

HOUSE BILL No. 6116

May 4, 2010, Introduced by Reps. Genetski, Amash, McMillin, Agema, DeShazor, Haveman, Paul Scott, Green, Meekhof, Meltzer, Walsh, Daley, Booher, Crawford, Lund, Rogers and Kowall and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 435 (MCL 208.1435), as amended by 2009 PA 192.

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 **AND BEFORE JANUARY 1, 2011** or a
3 qualified taxpayer that has a rehabilitation plan certified before
4 January 1, 2008 under section 39c of former 1975 PA 228 for the
5 rehabilitation of an historic resource for which a certification of
6 completed rehabilitation has been issued after the end of the
7 taxpayer's last tax year may credit against the tax imposed by this
8 act the amount determined pursuant to subsection (2) for the
9 qualified expenditures for the rehabilitation of an historic

1 resource pursuant to the rehabilitation plan in the year in which
2 the certification of completed rehabilitation of the historic
3 resource is issued. Only those expenditures that are paid or
4 incurred during the time periods prescribed for the credit under
5 section 47(a)(2) of the internal revenue code and any related
6 treasury regulations shall be considered qualified expenditures.

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

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

26 (b) A credit under this subsection shall be reduced by the
27 amount of a credit received by the taxpayer for the same qualified

1 expenditures under section 47(a)(2) of the internal revenue code.

2 (3) To be eligible for the credit under subsection (2), the
3 taxpayer shall apply to and receive from the Michigan state housing
4 development authority that the historic significance, the
5 rehabilitation plan, and the completed rehabilitation of the
6 historic resource meet the criteria under subsection (6) and either
7 of the following:

8 (a) All of the following criteria:

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

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

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

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

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

1 revenue code. If the qualified taxpayer has previously filed for
2 certification with the authority to qualify for the credit allowed
3 under section 47(a)(2) of the internal revenue code, additional
4 filing for the credit allowed under this section is not required.

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

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

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

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

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

24 (iii) A contributing resource located within an historic
25 district designated by a local unit pursuant to an ordinance
26 adopted under the local historic districts act, 1970 PA 169, MCL
27 399.201 to 399.215.

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

4 (i) The historic resource is located in a designated historic
5 district in a local unit of government with an existing ordinance
6 under the local historic districts act, 1970 PA 169, MCL 399.201 to
7 399.215.

8 (ii) 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
11 has a population of less than 5,000.

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

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

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

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

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

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

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

19 (9) If the credit allowed under this section for the tax year
20 and any unused carryforward of the credit allowed by this section
21 exceed the taxpayer's tax liability for the tax year, that portion
22 that exceeds the tax liability for the tax year shall not be
23 refunded but may be carried forward to offset tax liability in
24 subsequent tax years for 10 years or until used up, whichever
25 occurs first. If a qualified taxpayer has an unused carryforward of
26 a credit under this section, the amount otherwise added under
27 subsection (10), (11), or (12) to the qualified taxpayer's tax

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

17 (10) For tax years beginning before January 1, 2009, if the
18 taxpayer sells an historic resource for which a credit was claimed
19 under this section or under section 39c of former 1975 PA 228 less
20 than 5 years after the year in which the credit was claimed, the
21 following percentage of the credit amount previously claimed
22 relative to that historic resource shall be added back to the tax
23 liability of the taxpayer in the year of the 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 (11) For tax years beginning before January 1, 2009, if a
11 certification of completed rehabilitation is revoked under
12 subsection (5) less than 5 years after the year in which a credit
13 was claimed under this section or under section 39c of former 1975
14 PA 228, the following percentage of the credit amount previously
15 claimed relative to that historic resource shall be added back to
16 the tax liability of the taxpayer in the year of 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 (12) Except as otherwise provided under subsection (13), for
4 tax years beginning after December 31, 2008, if a certificate of
5 completed rehabilitation is revoked under subsection (5), a
6 preapproval letter is revoked under subsection (23)(b), or an
7 historic resource is sold or disposed of less than 5 years after
8 the historic resource is placed in service as defined in section
9 47(b)(1) of the internal revenue code and related treasury
10 regulations or if a certificate of completed rehabilitation issued
11 after December 1, 2008 is revoked under subsection (5) during a tax
12 year beginning after December 31, 2008, a preapproval letter issued
13 after December 1, 2008 is revoked under subsection (23)(b) during a
14 tax year beginning after December 31, 2008, or an historic resource
15 is sold or disposed of less than 5 years after the historic
16 resource is placed in service during a tax year beginning after
17 December 31, 2008, the following percentage of the credit amount
18 previously claimed relative to that historic resource shall be
19 added back to the tax liability of the qualified taxpayer that
20 received the certificate of completed rehabilitation and not the
21 assignee in the year of the revocation:

