

**SUBSTITUTE FOR
HOUSE BILL NO. 4712**

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 437 (MCL 208.1437), as amended by 2021 PA 27.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 437. (1) Subject to the criteria under this section, a
2 qualified taxpayer that has unused credits or has a preapproval
3 letter issued after December 31, 2007 and before January 1, 2014,
4 or a taxpayer that received a preapproval letter prior to January
5 1, 2008 under section 38g of former 1975 PA 228 and has not
6 received a certificate of completion prior to the taxpayer's last
7 tax year, provided that the project is completed not more than 5
8 years after the preapproval letter for the project is issued unless
9 extended under subsection (9) **or (34)** or if it is a multiphase



1 project not more than 10 years after the preapproval letter, as
2 amended, if applicable, or as otherwise extended under subsection
3 (10), for the project is issued, or an assignee under subsection
4 (20), (21), or (22) may claim a credit that has been approved under
5 section 38g of former 1975 PA 228 or under subsection (2), (3), or
6 (4) against the tax imposed by this act equal to either of the
7 following:

8 (a) For projects approved before April 8, 2008, if the total
9 of all credits for a project is \$1,000,000.00 or less, 10% of the
10 cost of the qualified taxpayer's eligible investment paid or
11 accrued by the qualified taxpayer on an eligible property provided
12 that the project does not exceed the amount stated in the
13 preapproval letter, as amended. For projects approved, or amended,
14 on and after April 8, 2008, if the total of all eligible
15 investments for a project are \$10,000,000.00 or less, up to 12.5%
16 of the costs of the qualified taxpayer's eligible investment paid
17 or accrued by the qualified taxpayer on an eligible property or up
18 to 15% of the costs of the qualified taxpayer's eligible investment
19 paid or accrued by the qualified taxpayer on an eligible property
20 if the project is designated as an urban development area project
21 by the Michigan economic growth authority to the extent that the
22 project does not exceed the amount stated in the preapproval
23 letter, as amended, or, until December 31, 2010, up to 20% of the
24 costs of the qualified taxpayer's eligible investment paid or
25 accrued by the qualified taxpayer on an eligible property if the
26 project is designated as an urban development area project by the
27 Michigan economic growth authority. If eligible investment exceeds
28 the amount of eligible investment in the preapproval letter, as
29 amended, for that project, the total of all credits for the project



1 shall not exceed the total of all credits on the certificate of
2 completion.

3 (b) For projects approved before April 8, 2008, if the total
4 of all credits for a project is more than \$1,000,000.00 but
5 \$30,000,000.00 or less and, except as provided in subsection
6 (6)(b), the project is located in a qualified local governmental
7 unit, a percentage as determined by the Michigan economic growth
8 authority not to exceed 10% of the cost of the qualified taxpayer's
9 eligible investment as determined under subsection (11) paid or
10 accrued by the qualified taxpayer on an eligible property. For
11 projects approved, or amended, on and after April 8, 2008 and
12 before January 1, 2010, if the total of all eligible investments
13 for a project is more than \$10,000,000.00 but \$300,000,000.00 or
14 less, up to 12.5% of the costs of the qualified taxpayer's eligible
15 investment as determined under subsection (11) paid or accrued by
16 the qualified taxpayer on an eligible property that, except as
17 provided in subsection (6)(b), is located in a qualified local
18 governmental unit, up to 15% of the cost of the qualified
19 taxpayer's eligible investment as determined under subsection (11)
20 paid or accrued by the qualified taxpayer on an eligible property
21 if the project is designated as an urban development area project
22 by the Michigan economic growth authority, or, until December 31,
23 2010, up to 20% of the costs of the qualified taxpayer's eligible
24 investment as determined under subsection (11) paid or accrued by
25 the qualified taxpayer on an eligible property if the project is
26 designated as an urban development area project by the Michigan
27 economic growth authority. For projects approved, or amended, on
28 and after January 1, 2010, if the total of all eligible investments
29 for a project is more than \$10,000,000.00 but \$100,000,000.00 or



1 less, up to 12.5% of the costs of the qualified taxpayer's eligible
2 investment as determined under subsection (11) paid or accrued by
3 the qualified taxpayer on an eligible property that, except as
4 provided in subsection (6) (b), is located in a qualified local
5 governmental unit, up to 15% of the cost of the qualified
6 taxpayer's eligible investment as determined under subsection (11)
7 paid or accrued by the qualified taxpayer on an eligible property
8 if the project is designated as an urban development area project
9 by the Michigan economic growth authority, or, until December 31,
10 2010, up to 20% of the costs of the qualified taxpayer's eligible
11 investment as determined under subsection (11) paid or accrued by
12 the qualified taxpayer on an eligible property if the project is
13 designated as an urban development area project by the Michigan
14 economic growth authority. If eligible investment exceeds the
15 amount of eligible investment in the preapproval letter, as
16 amended, for that project, the total of all credits for the project
17 shall not exceed the total of all credits on the certificate of
18 completion **except as authorized under subsection (34)**.

19 (2) If the cost of a project will be \$2,000,000.00 or less, a
20 qualified taxpayer shall apply to the Michigan economic growth
21 authority for approval of the project under this subsection. An
22 application under this subsection shall state whether the project
23 is a multiphase project. Subject to the limitation provided under
24 subsection (31), the chairperson of the Michigan economic growth
25 authority or his or her designee is authorized to approve an
26 application or project under this subsection. Only the chairperson
27 of the Michigan economic growth authority is authorized to deny an
28 application or project under this subsection. A project shall be
29 approved or denied not more than 45 days after receipt of the



1 application. If the chairperson of the Michigan economic growth
2 authority or his or her designee does not approve or deny the
3 application within 45 days after the application is received by the
4 Michigan economic growth authority, the application is considered
5 approved as written. If the chairperson of the Michigan economic
6 growth authority or his or her designee approves a project under
7 this subsection, the chairperson of the Michigan economic growth
8 authority or his or her designee shall issue a preapproval letter
9 that states that the taxpayer is a qualified taxpayer; the maximum
10 total eligible investment for the project on which credits may be
11 claimed and the maximum total of all credits for the project when
12 the project is completed and a certificate of completion is issued;
13 and the project number assigned by the Michigan economic growth
14 authority. If a project is denied under this subsection, a taxpayer
15 is not prohibited from subsequently applying under this subsection
16 for the same project or for another project. The Michigan economic
17 growth authority shall develop and implement the use of the
18 application form to be used for projects under this subsection.

