

**SUBSTITUTE FOR
SENATE BILL NO. 569**

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 266 (MCL 206.266), as amended by 2001 PA 70.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 266. (1) A qualified taxpayer with a rehabilitation plan
2 certified after December 31, 1998 may credit against the tax
3 imposed by this act the amount determined pursuant to subsection
4 (2) for the qualified expenditures for the rehabilitation of a
5 historic resource pursuant to the rehabilitation plan in the year
6 in which the certification of completed rehabilitation of the
7 historic resource is issued provided that the certification of
8 completed rehabilitation was issued not more than 5 years after the
9 rehabilitation plan was certified by the Michigan historical

1 center.

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

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

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

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

1 (a) All of the following criteria:

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

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

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

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

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

25 (5) The center may inspect a historic resource at any time
26 during the rehabilitation process and may revoke certification of
27 completed rehabilitation if the rehabilitation was not undertaken

1 as represented in the rehabilitation plan or if unapproved
2 alterations to the completed rehabilitation are made during the 5
3 years after the tax year in which the credit was claimed. The
4 center shall promptly notify the department of a revocation.

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

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

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

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

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

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

24 (i) The historic resource is located in a designated historic
25 district in a local unit of government with an existing ordinance
26 under the local historic districts act, 1970 PA 169, MCL 399.201 to
27 399.215.

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

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

7 (iv) 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 [IS
10 LOCATED WITHIN THE BOUNDARIES OF AN ASSOCIATION THAT]
HAS BEEN CHARTERED UNDER 1889 PA 39, MCL 455.51 TO 455.72.

11 (7) A credit amount assigned under section 39c(7) of the
12 single business tax act, 1975 PA 228, MCL 208.39c, may be claimed
13 against the partner's, member's, or shareholder's tax liability
14 under this act as provided in section 39c(7) of the single
15 business tax act, 1975 PA 228, MCL 208.39c.

16 (8) If the credit allowed under this section for the tax year
17 and any unused carryforward of the credit allowed by this section
18 exceed the taxpayer's tax liability for the tax year, that portion
19 that exceeds the tax liability for the tax year shall not be
20 refunded but may be carried forward to offset tax liability in
21 subsequent tax years for 10 years or until used up, whichever
22 occurs first.

23 (9) If the taxpayer sells a historic resource for which a
24 credit under this section was claimed less than 5 years after the
25 year in which the credit was claimed, the following percentage of
26 the credit amount previously claimed relative to that historic
27 resource shall be added back to the tax liability of the taxpayer

1 in the year of the sale:

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

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

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

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

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

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

15 (10) If a certification of completed rehabilitation is revoked
16 under subsection (5) less than 5 years after the year in which a
17 credit was claimed, 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 taxpayer in the year of the
20 revocation:

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

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

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

27 (d) If the revocation is at least 3 years but less than 4

1 years after the year in which the credit was claimed, 40%.

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

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

7 (11) The department of history, arts, and libraries through
8 the Michigan historical center may impose a fee to cover the
9 administrative cost of implementing the program under this section.

10 (12) The qualified taxpayer shall attach all of the following
11 to the qualified taxpayer's annual return under this act:

12 (a) Certification of completed rehabilitation.

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

16 (c) A completed assignment form if the qualified taxpayer is
17 an assignee under section 39c of the single business tax act, 1975
18 PA 228, MCL 208.39c, of any portion of a credit allowed under that
19 section.

20 (13) The department of history, arts, and libraries shall
21 promulgate rules to implement this section pursuant to the
22 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
23 24.328.

24 (14) The total of the credits claimed under this section and
25 section 39c of the single business tax act, 1975 PA 228, MCL
26 208.39c, for a rehabilitation project shall not exceed 25% of the
27 total qualified expenditures eligible for the credit under this

1 section for that rehabilitation project.

2 (15) The department of history, arts, and libraries through
3 the Michigan historical center shall report all of the following to
4 the legislature annually for the immediately preceding state fiscal
5 year:

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

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

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

11 (16) As used in this section:

12 (a) "Contributing resource" means a historic resource that
13 contributes to the significance of the historic district in which
14 it is located.

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

19 (c) "Historic resource" means a publicly or privately owned
20 historic building, structure, site, object, feature, or open space
21 located within a historic district designated by the national
22 register of historic places, the state register of historic sites,
23 or a local unit acting under the local historic districts act, 1970
24 PA 169, MCL 399.201 to 399.215; or that is individually listed on
25 the state register of historic sites or national register of
26 historic places and includes all of the following:

27 (i) An owner-occupied personal residence or a historic resource

1 located within the property boundaries of that personal residence.

2 (ii) An income-producing commercial, industrial, or residential
3 resource or a historic resource located within the property
4 boundaries of that resource.

5 (iii) A resource owned by a governmental body, nonprofit
6 organization, or tax-exempt entity that is used primarily by a
7 taxpayer lessee in a trade or business unrelated to the
8 governmental body, nonprofit organization, or tax-exempt entity and
9 that is subject to tax under this act.

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

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

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

15 (e) "Long-term lease" means a lease term of at least 27.5
16 years for a residential resource or at least 31.5 years for a
17 nonresidential resource.

18 (f) "Michigan historical center" or "center" means the state
19 historic preservation office of the Michigan historical center of
20 the department of history, arts, and libraries or its successor
21 agency.

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

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

27 (i) "Qualified expenditures" means capital expenditures that

1 qualify for a rehabilitation credit under section 47(a)(2) of the
2 internal revenue code if the taxpayer is eligible for the credit
3 under section 47(a)(2) of the internal revenue code or, if the
4 taxpayer is not eligible for the credit under section 47(a)(2) of
5 the internal revenue code, the qualified expenditures that would
6 qualify under section 47(a)(2) of the internal revenue code except
7 that the expenditures are made to a historic resource that is not
8 eligible for the credit under section 47(a)(2) of the internal
9 revenue code, that were paid not more than 5 years after the
10 certification of the rehabilitation plan that included those
11 expenditures was approved by the center, and that were paid after
12 December 31, 1998 for the rehabilitation of a historic resource.
13 Qualified expenditures do not include capital expenditures for
14 nonhistoric additions to a historic resource except an addition
15 that is required by state or federal regulations that relate to
16 historic preservation, safety, or accessibility.

17 (j) "Qualified taxpayer" means a person that is an assignee
18 under section 39c of the single business tax act, 1975 PA 228, MCL
19 208.39c, or either owns the resource to be rehabilitated or has a
20 long-term lease agreement with the owner of the historic resource
21 and that has qualified expenditures for the rehabilitation of the
22 historic resource equal to or greater than 10% of the state
23 equalized valuation of the property. If the historic resource to be
24 rehabilitated is a portion of a historic or nonhistoric resource,
25 the state equalized valuation of only that portion of the property
26 shall be used for purposes of this subdivision. If the assessor for
27 the local tax collecting unit in which the historic resource is

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

11 (k) "Rehabilitation plan" means a plan for the rehabilitation
12 of a historic resource that meets the federal secretary of the
13 interior's standards for rehabilitation and guidelines for
14 rehabilitation of historic buildings under 36 ~~C.F.R.~~ **CFR** part 67.

15 Enacting section 1. This amendatory act is effective for tax
16 years that begin after December 31, 2004.