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

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

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

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

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

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

8 (13) Subsection (12) shall not apply if the qualified taxpayer
9 enters into a written agreement with the authority that will allow
10 for the transfer or sale of the historic resource and provides the
11 following:

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

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

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

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

25 (14) The authority may impose a fee to cover the
26 administrative cost of implementing the program under this section.

27 (15) The qualified taxpayer shall attach all of the following

1 to the qualified taxpayer's annual return required under this act
2 or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to
3 206.532, if applicable, on which the credit is claimed:

4 (a) Certification of completed rehabilitation.

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

8 (c) A completed assignment form if the qualified taxpayer or
9 assignee has assigned any portion of a credit allowed under this
10 section or if the taxpayer is an assignee of any portion of a
11 credit allowed under this section.

12 (16) The authority may promulgate rules to implement this
13 section pursuant to the administrative procedures act of 1969, 1969
14 PA 306, MCL 24.201 to 24.328.

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

20 (18) The authority shall report all of the following to the
21 legislature annually for the immediately preceding state fiscal
22 year:

23 (a) The fee schedule used by the authority and the total
24 amount of fees collected.

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

26 (c) The location of each new and ongoing rehabilitation
27 project.

1 (19) In addition to the credit allowed under subsection (2)
2 and subject to the criteria under this subsection and subsections
3 (21), (22), and (23), for tax years that begin on and after January
4 1, 2009 **AND BEFORE JANUARY 1, 2011** a qualified taxpayer that has a
5 preapproval letter issued on or before December 31, ~~2013~~**2010** may
6 claim an additional credit that has been approved under this
7 subsection or subsection (20) against the tax imposed by this act
8 equal to a percentage established in the taxpayer's preapproval
9 letter of the qualified taxpayer's qualified expenditures for the
10 rehabilitation of an historic resource or the actual amount of the
11 qualified taxpayer's qualified expenditures incurred during the
12 completion of the rehabilitation of an historic resource, whichever
13 is less. The authority may approve 1 credit under this subsection
14 for a qualified taxpayer that receives a certificate of completed
15 rehabilitation for a credit under subsection (2) on or after
16 January 1, 2009 and before November 15, 2009 notwithstanding that
17 the qualified taxpayer has not received a preapproval letter for a
18 credit under this subsection. The qualified taxpayer must apply for
19 the additional credit under this subsection before January 1, 2010.
20 If the additional credit approved under this subsection for a
21 qualified taxpayer that has not received a preapproval letter on or
22 before December 31, 2009 exceeds the allotted amount available for
23 additional credits approved under this subsection in the calendar
24 year ending December 31, 2009, then \$2,800,000.00 of the allotted
25 amount available in the calendar year ending December 31, 2010 may
26 be allocated to that 1 credit. The total amount of all additional
27 credits approved under this subsection shall not exceed