19 (3) If the cost of a project will be for more than
20 \$2,000,000.00 but \$10,000,000.00 or less, a qualified taxpayer
21 shall apply to the Michigan economic growth authority for approval
22 of the project under this subsection. An application under this
23 subsection shall state whether the project is a multiphase project.
24 Subject to the limitation provided under subsection (31), the
25 chairperson of the Michigan economic growth authority or his or her
26 designee is authorized to approve an application or project under
27 this subsection. Only the chairperson of the Michigan economic
28 growth authority is authorized to deny an application or project
29 under this subsection. A project shall be approved or denied not



1 more than 45 days after receipt of the application. If the
2 chairperson of the Michigan economic growth authority or his or her
3 designee does not approve or deny an application within 45 days
4 after the application is received by the Michigan economic growth
5 authority, the application is considered approved as written. The
6 criteria in subsection (7) shall be used when approving projects
7 under this subsection. When approving projects under this
8 subsection, priority shall be given to projects on a facility. The
9 total of all credits for an approved project under this subsection
10 shall not exceed the amounts authorized under subsection (1)(a). A
11 taxpayer may apply under this subsection instead of subsection (4)
12 for approval of a project that will be for more than
13 \$10,000,000.00, but the total of all credits for that project shall
14 not exceed the amounts authorized under subsection (1)(a). If the
15 chairperson of the Michigan economic growth authority or his or her
16 designee approves a project under this subsection, the chairperson
17 of the Michigan economic growth authority or his or her designee
18 shall issue a preapproval letter that states that the taxpayer is a
19 qualified taxpayer; the maximum total eligible investment for the
20 project on which credits may be claimed and the maximum total of
21 all credits for the project when the project is completed and a
22 certificate of completion is issued; and the project number
23 assigned by the Michigan economic growth authority. If a project is
24 denied under this subsection, a taxpayer is not prohibited from
25 subsequently applying under this subsection or subsection (4) for
26 the same project or for another project.

27 (4) If the cost of a project will be for more than
28 \$10,000,000.00 and, except as provided in subsection (6)(b), the
29 project is located in a qualified local governmental unit, a



1 qualified taxpayer shall apply to the Michigan economic growth
2 authority for approval of the project. An application under this
3 subsection shall state whether the project is a multiphase project.
4 The Michigan economic growth authority shall approve or deny the
5 project not more than 65 days after receipt of the application. A
6 project under this subsection shall not be approved without the
7 concurrence of the state treasurer. If the Michigan economic growth
8 authority does not approve or deny the application within 65 days
9 after it receives the application, the Michigan economic growth
10 authority shall send the application to the state treasurer. The
11 state treasurer shall approve or deny the application within 5 days
12 after receipt of the application. If the state treasurer does not
13 deny the application within 5 days after receipt of the
14 application, the application is considered approved. The Michigan
15 economic growth authority shall approve a limited number of
16 projects under this subsection during each calendar year as
17 provided in subsection (6). The Michigan economic growth authority
18 shall use the criteria in subsection (7) when approving projects
19 under this subsection, when determining the total amount of
20 eligible investment, and when determining the percentage of
21 eligible investment for the project to be used to calculate a
22 credit. The total of all credits for an approved project under this
23 subsection shall not exceed the amount designated in the
24 preapproval letter, as amended, for that project. If the Michigan
25 economic growth authority approves a project under this subsection,
26 the Michigan economic growth authority shall issue a preapproval
27 letter that states that the taxpayer is a qualified taxpayer; the
28 percentage of eligible investment for the project determined by the
29 Michigan economic growth authority for purposes of subsection



1 (1) (b); the maximum total eligible investment for the project on
2 which credits may be claimed and the maximum total of all credits
3 for the project when the project is completed and a certificate of
4 completion is issued; and the project number assigned by the
5 Michigan economic growth authority. The Michigan economic growth
6 authority shall send a copy of the preapproval letter to the
7 department. If a project is denied under this subsection, a
8 taxpayer is not prohibited from subsequently applying under this
9 subsection or subsection (3) for the same project or for another
10 project.

11 (5) If the project is on property that is functionally
12 obsolete, the taxpayer shall include with the application an
13 affidavit signed by a level 3 or level 4 assessor, that states that
14 it is the assessor's expert opinion that the property is
15 functionally obsolete and the underlying basis for that opinion.

16 (6) The Michigan economic growth authority may approve not
17 more than 20 projects each calendar year through December 31, 2009,
18 not more than 19 projects for the 2010 calendar year, and, except
19 as otherwise provided under subdivision (d), not more than 17
20 projects for each calendar year after December 31, 2010 under
21 subsection (4), and the following limitations apply:

22 (a) Of the projects allowed under this subsection, the total
23 of all credits for each project may be more than \$10,000,000.00 but
24 \$30,000,000.00 or less for only 1 project before December 31, 2009.

25 (b) Of the projects allowed under this subsection, up to 3
26 projects may be approved for projects that are not in a qualified
27 local governmental unit if the property is a facility for which
28 eligible activities are identified in a brownfield plan or, for 1
29 of the 3 projects, if the property is not a facility but is



1 functionally obsolete or blighted, property identified in a
2 brownfield plan. For purposes of this subdivision, a facility
3 includes a building or complex of buildings that was used by a
4 state or federal agency and that is no longer being used for the
5 purpose for which it was used by the state or federal agency.

6 (c) The project allowed under subdivision (a) may also qualify
7 under subdivision (b).

