

HOUSE BILL No. 4204

February 8, 2011, Introduced by Reps. Rutledge, Melton, Lane, Darany, Slavens, Haugh, Townsend, Kandrevas, Smiley, Ananich, Dillon, McCann, Liss, Constan, Barnett, Bauer, Segal, Stapleton, Hovey-Wright, Hobbs, Irwin, Bledsoe, Geiss, Switalski, Cavanagh, Stallworth, Byrum, Lipton, Durhal, Lindberg, Howze, Santana, Talabi, Brunner, Oakes, Brown and Womack and referred to the Committee on Commerce.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 435 (MCL 208.1435), as amended by 2010 PA 310.

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

1 pursuant to the rehabilitation plan in the year in which the
2 certification of completed rehabilitation of the historic resource
3 is issued. Only those expenditures that are paid or incurred during
4 the time periods prescribed for the credit under section 47(a)(2)
5 of the internal revenue code and any related treasury regulations
6 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~~**SUBJECT TO SUBSECTION (31),** TO be eligible for the
3 credit under subsection (2), the taxpayer shall apply to and
4 receive from the Michigan state housing development authority that
5 the historic significance, the rehabilitation plan, and the
6 completed rehabilitation of the historic resource meet the criteria
7 under subsection (6) and either 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 **AND THE BOARD OF THE MICHIGAN STRATEGIC FUND** annually
22 for the immediately preceding state fiscal 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 (D) THE NUMBER OF MICHIGAN RESIDENTS EMPLOYED IN NEW JOBS IN
2 THE IMMEDIATELY PRECEDING YEAR.

3 (E) THE TOTAL NUMBER OF NEW JOBS CREATED IN THE IMMEDIATELY
4 PRECEDING YEAR.

5 (F) THE SPECIFIC REASONS FOR EACH DETERMINATION OF EXEMPTION
6 FROM THE PROVISIONS OF SUBSECTION (30) (A) OR (B) MADE BY THE CENTER
7 AND THE NUMBER OF JOBS RELATED TO EACH DETERMINATION.

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

1 qualified taxpayer that has not received a preapproval letter on or
2 before December 31, 2009 exceeds the allotted amount available for
3 additional credits approved under this subsection in the calendar
4 year ending December 31, 2009, then \$2,800,000.00 of the allotted
5 amount available in the calendar year ending December 31, 2010 may
6 be allocated to that 1 credit. The total amount of all additional
7 credits approved under this subsection shall not exceed
8 \$8,000,000.00 in calendar year ending December 31, 2009;
9 \$9,000,000.00 in calendar year ending December 31, 2010;
10 \$10,000,000.00 in calendar year ending December 31, 2011;
11 \$11,000,000.00 in calendar year ending December 31, 2012; and
12 \$12,000,000.00 in calendar year ending December 31, 2013 and,
13 except as otherwise provided under this subsection, at least, 25%
14 of the allotted amount for additional credits approved under this
15 subsection during each calendar year shall be allocated to
16 rehabilitation plans that have \$1,000,000.00 or less in qualified
17 expenditures. On October 1 of each calendar year, if the total of
18 all credits approved under subdivision (a) for the calendar year is
19 less than the minimum allotted amount, the authority may use the
20 remainder of that allotted amount to approve applications for
21 additional credits submitted under subdivision (b) for that
22 calendar year. To be eligible for the additional credit under this
23 subsection, the taxpayer shall apply to and receive a preapproval
24 letter and comply with the following:

25 (a) For a rehabilitation plan that has \$1,000,000.00 or less
26 in qualified expenditures, the taxpayer shall apply to the
27 authority for approval of the additional credit under this

1 subsection. Subject to the limitation provided under this
2 subsection, the authority is authorized to approve an application
3 under this subdivision and determine the percentage of at least 10%
4 but not more than 15% of the taxpayer's qualified expenditures for
5 which he or she may claim an additional credit. If the authority
6 approves the application under this subdivision, then the authority
7 shall issue a preapproval letter to the taxpayer that states that
8 the taxpayer is a qualified taxpayer and the maximum percentage of
9 the qualified expenditures on which a credit may be claimed for the
10 rehabilitation plan when it is complete and a certification of
11 completed rehabilitation is issued.