1 \$8,000,000.00 in calendar year ending December 31, 2009 ~~+~~**AND**
2 \$9,000,000.00 in calendar year ending December 31, 2010 ~~+~~
3 ~~\$10,000,000.00 in calendar year ending December 31, 2011,~~
4 ~~\$11,000,000.00 in calendar year ending December 31, 2012; and~~
5 ~~\$12,000,000.00 in calendar year ending December 31, 2013 and,~~
6 except as otherwise provided under this subsection, at least, 25%
7 of the allotted amount for additional credits approved under this
8 subsection during each calendar year shall be allocated to
9 rehabilitation plans that have \$1,000,000.00 or less in qualified
10 expenditures. On October 1 of each calendar year, if the total of
11 all credits approved under subdivision (a) for the calendar year is
12 less than the minimum allotted amount, the authority may use the
13 remainder of that allotted amount to approve applications for
14 additional credits submitted under subdivision (b) for that
15 calendar year. To be eligible for the additional credit under this
16 subsection, the taxpayer shall apply to and receive a preapproval
17 letter **BEFORE JANUARY 1, 2011** and comply with the following:

18 (a) For a rehabilitation plan that has \$1,000,000.00 or less
19 in qualified expenditures, the taxpayer shall apply to the
20 authority for approval of the additional credit under this
21 subsection. Subject to the limitation provided under this
22 subsection, the authority is authorized to approve an application
23 under this subdivision and determine the percentage of at least 10%
24 but not more than 15% of the taxpayer's qualified expenditures for
25 which he or she may claim an additional credit. If the authority
26 approves the application under this subdivision, then the authority
27 shall issue a preapproval letter to the taxpayer that states that

1 the taxpayer is a qualified taxpayer and the maximum percentage of
2 the qualified expenditures on which a credit may be claimed for the
3 rehabilitation plan when it is complete and a certification of
4 completed rehabilitation is issued.

5 (b) For a rehabilitation plan that has more than \$1,000,000.00
6 in qualified expenditures, the taxpayer shall apply to the
7 authority for approval of the additional credit under this
8 subsection. The authority, subject to the approval of the president
9 of the Michigan strategic fund or his or her designee, is
10 authorized to approve an application under this subdivision and
11 determine the percentage of up to 15% of the taxpayer's qualified
12 expenditures for which he or she may claim an additional credit. An
13 application shall be approved or denied not more than 15 business
14 days after the authority has reviewed the application, determined
15 the percentage amount of the credit for that applicant, and
16 submitted the same to the president of the Michigan strategic fund
17 or his or her designee. If the president of the Michigan strategic
18 fund or his or her designee does not approve or deny the
19 application within 15 business days after the application is
20 received from the authority, the application is considered approved
21 and the credit awarded in the amount as determined by the
22 authority. If the president of the Michigan strategic fund or his
23 or her designee approves the application under this subdivision,
24 the director of the authority shall issue a preapproval letter to
25 the taxpayer that states that the taxpayer is a qualified taxpayer
26 and the maximum percentage of the qualified expenditures on which a
27 credit may be claimed for the rehabilitation plan when it is

1 complete and a certification of completed rehabilitation is issued.

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

1 president of the Michigan strategic fund and the state treasurer do
2 not approve or deny the application within 15 business days after
3 the application is received from the authority, the application is
4 considered approved and the credit awarded in the amount as
5 determined by the authority. If the president of the Michigan
6 strategic fund and the state treasurer approve the application
7 under this subdivision, the authority shall issue a preapproval
8 letter to the taxpayer that states that the taxpayer is a qualified
9 taxpayer and the maximum percentage of the qualified expenditures
10 on which a credit may be claimed for the high community impact
11 rehabilitation plan when it is complete and a certification of
12 completed rehabilitation is issued. Before approving a credit under
13 this subsection, the authority shall consider all of the following
14 criteria to the extent reasonably applicable:

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

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

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

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

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

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

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

3 (h) Any other criteria that the authority, the president of
4 the Michigan strategic fund, and the state treasurer consider
5 appropriate for the determination of approval under this
6 subsection.