8 (d) If the Michigan economic growth authority determines that
9 there are previously issued credits authorized under section 434(6)
10 available, the Michigan economic growth authority may approve 2
11 additional projects for each calendar year after December 31, 2010.
12 As used in this subdivision, "previously issued credits" means the
13 total amount of credits authorized by the Michigan economic growth
14 authority for a taxpayer under section 434(6) that meets all of the
15 following:

16 (i) The taxpayer did not use any or a portion of the credits
17 authorized under the written agreement under section 434(6).

18 (ii) The authority determined at a meeting upon a vote of the
19 majority of the members present that the credits previously
20 authorized satisfy subparagraph (i).

21 (7) The Michigan economic growth authority shall review all
22 applications for projects under subsection (4) and, if an
23 application is approved, shall determine the maximum total of all
24 credits for that project. Before approving a project for which the
25 total of all credits will be more than \$10,000,000.00 but
26 \$30,000,000.00 or less only, the Michigan economic growth authority
27 shall determine that the project would not occur in this state
28 without the tax credit offered under subsection (4). The Michigan
29 economic growth authority shall consider the following criteria to



1 the extent reasonably applicable to the type of project proposed
 2 when approving a project under subsection (4), and the chairperson
 3 of the Michigan economic growth authority or his or her designee
 4 shall consider the following criteria to the extent reasonably
 5 applicable to the type of project proposed when approving a project
 6 under subsection (2) or (3) or when considering an amendment to a
 7 project under subsection (9) **or (34)** :

8 (a) The overall benefit to the public.

9 (b) The extent of reuse of vacant buildings and redevelopment
 10 of blighted property.

11 (c) Creation of jobs.

12 (d) Whether the eligible property is in an area of high
 13 unemployment.

14 (e) The level and extent of contamination alleviated by the
 15 qualified taxpayer's eligible activities to the extent known to the
 16 qualified taxpayer.

17 (f) The level of private sector contribution.

18 (g) The cost gap that exists between the site and a similar
 19 greenfield site as determined by the Michigan economic growth
 20 authority.

21 (h) If the qualified taxpayer is moving from another location
 22 in this state, whether the move will create a brownfield.

23 (i) Whether the project is financially and economically sound.

24 (j) Any other criteria that the Michigan economic growth
 25 authority or the chairperson of the Michigan economic growth
 26 authority, as applicable, considers appropriate for the
 27 determination of eligibility under subsection (3) or (4).

28 (8) A qualified taxpayer may apply for projects under this
 29 section for eligible investment on more than 1 eligible property in



1 a tax year. Each project approved and each project for which a
 2 certificate of completion is issued under this section shall be for
 3 eligible investment on 1 eligible property.

4 (9) If, after a taxpayer's project has been approved and the
 5 taxpayer has received a preapproval letter but before the taxpayer
 6 has made an eligible investment, other than soft costs **or as**
 7 **otherwise authorized under subsection (34)**, at the property, the
 8 taxpayer determines that the project cannot be completed as
 9 preapproved, the taxpayer may petition the Michigan economic growth
 10 authority to amend the project and the preapproval letter to
 11 increase the maximum total eligible investment for the project on
 12 which credits may be claimed and the maximum total of all credits
 13 for the project. A taxpayer may petition the Michigan economic
 14 growth authority to make any other amendments to the project or
 15 preapproval letter at any time before a certificate of completion
 16 is issued. ~~Amendments~~ **Except as otherwise authorized under**
 17 **subsection (34), amendments** to the project or preapproval letter
 18 may include, but are not limited to, extending the duration of time
 19 provided to complete the project, as long as that extension does
 20 not exceed 10 years from the date of the preapproval letter or as
 21 otherwise extended under subsection (10). However, if a project was
 22 approved prior to December 31, 2008 for 20% of the qualified
 23 taxpayer's eligible investment and a total of less than
 24 \$2,000,000.00 for all credits for that project and that project has
 25 received a funding reservation for an allocation of the federal
 26 low-income housing tax credit administered by the Michigan state
 27 housing development authority of more than \$1,100,000.00, then that
 28 project may be amended to extend the duration of time provided to
 29 complete the project to the placed-in-service date of the carryover



1 allocation agreement for the federal low-income housing tax credit.
2 (10) A project may be a multiphase project. If a project is a
3 multiphase project, when each component of the multiphase project
4 is completed, the taxpayer shall submit documentation that the
5 component is complete, an accounting of the cost of the component,
6 and the eligible investment for the component of each taxpayer
7 eligible for a credit for the project of which the component is a
8 part to the Michigan economic growth authority or the designee of
9 the Michigan economic growth authority, who shall verify that the
10 component is complete. When the completion of the component is
11 verified, a component completion certificate shall be issued to the
12 qualified taxpayer which shall state that the taxpayer is a
13 qualified taxpayer, the credit amount for the component, the
14 qualified taxpayer's federal employer identification number or the
15 Michigan treasury number assigned to the taxpayer, and the project
16 number. The taxpayer may assign all or part of the credit for a
17 multiphase project as provided in this section after a component
18 completion certificate for a component is issued. The qualified
19 taxpayer may transfer ownership of or lease the completed component
20 and assign a proportionate share of the credit for the entire
21 project to the qualified taxpayer that is the new owner or lessee.
22 A multiphase project shall not be divided into more than 10
23 components. A component is considered to be completed when a
24 temporary or final certificate of occupancy has been issued by the
25 local municipality in which the project is located for all of the
26 buildings or facilities that comprise the completed component and a
27 component completion certificate is issued or the chairperson of
28 the Michigan economic growth authority or his or her designee, for
29 projects approved under subsection (2) or (3), or the Michigan