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

1 and the credit awarded in the amount as determined by the
2 authority. If the president of the Michigan strategic fund or his
3 or her designee approves the application under this subdivision,
4 the director of the authority shall issue a preapproval letter to
5 the taxpayer that states that the taxpayer is a qualified taxpayer
6 and the maximum percentage of the qualified expenditures on which a
7 credit may be claimed for the rehabilitation plan when it is
8 complete and a certification of completed rehabilitation is issued.

9 (20) Except as otherwise provided under this subsection, the
10 authority, subject to the approval of the president of the Michigan
11 strategic fund and the state treasurer, may approve 3 additional
12 credits during the 2009 calendar year of up to 15% of the qualified
13 taxpayer's qualified expenditures, and 2 additional credits during
14 the 2010, 2011, 2012, and 2013 calendar years of up to 15% of the
15 qualified taxpayer's qualified expenditures, for certain
16 rehabilitation plans that the authority determines is a high
17 community impact rehabilitation plan that will have a significantly
18 greater historic, social, and economic impact than those plans
19 described under subsection (19) (a) and (b). The authority, subject
20 to the approval of the president of the Michigan strategic fund and
21 the state treasurer, may use 1 of the 2 additional credits
22 available during the 2010 calendar year to approve an additional
23 credit during the 2009 calendar year of up to 15% of the qualified
24 taxpayer's qualified expenditures and 1 of the 2 additional credits
25 available during the 2011 calendar year to approve an additional
26 credit during the 2010 calendar year of up to 15% of the qualified
27 taxpayer's qualified expenditures. Subject to the limitations

1 provided under subsection (21), for the 2011, 2012, and 2013
2 calendar years, of the additional credits available under this
3 subsection the authority may use 1 of those credits to approve a
4 combined rehabilitation plan that the authority determines would
5 allow for the rehabilitation of several multiple historic resources
6 within the same geographic district and would have a greater impact
7 on the community than the approval of a plan for the rehabilitation
8 of a single larger historic resource. To be eligible for the
9 additional credit under this subsection, the taxpayer shall apply
10 to and receive a preapproval letter from the authority. The
11 authority, subject to the approval of the president of the Michigan
12 strategic fund and the state treasurer, may combine applications
13 that are received for the rehabilitation of historic resources that
14 are located within the same geographic district and that taken as a
15 whole satisfy the additional requirements under subsection (28) and
16 consider the approval of the combination of those applications as
17 the approval of a single credit for a combined rehabilitation plan.
18 An application shall be approved or denied not more than 15
19 business days after the authority has reviewed the application,
20 determined the percentage amount of the credit for that applicant,
21 and submitted the same to the president of the Michigan strategic
22 fund and the state treasurer. If the president of the Michigan
23 strategic fund and the state treasurer do not approve or deny the
24 application within 15 business days after the application is
25 received from the authority, the application is considered approved
26 and the credit awarded in the amount as determined by the
27 authority. If the president of the Michigan strategic fund and the

1 state treasurer approve the application under this subsection, the
2 authority shall issue a preapproval letter to the taxpayer that
3 states that the taxpayer is a qualified taxpayer and the maximum
4 percentage of the qualified expenditures on which a credit may be
5 claimed for the high community impact rehabilitation plan when it
6 is complete and a certification of completed rehabilitation is
7 issued. Before approving a credit under this subsection, the
8 authority shall consider all of the following criteria to the
9 extent reasonably applicable:

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

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

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

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

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

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

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

25 (h) Any other criteria that the authority, the president of
26 the Michigan strategic fund, and the state treasurer consider
27 appropriate for the determination of approval under this

1 subsection.