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

14 (22) Before approving a credit, determining the amount of such
15 credit, and issuing a preapproval letter for such credit under
16 subsection (19) or before considering an amendment to the
17 preapproval letter, the authority shall consider the following
18 criteria to the extent reasonably applicable:

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

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

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

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

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

27 (23) The authority may at any time before a certification of

1 completed rehabilitation is issued for a credit for which a
2 preapproval letter was issued pursuant to subsection (19) do the
3 following:

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

8 (b) Revoke the preapproval letter if the authority determines
9 that there has not been substantial progress toward completion of
10 the rehabilitation plan or that the rehabilitation plan cannot be
11 completed. The authority shall provide the qualified taxpayer with
12 a notice of his or her intent to revoke the preapproval letter 45
13 days prior to the proposed date of revocation.

14 (24) If a preapproval letter is revoked under subsection
15 (23)(b), the amount of the credit approved under that preapproval
16 letter shall be added to the annual cap in the calendar year that
17 the preapproval letter is revoked. After a certification of
18 completed rehabilitation is issued for a rehabilitation plan
19 approved under subsection (19), if the authority determines that
20 the actual amount of the additional credit to be claimed by the
21 taxpayer for the calendar year is less than the amount approved
22 under the preapproval letter, the difference shall be added to the
23 annual cap in the calendar year that the certification of completed
24 rehabilitation is issued.

25 (25) Unless otherwise specifically provided under subsections
26 (19) through (24), all other provisions under this section such as
27 the recapture of credits, assignment of credits, and refundability

1 of credits in excess of a qualified taxpayer's tax liability apply
2 to the additional credits issued under subsections (19) and (20).

3 (26) In addition to meeting the criteria in subsection (20)(a)
4 through (h), 3 of the credits available under subsection (20),
5 including the credit used from the 2010 calendar year, and approved
6 during the 2009 calendar year for a high community impact
7 rehabilitation plan shall be for an application meeting 1 of the
8 following criteria:

9 (a) All of the following:

10 (i) The historic resource must be at least 70 years old.

11 (ii) The historic resource must comprise at least 500,000 total
12 square feet.

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

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

18 (b) All of the following:

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

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

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

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

26 (v) The historic resource must be located in a city with an
27 unemployment rate that is at least 2% higher than the current state

1 average unemployment rate at the time of the application.

2 (c) All of the following:

3 (i) The historic resource must be at least 70 years old.

4 (ii) The historic resource must comprise at least 180,000 total
5 square feet but not more than 250,000 square feet and must exceed
6 30 stories in height.

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

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

12 (v) The historic resource must be located in a historic
13 district that contains a park bifurcated by an all-American road
14 designated by the federal highway administration in a city with a
15 population of more than 750,000.

16 (vi) The historic resource must have been included in a
17 rehabilitation plan for which an application was submitted by the
18 application deadline for consideration of an additional credit for
19 the 2009 calendar year for a high community impact rehabilitation
20 plan.

21 (27) In addition to meeting the criteria in subsection (20) (a)
22 through (h), 1 of the credits available under subsection (20) ~~7~~
23 ~~including the credit used from the 2011 calendar year,~~ and approved
24 during the 2010 calendar year for a high community impact
25 rehabilitation plan shall be for an application that meets all of
26 the following criteria:

27 (a) The historic resource must be at least 85 years old.

1 (b) The historic resource must comprise at least 85,000 total
2 square feet.

3 (c) The historic resource must be located in a county with a
4 population of more than 500,000 but less than 600,000 according to
5 the official 2000 federal decennial census.

6 (d) The historic resource must be located in a city with a
7 population of more than 180,000 but less than 200,000 according to
8 the official 2000 federal decennial census.

9 (e) The historic resource is or was formerly owned by the
10 United States government or formerly housed agencies of the United
11 States government, or both.

12 (f) The historic resource houses facilities operated in
13 conjunction with a public university.

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

16 (29) As used in this section:

17 (a) "Contributing resource" means an historic resource that
18 contributes to the significance of the historic district in which
19 it is located.