1 economic growth authority, for projects approved under subsection
2 (4), verifies that the component is complete. A credit assigned
3 based on a multiphase project shall be claimed by the assignee in
4 the tax year in which the assignment is made. The total of all
5 credits for a multiphase project shall not exceed the amount stated
6 in the preapproval letter, as amended, for the project under
7 subsection (1). Except as otherwise provided under this subsection,
8 if all components of a multiphase project are not completed by 10
9 years after the date on which the preapproval letter, as amended,
10 if applicable, for the project was issued, the qualified taxpayer
11 that received the preapproval letter for the project shall pay to
12 the state treasurer, as a penalty, an amount equal to the sum of
13 all credits claimed and assigned for all components of the
14 multiphase project and no credits based on that multiphase project
15 shall be claimed after that date by the qualified taxpayer or any
16 assignee of the qualified taxpayer. A qualified taxpayer that was
17 approved for a credit based on a multiphase project by Resolution
18 2010-219 adopted by the Michigan economic growth authority and
19 issued a preapproval letter on June 10, 2011 has until September
20 14, 2023 to complete that project and claim the credit without
21 penalty. The penalty under this subsection is subject to interest
22 on the amount of the credit claimed or assigned determined
23 individually for each component at the rate in section 23(2) of
24 1941 PA 122, MCL 205.23, beginning on the date that the credit for
25 that component was claimed or assigned. As used in this subsection,
26 "proportionate share" means the same percentage of the total of all
27 credits for the project that the qualified investment for the
28 completed component is of the total qualified investment stated in
29 the preapproval letter, as amended, for the entire project.



1 (11) When a project under this section is completed, the
 2 taxpayer shall submit documentation that the project is completed,
 3 an accounting of the cost of the project, the eligible investment
 4 of each taxpayer if there is more than 1 taxpayer eligible for a
 5 credit for the project, and, if the taxpayer is not the owner or
 6 lessee of the eligible property on which the eligible investment
 7 was made at the time the project is completed, that the taxpayer
 8 was the owner or lessee of, or was a party to an agreement to
 9 purchase or lease, that eligible property when all eligible
 10 investment of the taxpayer was made. The chairperson of the
 11 Michigan economic growth authority or his or her designee, for
 12 projects approved under subsection (2) or (3), or the Michigan
 13 economic growth authority, for projects approved under subsection
 14 (4), shall verify that the project is completed. The Michigan
 15 economic growth authority shall conduct an on-site inspection as
 16 part of the verification process for projects approved under
 17 subsection (4). When the completion of the project is verified, a
 18 certificate of completion shall be issued to each qualified
 19 taxpayer that has made eligible investment on that eligible
 20 property. The certificate of completion shall state the total
 21 amount of all credits for the project and that total shall not
 22 exceed the maximum total of all credits listed in the preapproval
 23 letter for the project under subsection (2), (3), or (4) as
 24 applicable and as amended under subsection (9) **or (34)** and shall
 25 state all of the following:

- 26 (a) That the taxpayer is a qualified taxpayer.
 27 (b) The total cost of the project and the eligible investment
 28 of each qualified taxpayer.
 29 (c) Each qualified taxpayer's credit amount.



1 (d) The qualified taxpayer's federal employer identification
2 number or the Michigan treasury number assigned to the taxpayer.

3 (e) The project number.

4 (f) For a project approved under subsection (4) for which the
5 total of all credits is more than \$10,000,000.00 but \$30,000,000.00
6 or less, the total of all credits and the schedule on which the
7 annual credit amount shall be claimed by the qualified taxpayer.

8 (g) For a multiphase project under subsection (10), the amount
9 of each credit assigned and the amount of all credits claimed in
10 each tax year before the year in which the project is completed.

11 (12) Except as otherwise provided in this section, qualified
12 taxpayers shall claim credits under this section in the tax year in
13 which the certificate of completion is issued. For a project
14 approved under subsection (4) for which the total of all credits is
15 more than \$10,000,000.00 but \$30,000,000.00 or less, the qualified
16 taxpayer shall claim 10% of its approved credit each year for 10
17 years. A credit assigned based on a multiphase project shall be
18 claimed in the year in which the credit is assigned.

19 (13) The cost of eligible investment for leased machinery,
20 equipment, or fixtures is the cost of that property had the
21 property been purchased minus the lessor's estimate, made at the
22 time the lease is entered into, of the market value the property
23 will have at the end of the lease. A credit for property described
24 in this subsection is allowed only if the cost of that property had
25 the property been purchased and the lessor's estimate of the market
26 value at the end of the lease are provided to the Michigan economic
27 growth authority.

28 (14) Credits claimed by a lessee of eligible property are
29 subject to the total of all credits limitation under this section.



1 (15) Each qualified taxpayer and assignee under subsection
2 (20), (21), or (22) that claims a credit under this section shall
3 attach a copy of the certificate of completion and, if the credit
4 was assigned, a copy of the assignment form provided for under this
5 section to the annual return filed under this act on which the
6 credit under this section is claimed. An assignee of a credit based
7 on a multiphase project shall attach a copy of the assignment form
8 provided for under this section and the component completion
9 certificate provided for in subsection (10) to the annual return
10 filed under this act on which the credit is claimed but is not
11 required to file a copy of a certificate of completion.

12 (16) Except as otherwise provided in this subsection or
13 subsection (10), (18), (20), (21), or (22), a credit under this
14 section shall be claimed in the tax year in which the certificate
15 of completion is issued to the qualified taxpayer. For a project
16 described in subsection (11)(f) for which a schedule for claiming
17 annual credit amounts is designated on the certificate of
18 completion by the Michigan economic growth authority, the annual
19 credit amount shall be claimed in the tax year specified on the
20 certificate of completion.

21 (17) Except as otherwise provided under this subsection, the
22 credits approved under this section shall be calculated after
23 application of all other credits allowed under this act. The
24 credits under this section shall be calculated before the
25 calculation of the credits under sections 413, 423, 431, and 450.

