

SENATE BILL No. 570

June 7, 2005, Introduced by Senator ALLEN and referred to the Committee on Finance.

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 39c (MCL 208.39c), as amended by 2001 PA 69.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 39c. (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 property.

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.

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

1 assignment form to the annual return required to be filed under
2 this act for that tax year.

3 (8) If the credit allowed under this section for the tax year
4 and any unused carryforward of the credit allowed by this section
5 exceed the taxpayer's tax liability for the tax year, that portion
6 that exceeds the tax liability for the tax year shall not be
7 refunded but may be carried forward to offset tax liability in
8 subsequent tax years for 10 years or until used up, whichever
9 occurs first.

10 (9) If the taxpayer sells a historic resource for which a
11 credit under this section was claimed less than 5 years after the
12 year in which the credit was claimed, the following percentage of
13 the credit amount previously claimed relative to that historic
14 resource shall be added back to the tax liability of the taxpayer
15 in the year of the sale:

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

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

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

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

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

26 (f) If the sale is 5 years or more after the year in which the
27 credit was claimed, an addback to the taxpayer's tax liability

1 shall not be made.

2 (10) If a certification of completed rehabilitation is revoked
3 under subsection (5) less than 5 years after the year in which a
4 credit was claimed, the following percentage of the credit amount
5 previously claimed relative to that historic resource shall be
6 added back to the tax liability of the taxpayer in the year of the
7 revocation:

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

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

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

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

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

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

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

24 (12) The qualified taxpayer shall attach all of the following
25 to the qualified taxpayer's annual return required under this act
26 or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to
27 206.532, if applicable, on which the credit is claimed:

1 (a) Certification of completed rehabilitation.

2 (b) Certification of historic significance related to the
3 historic resource and the qualified expenditures used to claim a
4 credit under this section.

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

9 (13) The department of history, arts, and libraries shall
10 promulgate rules to implement this section pursuant to the
11 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
12 24.328.

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

18 (15) The department of history, arts, and libraries through
19 the Michigan historical center shall report all of the following to
20 the legislature annually for the immediately preceding state fiscal
21 year:

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

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

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

27 (16) As used in this section:

1 (a) "Contributing resource" means a historic resource that
2 contributes to the significance of the historic district in which
3 it is located.

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

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

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

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

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

26 (iv) A resource that is occupied or utilized by a governmental
27 body, nonprofit organization, or tax-exempt entity pursuant to a

1 long-term lease or lease with option to buy agreement.

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

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

4 (e) "Long-term lease" means a lease term of at least 27.5
5 years for a residential resource or at least 31.5 years for a
6 nonresidential resource.

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

11 (g) "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 (h) "Person" means an individual, partnership, corporation,
15 association, governmental entity, or other legal entity.

16 (i) "Qualified expenditures" means capital expenditures that
17 qualify for a rehabilitation credit under section 47(a)(2) of the
18 internal revenue code if the taxpayer is eligible for the credit
19 under section 47(a)(2) of the internal revenue code or, if the
20 taxpayer is not eligible for the credit under section 47(a)(2) of
21 the internal revenue code, the qualified expenditures that would
22 qualify under section 47(a)(2) of the internal revenue code except
23 that the expenditures are made to a historic resource that is not
24 eligible for the credit under section 47(a)(2) of the internal
25 revenue code that were paid not more than 5 years after the
26 certification of the rehabilitation plan that included those
27 expenditures was approved by the center, and that were paid after

1 December 31, 1998 for the rehabilitation of a historic resource.
2 Qualified expenditures do not include capital expenditures for
3 nonhistoric additions to a historic resource except an addition
4 that is required by state or federal regulations that relate to
5 historic preservation, safety, or accessibility.

6 (j) "Qualified taxpayer" means a person that is an assignee
7 under subsection (7) or either owns the resource to be
8 rehabilitated or has a long-term lease agreement with the owner of
9 the historic resource and that has qualified expenditures for the
10 rehabilitation of the historic resource equal to or greater than
11 10% of the state equalized valuation of the property. If the
12 historic resource to be rehabilitated is a portion of a historic or
13 nonhistoric resource, the state equalized valuation of only that
14 portion of the property shall be used for purposes of this
15 subdivision. If the assessor for the local tax collecting unit in
16 which the historic resource is located determines the state
17 equalized valuation of that portion, that assessor's determination
18 shall be used for purposes of this subdivision. If the assessor
19 does not determine that state equalized valuation of that portion,
20 qualified expenditures, for purposes of this subdivision, shall be
21 equal to or greater than 5% of the appraised value as determined by
22 a certified appraiser. If the historic resource to be rehabilitated
23 does not have a state equalized valuation, qualified expenditures
24 for purposes of this subdivision shall be equal to or greater than
25 5% of the appraised value of the resource as determined by a
26 certified appraiser.

27 (k) "Rehabilitation plan" means a plan for the rehabilitation

1 of a historic resource that meets the federal secretary of the
2 interior's standards for rehabilitation and guidelines for
3 rehabilitation of historic buildings under 36 ~~C.F.R.~~ **CFR** part 67.