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

24 (c) "Historic resource" means a publicly or privately owned
25 historic building, structure, site, object, feature, or open space
26 located within an historic district designated by the national
27 register of historic places, the state register of historic sites,

1 or a local unit acting under the local historic districts act, 1970
2 PA 169, MCL 399.201 to 399.215, or that is individually listed on
3 the state register of historic sites or national register of
4 historic places, and includes all of the following:

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

7 (ii) An income-producing commercial, industrial, or residential
8 resource or an historic resource located within the property
9 boundaries of that resource.

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

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

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

19 (d) "Last tax year" means the taxpayer's tax year under former
20 1975 PA 228 that begins after December 31, 2006 and before January
21 1, 2008.

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

23 (f) "Long-term lease" means a lease term of at least 27.5
24 years for a residential resource or at least 31.5 years for a
25 nonresidential resource.

26 (g) "Michigan state housing development authority" or
27 "authority" means the public body corporate and politic created by

1 section 21 of the state housing development authority act of 1966,
2 1966 PA 346, MCL 125.1421.

3 (h) "Michigan strategic fund" means the Michigan strategic
4 fund created under the Michigan strategic fund act, 1984 PA 270,
5 MCL 125.2001 to 125.2094.

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

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

11 (k) "Preapproval letter" means a letter issued by the
12 authority that indicates the date that the complete part 2
13 application was received and the amount of the credit allocated to
14 the project based on the estimated rehabilitation cost included in
15 the application.

16 (l) "Qualified expenditures" means capital expenditures that
17 qualify, or would qualify except that the taxpayer entered into an
18 agreement under subsection (13), for a rehabilitation credit under
19 section 47(a)(2) of the internal revenue code if the taxpayer is
20 eligible for the credit under section 47(a)(2) of the internal
21 revenue code or, if the taxpayer is not eligible for the credit
22 under section 47(a)(2) of the internal revenue code, the qualified
23 expenditures that would qualify under section 47(a)(2) of the
24 internal revenue code except that the expenditures are made to an
25 historic resource that is not eligible for the credit under section
26 47(a)(2) of the internal revenue code that were paid. Qualified
27 expenditures do not include capital expenditures for nonhistoric

1 additions to an historic resource except an addition that is
2 required by state or federal regulations that relate to historic
3 preservation, safety, or accessibility.

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

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

1 Enacting section 1. This amendatory act does not take effect
2 unless all of the following bills of the 95th Legislature are
3 enacted into law:

4 (a) House Bill No. 5249.

5 (b) Senate Bill No. _____ or House Bill No. 6104 (request no.
6 04275'09).

7 (c) Senate Bill No. _____ or House Bill No. 6103 (request no.
8 05669'09).

9 (d) Senate Bill No. _____ or House Bill No. 6105 (request no.
10 05670'09).

11 (e) Senate Bill No. _____ or House Bill No. 6106 (request no.
12 05671'09).

13 (f) Senate Bill No. _____ or House Bill No. 6107 (request no.
14 05672'09).

15 (g) Senate Bill No. _____ or House Bill No. 6112 (request no.
16 05673'09).

17 (h) Senate Bill No. _____ or House Bill No. 6113 (request no.
18 05675'09*).

19 (i) Senate Bill No. _____ or House Bill No. 6109 (request no.
20 05676'09).

21 (j) Senate Bill No. _____ or House Bill No. 6110 (request no.
22 05677'09).

23 (k) Senate Bill No. _____ or House Bill No. 6114 (request no.
24 05679'09).

25 (l) Senate Bill No. _____ or House Bill No. 6117 (request no.
26 05680'09).

27 (m) Senate Bill No. _____ or House Bill No. 6108 (request no.

1 05681'09).

2 (n) Senate Bill No.____ or House Bill No. 6119(request no.
3 05930'10).

4 (o) Senate Bill No.____ or House Bill No. 6111(request no.
5 05931'10).

6 (p) Senate Bill No.____ or House Bill No. 6115(request no.
7 05932'10).

8 (q) Senate Bill No.____ or House Bill No. 6118(request no.
9 05933'10).