26 (18) Except as otherwise provided under this subsection, if
27 the credit allowed under this section for the tax year and any
28 unused carryforward of the credit allowed under this section exceed
29 the qualified taxpayer's or assignee's tax liability for the tax



1 year, that portion that exceeds the tax liability for the tax year
2 shall not be refunded but may be carried forward to offset tax
3 liability in subsequent tax years for 10 years or until used up,
4 whichever occurs first. Except as otherwise provided in this
5 subsection, the maximum time allowed under the carryforward
6 provisions under this subsection begins with the tax year in which
7 the certificate of completion is issued to the qualified taxpayer.
8 If the qualified taxpayer assigns all or any portion of its credit
9 approved under this section, the maximum time allowed under the
10 carryforward provisions for an assignee begins to run with the tax
11 year in which the assignment is made and the assignee first claims
12 a credit, which shall be the same tax year. The maximum time
13 allowed under the carryforward provisions for an annual credit
14 amount for a credit allowed under subsection (4) begins to run in
15 the tax year for which the annual credit amount is designated on
16 the certificate of completion issued under this section. A credit
17 carryforward available under section 38g of former 1975 PA 228 that
18 is unused at the end of the last tax year may be claimed against
19 the tax imposed under this act for the years the carryforward would
20 have been available under former 1975 PA 228. Beginning on and
21 after April 8, 2008, if the credit allowed under this section for
22 the tax year exceeds the qualified taxpayer's tax liability for the
23 tax year, the qualified taxpayer may elect to have the excess
24 refunded at a rate equal to 85% of that portion of the credit that
25 exceeds the tax liability of the qualified taxpayer for the tax
26 year and forgo the remaining 15% of the credit and any
27 carryforward.

28 (19) If a project or credit under this section is for the
29 addition of personal property, if the cost of that personal



1 property is used to calculate a credit under this section, and if
2 the personal property is disposed of or transferred from the
3 eligible property to any other location, the qualified taxpayer
4 that disposed of that property, or transferred the personal
5 property shall add the same percentage as determined under
6 subsection (1) of the federal basis of the personal property used
7 for determining gain or loss as of the date of the disposition or
8 transfer to the qualified taxpayer's tax liability under this act
9 after application of all credits under this act for the tax year in
10 which the disposition or transfer occurs. If a qualified taxpayer
11 has an unused carryforward of a credit under this section, the
12 amount otherwise added under this subsection to the qualified
13 taxpayer's tax liability may instead be used to reduce the
14 qualified taxpayer's carryforward under subsection (18).

15 (20) For credits under this section for projects for which a
16 certificate of completion is issued before January 1, 2006 and
17 except as otherwise provided in this subsection, if a qualified
18 taxpayer pays or accrues eligible investment on or to an eligible
19 property that is leased for a minimum term of 10 years or sold to
20 another taxpayer for use in a business activity, the qualified
21 taxpayer may assign all or a portion of the credit under this
22 section based on that eligible investment to the lessee or
23 purchaser of that eligible property. A credit assignment under this
24 subsection shall only be made to a taxpayer that when the
25 assignment is complete will be a qualified taxpayer. All credit
26 assignments under this subsection are irrevocable and, except for a
27 credit based on a multiphase project, shall be made in the tax year
28 in which the certificate of completion is issued, unless the
29 assignee is an unknown lessee. If a qualified taxpayer wishes to



1 assign all or a portion of its credit to a lessee but the lessee is
2 unknown in the tax year in which the certificate of completion is
3 issued, the qualified taxpayer may delay claiming and assigning the
4 credit until the first tax year in which the lessee is known. A
5 qualified taxpayer may claim a portion of a credit and assign the
6 remaining credit amount. Except as otherwise provided in this
7 subsection, if the qualified taxpayer both claims and assigns
8 portions of the credit, the qualified taxpayer shall claim the
9 portion it claims in the tax year in which the certificate of
10 completion is issued or, for a credit assigned and claimed for a
11 multiphase project before a certificate of completion is issued,
12 the taxpayer shall claim the credit in the year in which the credit
13 is assigned. If a qualified taxpayer assigns all or a portion of
14 the credit and the eligible property is leased to more than 1
15 taxpayer, the qualified taxpayer shall determine the amount of
16 credit assigned to each lessee. A lessee shall not subsequently
17 assign a credit or any portion of a credit assigned under this
18 subsection. A purchaser may subsequently assign a credit or any
19 portion of a credit assigned to the purchaser under this subsection
20 to a lessee of the eligible property. The credit assignment under
21 this subsection shall be made on a form prescribed by the Michigan
22 economic growth authority. The qualified taxpayer shall send a copy
23 of the completed assignment form to the Michigan economic growth
24 authority in the tax year in which the assignment is made. The
25 assignee shall attach a copy of the completed assignment form to
26 its annual return required to be filed under this act, for the tax
27 year in which the assignment is made and the assignee first claims
28 a credit, which shall be the same tax year. In addition to all
29 other procedures under this subsection, the following apply if the



1 total of all credits for a project is more than \$10,000,000.00 but
2 \$30,000,000.00 or less:

3 (a) The credit shall be assigned based on the schedule
4 contained in the certificate of completion.

5 (b) If the qualified taxpayer assigns all or a portion of the
6 credit amount, the qualified taxpayer shall assign the annual
7 credit amount for each tax year separately.

8 (c) More than 1 annual credit amount may be assigned to any 1
9 assignee and the qualified taxpayer may assign all or a portion of
10 each annual credit amount to any assignee.

11 (d) The qualified taxpayer shall not assign more than the
12 annual credit amount for each tax year.

