HISTORIC RESOURCE WILL

Senate Bill No. 296 as amended May 7, 2009

1 NOT HAVE A SIGNIFICANT ADVERSE EFFECT ON THE EMPLOYMENT OF
2 RESIDENTS IN THIS STATE.

3 (B) CONTRACT WITH BUSINESSES THAT AGREE TO HIRE ONLY RESIDENTS
4 OF THIS STATE OR INDIVIDUALS WHO PLAN ON BECOMING RESIDENTS OF THIS
5 STATE <<WITHIN 90 DAYS AFTER COMMENCEMENT OF THE REHABILITATION WORK>> TO
6 ASSIST IN THE REHABILITATION OF A HISTORIC RESOURCE UNLESS
7 THE CENTER DETERMINES THAT THE REHABILITATION CANNOT BE COMPLETED
8 BY USING ONLY RESIDENTS OF THIS STATE OR INDIVIDUALS WHO PLAN ON
9 BECOMING RESIDENTS OF THIS STATE <<WITHIN 90 DAYS AFTER COMMENCEMENT OF
10 THE REHABILITATION WORK>> FOR 1 OR MORE OF THE FOLLOWING:

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

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

16 (iii) HOWEVER, FOR HISTORIC RESOURCES LOCATED IN A COUNTY THAT
17 BORDERS ON ANOTHER STATE, IF THE CENTER DETERMINES THAT THE USE OF
18 NONRESIDENTS FOR THE REHABILITATION OF THE HISTORIC RESOURCE WILL
19 NOT HAVE A SIGNIFICANT ADVERSE EFFECT ON THE EMPLOYMENT OF
20 RESIDENTS IN THIS STATE.

21 (29) A QUALIFIED TAXPAYER THAT IS A BUSINESS IS NOT ABLE TO
22 CLAIM THE CREDIT UNDER THIS SECTION UNLESS THAT QUALIFIED TAXPAYER
23 ENTERS INTO A WRITTEN AGREEMENT WITH THE CENTER THAT PROVIDES THAT,
24 FOR ANY WORK ON THE REHABILITATION PLAN, THE QUALIFIED TAXPAYER
25 WILL NOT KNOWINGLY HIRE OR CONTRACT WITH ANY BUSINESS ENTITY THAT
26 KNOWINGLY HIRES AN INDIVIDUAL WHO IS NOT AUTHORIZED UNDER FEDERAL
27 LAW TO WORK IN THE UNITED STATES.

(30) ~~(28)~~ As used in this section:

(a) "Contributing resource" means an historic resource that

1 contributes to the significance of the historic district in which
2 it is located.

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

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

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

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

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

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

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

2 (d) "Last tax year" means the taxpayer's tax year under former
3 1975 PA 228 that begins after December 31, 2006 and before January
4 1, 2008.

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

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

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

13 (h) "Michigan strategic fund" means the Michigan strategic
14 fund created under the Michigan strategic fund act, 1984 PA 270,
15 MCL 125.2001 to 125.2094.

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

19 (j) "Person" means an individual, partnership, corporation,
20 association, governmental entity, or other legal 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) "Qualified expenditures" means capital expenditures that

1 qualify, or would qualify except that the taxpayer entered into an
2 agreement under subsection (13), for a rehabilitation credit under
3 section 47(a)(2) of the internal revenue code if the taxpayer is
4 eligible for the credit under section 47(a)(2) of the internal
5 revenue code or, if the taxpayer is not eligible for the credit
6 under section 47(a)(2) of the internal revenue code, the qualified
7 expenditures that would qualify under section 47(a)(2) of the
8 internal revenue code except that the expenditures are made to an
9 historic resource that is not eligible for the credit under section
10 47(a)(2) of the internal revenue code that were paid. Qualified
11 expenditures do not include capital expenditures for nonhistoric
12 additions to an historic resource except an addition that is
13 required by state or federal regulations that relate to historic
14 preservation, safety, or accessibility.

15 (m) "Qualified taxpayer" means a person that either owns the
16 resource to be rehabilitated or has a long-term lease agreement
17 with the owner of the historic resource and that has qualified
18 expenditures for the rehabilitation of the historic resource equal
19 to or greater than 10% of the state equalized valuation of the
20 property. If the historic resource to be rehabilitated is a portion
21 of an historic or nonhistoric resource, the state equalized
22 valuation of only that portion of the property shall be used for
23 purposes of this subdivision. If the assessor for the local tax
24 collecting unit in which the historic resource is located
25 determines the state equalized valuation of that portion, that
26 assessor's determination shall be used for purposes of this
27 subdivision. If the assessor does not determine that state

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

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

12 Enacting section 1. This amendatory act does not take effect
13 unless Senate Bill No. 502 of the 95th Legislature is enacted into
14 law.