2 (21) The maximum amount of credit that a taxpayer or an
3 assignee may claim under subsection (20) during a tax year is
4 \$3,000,000.00. If the amount of the credit approved in the
5 taxpayer's certificate of completed renovation is greater than
6 \$3,000,000.00 that portion that exceeds the cap shall be carried
7 forward to offset tax liability in subsequent tax years until used
8 up. The aggregate amount of credits approved under subsection (20)
9 for a combined rehabilitation plan shall not exceed \$24,000,000.00.
10 Except as otherwise provided in the preapproval letter, the amount
11 of the credit allowed for a combined rehabilitation plan shall be
12 applied pro rata to each of the qualified taxpayers that submitted
13 an application under subsection (20) that was considered a part of
14 a combined rehabilitation plan. The taxpayer's pro rata share shall
15 be the total amount of the credit allowed multiplied by a fraction
16 the numerator of which is the amount of investment made by the
17 taxpayer for the rehabilitation of the taxpayer's historic resource
18 during the tax year and the denominator of which is the sum of the
19 investments made by all taxpayers for the rehabilitation of all
20 historic resources included within the combined rehabilitation plan
21 during the tax year.

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

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

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

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

3 (d) The overall economic impact the renovation will have on
4 the community.

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

8 (23) The authority may at any time before a certification of
9 completed rehabilitation is issued for a credit for which a
10 preapproval letter was issued pursuant to subsection (19) do the
11 following:

12 (a) Subject to the limitations and parameters under subsection
13 (19), make amendments to the preapproval letter, which may include
14 revising the amount of qualified expenditures for which the
15 taxpayer may claim the additional credit under subsection (19).

16 (b) Revoke the preapproval letter if the authority determines
17 that there has not been substantial progress toward completion of
18 the rehabilitation plan or that the rehabilitation plan cannot be
19 completed. The authority shall provide the qualified taxpayer with
20 a notice of his or her intent to revoke the preapproval letter 45
21 days prior to the proposed date of revocation.

22 (24) If a preapproval letter is revoked under subsection
23 (23)(b), the amount of the credit approved under that preapproval
24 letter shall be added to the annual cap in the calendar year that
25 the preapproval letter is revoked. After a certification of
26 completed rehabilitation is issued for a rehabilitation plan
27 approved under subsection (19), if the authority determines that

1 the actual amount of the additional credit to be claimed by the
2 taxpayer for the calendar year is less than the amount approved
3 under the preapproval letter, the difference shall be added to the
4 annual cap in the calendar year that the certification of completed
5 rehabilitation is issued.

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

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

17 (a) All of the following:

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

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

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

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

26 (b) All of the following:

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

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

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

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

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

10 (c) All of the following:

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

12 (ii) The historic resource must comprise at least 180,000 total
13 square feet but not more than 250,000 square feet and must exceed
14 30 stories in height.

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

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

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

24 (vi) The historic resource must have been included in a
25 rehabilitation plan for which an application was submitted by the
26 application deadline for consideration of an additional credit for
27 the 2009 calendar year for a high community impact rehabilitation

1 plan.

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

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

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

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

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

17 (e) The historic resource is or was formerly owned by the
18 United States government or formerly housed agencies of the United
19 States government, or both.

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

22 (28) In addition to meeting the criteria in subsection (20) (a)
23 through (h), the credit available during the 2011, 2012, and 2013
24 calendar years and approved for a combined rehabilitation plan
25 under subsection (20) shall be for applications that taken as a
26 whole meet all of the following criteria:

27 (a) The geographic district in which the historic resources to

1 be rehabilitated are located must not exceed 1 square mile.

2 (b) The historic resources to be rehabilitated combined must
3 comprise more than 1,000,000 square feet.

4 (c) The historic resources to be rehabilitated combined must
5 be redeveloped into residential, commercial, and retail
6 establishments.

7 (d) The combined investment associated with the historic
8 resources to be rehabilitated must be at least \$150,000,000.00.

9 (e) Each historic resource to be rehabilitated must be at
10 least 50,000 square feet.