13 (21) Except as otherwise provided in this subsection, for
14 projects for which a certificate of completion is issued before
15 January 1, 2006, and except as otherwise provided in this
16 subsection, if a qualified taxpayer is a partnership, limited
17 liability company, or subchapter S corporation, the qualified
18 taxpayer may assign all or a portion of a credit under this section
19 to its partners, members, or shareholders, based on their
20 proportionate share of ownership of the partnership, limited
21 liability company, or subchapter S corporation or based on an
22 alternative method approved by the Michigan economic growth
23 authority. A credit assignment under this subsection is irrevocable
24 and, except for a credit assignment based on a multiphase project,
25 shall be made in the tax year in which a certificate of completion
26 is issued. A qualified taxpayer may claim a portion of a credit and
27 assign the remaining credit amount. Except as otherwise provided in
28 this subsection, if the qualified taxpayer both claims and assigns
29 portions of the credit, the qualified taxpayer shall claim the



1 portion it claims in the tax year in which a certificate of
2 completion is issued or for a credit assigned and claimed for a
3 multiphase project, before the component completion certificate is
4 issued, the taxpayer shall claim the credit in the year in which
5 the credit is assigned. A partner, member, or shareholder that is
6 an assignee shall not subsequently assign a credit or any portion
7 of a credit assigned under this subsection. The credit assignment
8 under this subsection shall be made on a form prescribed by the
9 Michigan economic growth authority. The qualified taxpayer shall
10 send a copy of the completed assignment form to the Michigan
11 economic growth authority in the tax year in which the assignment
12 is made. A partner, member, or shareholder who is an assignee shall
13 attach a copy of the completed assignment form to its annual return
14 required under this act, for the tax year in which the assignment
15 is made and the assignee first claims a credit, which shall be the
16 same tax year. A credit assignment based on a credit for a
17 component of a multiphase project that is completed before January
18 1, 2006 shall be made under this subsection. In addition to all
19 other procedures under this subsection, the following apply if the
20 total of all credits for a project is more than \$10,000,000.00 but
21 \$30,000,000.00 or less:

22 (a) The credit shall be assigned based on the schedule
23 contained in the certificate of completion.

24 (b) If the qualified taxpayer assigns all or a portion of the
25 credit amount, the qualified taxpayer shall assign the annual
26 credit amount for each tax year separately.

27 (c) More than 1 annual credit amount may be assigned to any 1
28 assignee and the qualified taxpayer may assign all or a portion of
29 each annual credit amount to any assignee.



1 (d) The qualified taxpayer shall not assign more than the
2 annual credit amount for each tax year.

3 (22) For projects approved under this section or section 38g
4 of former 1975 PA 228 for which a certificate of completion is
5 issued on and after January 1, 2006, a qualified taxpayer may
6 assign all or a portion of a credit allowed under this section or
7 section 38g(2), (3), or (33) of former 1975 PA 228 under this
8 subsection. A credit assignment under this subsection is
9 irrevocable and, except for a credit assignment based on a
10 multiphase project, shall be made in the tax year in which a
11 certificate of completion is issued unless the assignee is an
12 unknown lessee. If a qualified taxpayer wishes to assign all or a
13 portion of its credit to a lessee but the lessee is unknown in the
14 tax year in which the certificate of completion is issued, the
15 qualified taxpayer may delay claiming and assigning the credit
16 until the first tax year in which the lessee is known. A qualified
17 taxpayer may claim a portion of a credit and assign the remaining
18 credit amount. If the qualified taxpayer both claims and assigns
19 portions of the credit, the qualified taxpayer shall claim the
20 portion it claims in the tax year in which a certificate of
21 completion is issued pursuant to this section or section 38g of
22 former 1975 PA 228. An assignee may subsequently assign a credit or
23 any portion of a credit assigned under this subsection to 1 or more
24 assignees. The credit assignment or a subsequent reassignment under
25 this subsection shall be made on a form prescribed by the Michigan
26 economic growth authority. The Michigan economic growth authority
27 or its designee shall review and issue a completed assignment or
28 reassignment certificate to the assignee or reassignee. An assignee
29 or subsequent reassignee shall attach a copy of the completed



1 assignment certificate to its annual return required under this
2 act, for the tax year in which the assignment or reassignment is
3 made and the assignee or reassignee first claims a credit, which
4 shall be the same tax year. A credit assignment based on a credit
5 for a component of a multiphase project that is completed before
6 January 1, 2006 shall be made under section 38g(18) of former 1975
7 PA 228. A credit assignment based on a credit for a component of a
8 multiphase project that is completed on or after January 1, 2006
9 may be made under this section. In addition to all other procedures
10 and requirements under this section, the following apply if the
11 total of all credits for a project is more than \$10,000,000.00 but
12 \$30,000,000.00 or less:

13 (a) The credit shall be assigned based on the schedule
14 contained in the certificate of completion.

15 (b) If the qualified taxpayer assigns all or a portion of the
16 credit amount, the qualified taxpayer shall assign the annual
17 credit amount for each tax year separately.

18 (c) More than 1 annual credit amount may be assigned to any 1
19 assignee, and the qualified taxpayer may assign all or a portion of
20 each annual credit amount to any assignee.

21 (23) A qualified taxpayer or assignee under subsection (20),
22 (21), or (22) shall not claim a credit under subsection (1)(a) or
23 (b) based on eligible investment on which a credit claimed under
24 section 38d of former 1975 PA 228 was based.

25 (24) When reviewing an application for a project for
26 designation as an urban development area project, the Michigan
27 economic growth authority for projects approved under subsection
28 (4) or the chairperson of the Michigan economic growth authority or
29 his or her designee for projects approved under subsections (2) and



1 (3) shall consider all of the following criteria:

2 (a) If the project increases the density of the area by
3 promoting multistory development.

4 (b) If the project promotes mixed-use development and walkable
5 communities.

6 (c) If the project promotes sustainable redevelopment.

7 (d) If the project addresses areawide redevelopment and
8 includes multiple parcels of property.

9 (e) If the project addresses underserved markets of commerce.

10 (f) Any other criteria determined by the Michigan economic
11 growth authority or the chairperson of the Michigan economic growth
12 authority.

13 (25) An eligible taxpayer that claims a credit under this
14 section is not prohibited from claiming a credit under section 431.
15 However, the eligible taxpayer shall not claim a credit under this
16 section and section 431 based on the same costs.

17 (26) Eligible investment attributable or related to the
18 operation of a professional sports stadium, and eligible investment
19 that is associated or affiliated with the operation of a
20 professional sports stadium, including, but not limited to, the
21 operation of a parking lot or retail store, shall not be used as a
22 basis for a credit under this section. Professional sports stadium
23 does not include a professional sports stadium that will no longer
24 be used by a professional sports team on and after the date that an
25 application related to that professional sports stadium is filed
26 under this section.

27 (27) Eligible investment attributable or related to the
28 operation of a casino, and eligible investment that is associated
29 or affiliated with the operation of a casino, including, but not



1 limited to, the operation of a parking lot, hotel, motel, or retail
 2 store, shall not be used as a basis for a credit under this
 3 section. As used in this subsection, "casino" means a casino
 4 regulated by this state pursuant to the Michigan ~~gaming control and~~
 5 ~~revenue act~~, **Gaming Control and Revenue Act**, 1996 IL 1, MCL 432.201
 6 to 432.226.

7 (28) Eligible investment attributable or related to the
 8 construction of a new landfill or the expansion of an existing
 9 landfill regulated under part 115 of the natural resources and
 10 environmental protection act, 1994 PA 451, MCL 324.11501 to
 11 324.11554, shall not be used as a basis for a credit under this
 12 section.

13 (29) The Michigan economic growth authority annually shall
 14 prepare and submit to the house of representatives and senate
 15 committees responsible for tax policy and economic development
 16 issues a report on the credits under subsections (2), (3), and (4).
 17 The report shall include, but is not limited to, all of the
 18 following:

19 (a) A listing of the projects under subsections (2), (3), and
 20 (4) that were approved in the calendar year.

21 (b) The total amount of eligible investment for projects
 22 approved under subsections (2), (3), and (4) in the calendar year.

23 (30) For purposes of this section, taxpayer includes a person
 24 subject to the tax imposed under chapters 2A and 2B.

25 (31) For the 2008 calendar year, the total of all credits for
 26 all projects approved under subsection (2) or (3) shall not exceed
 27 \$63,000,000.00. For each calendar year after 2008, the total of all
 28 credits for all projects approved under subsection (2) or (3) shall
 29 not exceed \$40,000,000.00. If the Michigan economic growth



1 authority approves a total of all credits for all projects under
2 subsection (2) or (3) of less than \$40,000,000.00 in a calendar
3 year, the Michigan economic growth authority may carry forward for
4 1 year only the difference between \$40,000,000.00 and the total of
5 all credits for all projects under this subsection approved in the
6 immediately preceding calendar year.

7 (32) As used in this section:

8 (a) "Annual credit amount" means the maximum amount that a
9 qualified taxpayer is eligible to claim each tax year for a project
10 for which the total of all credits is more than \$10,000,000.00 but
11 \$30,000,000.00 or less, as approved under subsection (4).

12 (b) "Authority" means a brownfield redevelopment authority
13 created under the brownfield redevelopment financing act, 1996 PA
14 381, MCL 125.2651 to 125.2670.

15 (c) "Blighted", "brownfield plan", "eligible activities",
16 "facility", "functionally obsolete", "qualified local governmental
17 unit", and "response activity" mean those terms as defined in the
18 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
19 to 125.2670.

20 (d) "Eligible investment" or "eligible investments" means,
21 when made after the approval date of the brownfield plan but in any
22 event no earlier than 90 days prior to the date of the preapproval
23 letter, any demolition, construction, restoration, alteration,
24 renovation, or improvement of buildings or site improvements on
25 eligible property and the addition of machinery, equipment, and
26 fixtures to eligible property after the date that eligible
27 activities on that eligible property have started pursuant to a
28 brownfield plan under the brownfield redevelopment financing act,
29 1996 PA 381, MCL 125.2651 to 125.2670, if the costs of the eligible



1 investment are not otherwise reimbursed to the taxpayer or paid for
2 on behalf of the taxpayer from any source other than the taxpayer.
3 The addition of leased machinery, equipment, or fixtures to
4 eligible property by a lessee of the machinery, equipment, or
5 fixtures is eligible investment if the lease of the machinery,
6 equipment, or fixtures has a minimum term of 10 years or is for the
7 expected useful life of the machinery, equipment, or fixtures, and
8 if the owner of the machinery, equipment, or fixtures is not the
9 qualified taxpayer with regard to that machinery, equipment, or
10 fixtures. For projects approved after April 8, 2008, eligible
11 investment does not include certain soft costs of the eligible
12 investment as determined by the Michigan economic growth authority,
13 including, but not limited to, developer fees, appraisals,
14 performance bonds, closing costs, bank fees, loan fees, risk
15 contingencies, financing costs, permanent or construction period
16 interest, legal expenses, leasing or sales commissions, marketing
17 costs, professional fees, shared savings, taxes, title insurance,
18 bank inspection fees, insurance, and project management fees.
19 Notwithstanding the foregoing, eligible investment does include
20 architectural, engineering, surveying, and similar professional
21 fees.

22 (e) "Eligible property", except as otherwise provided under
23 subsection (33), means property for which eligible activities are
24 identified under a brownfield plan that was used or is currently
25 used for commercial, industrial, public, or residential purposes,
26 including personal property located on the property, to the extent
27 included in the brownfield plan, and that is 1 or more of the
28 following:

29 (i) Is in a qualified local governmental unit and is a



1 facility, functionally obsolete, or blighted and includes parcels
 2 that are adjacent or contiguous to that property if the development
 3 of the adjacent and contiguous parcels is estimated to increase the
 4 captured taxable value of that property.

5 (ii) Is not in a qualified local governmental unit and is a
 6 facility, and includes parcels that are adjacent or contiguous to
 7 that property if the development of the adjacent and contiguous
 8 parcels is estimated to increase the captured taxable value of that
 9 property.

10 (iii) Is tax reverted property owned or under the control of a
 11 land bank fast track authority.

12 (f) "Last tax year" means the taxpayer's tax year under former
 13 1975 PA 228 that begins after December 31, 2006 and before January
 14 1, 2008.