11 (f) The historic resources to be rehabilitated combined must
12 be at least 80% vacant.

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

15 (30) BEGINNING JULY 1, 2011, WHEN DETERMINING IF AN APPLICANT
16 QUALIFIES FOR THE CREDIT UNDER THIS SECTION, IF ALL OTHER
17 CONSIDERATIONS ARE EQUAL, THE CENTER SHALL GIVE PREFERENCE TO AN
18 APPLICANT THAT AGREES, IN WRITING, TO DO ALL OF THE FOLLOWING:

19 (A) HIRE ONLY RESIDENTS OF THIS STATE TO ASSIST IN THE
20 REHABILITATION OF A HISTORIC RESOURCE UNLESS THE CENTER DETERMINES
21 THAT THE REHABILITATION CANNOT BE COMPLETED BY USING ONLY RESIDENTS
22 OF THIS STATE FOR 1 OR MORE OF THE FOLLOWING:

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

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

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

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

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

11 (31) A QUALIFIED TAXPAYER THAT IS A BUSINESS IS NOT ABLE TO
12 CLAIM THE CREDIT UNDER THIS SECTION UNLESS THAT QUALIFIED TAXPAYER
13 ENTERS INTO A CONTRACT WITH THE CENTER THAT PROVIDES THAT, FOR ANY
14 WORK ON THE REHABILITATION PLAN, THE QUALIFIED TAXPAYER WILL NOT
15 KNOWINGLY HIRE OR CONTRACT WITH ANY BUSINESS ENTITY THAT KNOWINGLY
16 HIRES AN INDIVIDUAL WHO IS NOT AUTHORIZED UNDER FEDERAL LAW TO WORK
17 IN THE UNITED STATES.

18 (32) ~~(30)~~As used in this section:

19 (a) "Combined rehabilitation plan" means a rehabilitation plan
20 for the rehabilitation of 1 or more historic resources that are
21 located within the same geographic district.

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

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

1 archaeology, engineering, or culture.

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

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

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

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

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

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

24 (e) "Last tax year" means the taxpayer's tax year under former
25 1975 PA 228 that begins after December 31, 2006 and before January
26 1, 2008.

27 (f) "Local unit" means a county, city, village, or township.

1 (g) "Long-term lease" means a lease term of at least 27.5
2 years for a residential resource or at least 31.5 years for a
3 nonresidential resource.

4 (h) "Michigan state housing development authority" or
5 "authority" means the public body corporate and politic created by
6 section 21 of the state housing development authority act of 1966,
7 1966 PA 346, MCL 125.1421.

8 (i) "Michigan strategic fund" means the Michigan strategic
9 fund created under the Michigan strategic fund act, 1984 PA 270,
10 MCL 125.2001 to 125.2094.

11 (j) "Open space" means undeveloped land, a naturally
12 landscaped area, or a formal or man-made landscaped area that
13 provides a connective link or a buffer between other resources.

14 (k) "Person" means an individual, partnership, corporation,
15 association, governmental entity, or other legal entity.

16 (l) "Preapproval letter" means a letter issued by the authority
17 that indicates the date that the complete part 2 application was
18 received and the amount of the credit allocated to the project
19 based on the estimated rehabilitation cost included in the
20 application.

21 (m) "Qualified expenditures" means capital expenditures that
22 qualify, or would qualify except that the taxpayer entered into an
23 agreement under subsection (13), for a rehabilitation credit under
24 section 47(a)(2) of the internal revenue code if the taxpayer is
25 eligible for the credit under section 47(a)(2) of the internal
26 revenue code or, if the taxpayer is not eligible for the credit
27 under section 47(a)(2) of the internal revenue code, the qualified

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

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

1 value of the resource as determined by a certified appraiser.

2 (o) "Rehabilitation plan" means a plan for the rehabilitation
3 of an historic resource that meets the federal secretary of the
4 interior's standards for rehabilitation and guidelines for
5 rehabilitation of historic buildings under 36 CFR part 67.