15 (g) "Michigan economic growth authority" means the Michigan
 16 economic growth authority created in the Michigan economic growth
 17 authority act, 1995 PA 24, MCL 207.801 to 207.810.

18 (h) "Multiphase project" means a project approved under this
 19 section that has more than 1 component, each of which can be
 20 completed separately.

21 (i) "Personal property" means that term as defined in section
 22 8 of the general property tax act, 1893 PA 206, MCL 211.8, except
 23 that personal property does not include either of the following:

24 (i) Personal property described in section 8(h), (i), or (j) of
 25 the general property tax act, 1893 PA 206, MCL 211.8.

26 (ii) Buildings described in section 14(6) of the general
 27 property tax act, 1893 PA 206, MCL 211.14.

28 (j) "Project" means the total of all eligible investment on an
 29 eligible property or, for purposes of subsection (6)(b), 1 of the



1 following:

2 (i) All eligible investment on property not in a qualified
3 local governmental unit that is a facility.

4 (ii) All eligible investment on property that is not a facility
5 but is functionally obsolete or blighted.

6 (k) "Qualified local governmental unit" means that term as
7 defined in the obsolete property rehabilitation act, 2000 PA 146,
8 MCL 125.2781 to 125.2797.

9 (l) "Qualified taxpayer" means a taxpayer that meets both of
10 the following criteria:

11 (i) Owns, leases, or has entered into an agreement to purchase
12 or lease eligible property.

13 (ii) Certifies that, except as otherwise provided in this
14 subparagraph, the department of ~~natural resources and environment,~~
15 **Great Lakes, and energy** has not sued or issued a unilateral order
16 to the taxpayer pursuant to part 201 of the natural resources and
17 environmental protection act, 1994 PA 451, MCL 324.20101 to
18 324.20142, to compel response activity on or to the eligible
19 property, or expended any state funds for response activity on or
20 to the eligible property and demanded reimbursement for those
21 expenditures from the qualified taxpayer. However, if the taxpayer
22 has completed all response activity required by part 201 of the
23 natural resources and environmental protection act, 1994 PA 451,
24 MCL 324.20101 to 324.20142, is in compliance with any deed
25 restriction or administrative or judicial order related to the
26 required response activity, and has reimbursed the state for all
27 costs incurred by the state related to the required response
28 activity, the taxpayer meets the criteria under this subparagraph.
29 (m) "Urban development area project" means a project located



1 on eligible property in the downtown or traditional central
 2 business district of a qualified local governmental unit or county
 3 seat or along a traditional commercial corridor of a qualified
 4 local governmental unit or county seat as determined by the
 5 Michigan economic growth authority or the chairperson of the
 6 Michigan economic growth authority or his or her designee.

7 (33) For purposes of subsection (2), eligible property means
 8 that term as defined under subsection (32)(e) except that all of
 9 the following apply:

10 (a) Eligible property means property identified under a
 11 brownfield plan that was used or is currently used for commercial,
 12 industrial, public, or residential purposes and that is 1 of the
 13 following:

14 (i) Property for which eligible activities are identified under
 15 the brownfield plan, is in a qualified local governmental unit, and
 16 is a facility, functionally obsolete, or blighted.

17 (ii) Property that is not in a qualified local governmental
 18 unit but is within a downtown district established under part 2 of
 19 the recodified tax increment financing act, 2018 PA 57, MCL
 20 125.4201 to 125.4230, and is functionally obsolete or blighted, and
 21 a component of the project on that eligible property is 1 or more
 22 of the following:

23 (A) Infrastructure improvements that directly benefit the
 24 eligible property.

25 (B) Demolition of structures that is not response activity
 26 under section 20101 of the natural resources and environmental
 27 protection act, 1994 PA 451, MCL 324.20101.

28 (C) Lead or asbestos abatement.

29 (D) Site preparation that is not response activity under



1 section 20101 of the natural resources and environmental protection
2 act, 1994 PA 451, MCL 324.20101.

3 (iii) Property for which eligible activities are identified
4 under the brownfield plan, is not in a qualified local governmental
5 unit, and is a facility.

6 (b) Eligible property includes parcels that are adjacent or
7 contiguous to the eligible property if the development of the
8 adjacent or contiguous parcels is estimated to increase the
9 captured taxable value of the property or tax reverted property
10 owned or under the control of a land bank fast track authority
11 pursuant to the land bank fast track act, 2003 PA 258, MCL 124.751
12 to 124.774.

13 (c) Eligible property includes, to the extent included in the
14 brownfield plan, personal property located on the eligible
15 property.

16 (d) Eligible property does not include qualified agricultural
17 property exempt under section 7ee of the general property tax act,
18 1893 PA 206, MCL 211.7ee, from the tax levied by a local school
19 district for school operating purposes to the extent provided under
20 section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

21 **(34) If a credit was issued a preapproval letter prior to**
22 **December 31, 2011 for a project involving the development of 2**
23 **adjacent development areas by the same taxpayer and the preapproval**
24 **letter for each of those development areas was amended in 2019 to**
25 **add a qualified taxpayer and adjust the total eligible investment**
26 **approved for each development area, the taxpayer may allocate**
27 **eligible investments made for 1 development area to the other**
28 **development area to maximize the combined credits for both of the**
29 **development areas as long as the sum of the credits for both**



1 development areas does not exceed the sum of the credits approved
2 in the original 2011 preapproval letters, and the taxpayer, after
3 an eligible investment is made, may petition the Michigan economic
4 growth authority to further amend the project and the preapproval
5 letter to do the following:

6 (a) To increase the maximum total eligible investment for the
7 project on which the credit may be claimed and the maximum total of
8 all credits for the project or allocate eligible investment made
9 from 1 adjacent development area to the other as long as the
10 subsequent amendment to the project and preapproval letter does not
11 exceed the sum of the maximum eligible investment or total credits
12 approved in the original preapproval letters for each of the
13 adjacent development areas.

14 (b) To extend the duration of time for up to 5 additional
15 years to complete the project beyond the 10 years from the date of
16 the original preapproval letter.

