

CHAPTER 1081

REDEVELOPMENT TAX CREDITS — ELIGIBILITY — ADMINISTRATION

S.F. 2339

AN ACT relating to the administration of the redevelopment tax credits program by the economic development authority and including applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15.291, Code 2014, is amended by adding the following new subsections:

NEW SUBSECTION. 01. “Abandoned public building” means a vertical improvement, as defined in section 15J.1, constructed for use primarily by a political subdivision of the state for a public purpose and whose current use is outdated or prevents a better or more efficient use of the property by the current owner. “Abandoned public building” includes vacant, blighted, obsolete, or otherwise underutilized property.

NEW SUBSECTION. 4A. “Political subdivision” means a city, county, township, or school district.

NEW SUBSECTION. 4B. “Previously remediated or redeveloped” means any prior remediation or redevelopment, including development for which an award of tax credits under this part has been made.

NEW SUBSECTION. 6A. “Redevelopment tax credits program” means the tax credits program administered pursuant to sections 15.293A and 15.293B.

Sec. 2. Section 15.291, subsection 3, unnumbered paragraph 1, Code 2014, is amended to read as follows:

“Grayfield site” means an abandoned public building or an industrial or commercial property meeting that meets all of the following requirements:

Sec. 3. Section 15.291, subsection 6, Code 2014, is amended to read as follows:

6. “Qualifying redevelopment project” means a brownfield or a grayfield site being redeveloped or improved by the property owner. “Qualifying redevelopment project” does not include a previously remediated or redeveloped brownfield or grayfield site.

Sec. 4. Section 15.293A, subsection 1, paragraph c, Code 2014, is amended to read as follows:

c. (1) Any Except as provided in subparagraph (2), any tax credit in excess of the taxpayer’s liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

(2) A tax credit in excess of the taxpayer’s liability for the tax year is refundable if all of the following conditions are met:

(a) The taxpayer is an investor making application for tax credits provided in this section and is an entity organized under chapter 504 and qualifying under section 501(c)(3) of the Internal Revenue Code as an organization exempt from federal income tax under section 501(a) of the Internal Revenue Code.

(b) The taxpayer establishes during the application process described in section 15.293B that the requirement in subparagraph division (a) is satisfied. The authority, when issuing a certificate to a taxpayer that meets the requirements in this subparagraph (2), shall indicate on the certificate that such requirements have been satisfied.

(3) A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer first receives the tax credit.

Sec. 5. Section 15.293A, subsection 2, paragraph a, Code 2014, is amended by striking the paragraph.

Sec. 6. Section 15.293A, subsection 2, paragraph b, subparagraph (1), Code 2014, is amended to read as follows:

(1) To claim a redevelopment tax credit under this section, a taxpayer must ~~attach~~ include one or more tax credit certificates ~~to with~~ the taxpayer's tax return. A tax credit certificate shall not be used or ~~attached to~~ included with a return filed for a taxable year beginning prior to ~~July 1, 2009~~ the tax year listed on the certificate.

Sec. 7. Section 15.293A, subsection 3, unnumbered paragraph 1, Code 2014, is amended to read as follows:

The amount of the tax credit shall ~~equal one of~~ be determined by the board in conjunction with the council. However, the tax credit shall not exceed the following amount, as applicable:

Sec. 8. Section 15.293A, subsection 6, Code 2014, is amended to read as follows:

~~6. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits issued by the authority shall not exceed one million dollars. For each subsequent fiscal year, the~~ The amount of tax credits that may be issued awarded by the authority board shall be subject to the limitation in section 15.119.

Sec. 9. Section 15.293A, subsections 8, 9, 10, 11, and 12, Code 2014, are amended by striking the subsections.

Sec. 10. Section 15.293B, Code 2014, is amended to read as follows:

15.293B Approval — requirements — repayment Application — registration — agreement.

1. a. The authority shall develop a system for the application, review, registration, and authorization of projects awarded tax credits pursuant to this part and shall control the issuance of all tax credit certificates to investors pursuant to this part.

b. The authority shall accept and, in conjunction with the council, review applications for tax credits pursuant to provided in section 15.293A and, with the approval of the council, make tax credit award recommendations regarding the applications to the board.

c. Applications for redevelopment tax credits shall be accepted during an annual application period established by the authority.

d. Upon review of an application, the authority may register the project with the redevelopment tax credits program. If the authority registers the project, the authority may, in conjunction with the council, make a preliminary determination as to the amount of tax credit for which an award recommendation will be made to the board.

e. After registering the project, the authority shall notify the investor of successful registration under the redevelopment tax credits program. The notification may include the amount of tax credit for which an award recommendation will be made to the board. If an award recommendation is included in the notification, such notification shall include a statement that the award recommendation is a recommendation only. The amount of tax credit included on a tax credit certificate issued pursuant to this section shall be contingent upon an award by the board and upon completion of the requirements in this section.

f. (1) All completed applications shall be reviewed and scored on a competitive basis by the council and the board. In reviewing and scoring applications, the council and the board may consider any factors the council and board deem appropriate for a competitive application process, including but not limited to the financial need, quality, and feasibility of a qualifying redevelopment project.

(2) For purposes of this paragraph:

(a) "Feasibility" means the likelihood that the project will obtain the financing necessary to allow for full completion of the project and the likelihood that the proposed redevelopment or improvement that is the subject of the project will be fully completed.

(b) "Financial need" means the difference between the total costs of the project less the total financing that will be received for the project.

(c) "Quality" means the merit of the project after considering and evaluating its total characteristics and measuring those characteristics in a uniform, objective manner against the total characteristics of other projects that have applied for the tax credit provided in section 15.293A during the same annual application period.

g. Upon reviewing and scoring all applications that are part of an annual application period, the board may award tax credits provided in section 15.293A.

h. If the applicant for a tax credit provided in section 15.293A has also applied to an agency of the federal government or to the authority, the board, or any other agency of state government for additional financial assistance, the authority, the council, and the board shall consider the amount of funding to be received from such public sources when making a tax credit award pursuant to this section.

i. An applicant that is unsuccessful in receiving a tax credit award during an annual application period may make additional applications during subsequent annual application periods. Such applicants shall be required to submit a new application and shall be competitively reviewed and scored in the same manner as other applicants in that annual application period.

2. An investor applying for a tax credit shall provide the authority with all of the following:

a. Information showing the total costs of the qualifying redevelopment project, including the costs of land acquisition, cleanup, and redevelopment.

b. Information about the financing sources of the investment which are directly related to the qualifying redevelopment project for which the ~~taxpayer~~ investor is seeking approval for a tax credit, as provided in section 15.293A.

c. Any other information deemed necessary by the board and the council to review and score the application pursuant to subsection 1.

~~3. If a taxpayer receives an investor is awarded a tax credit pursuant to section 15.293A, but this section, the authority and the investor shall enter into an agreement concerning the qualifying redevelopment project. If the investor fails to comply with any of the requirements of the agreement, the taxpayer loses any right to the tax credit, and the authority may find the investor in default under the agreement and may revoke all or a portion of the tax credit award. The department of revenue, upon notification by the authority of an event of default, shall seek recovery repayment of the value of the any such tax credit received already claimed in the same manner as provided in section 15.330, subsection 2.~~

~~4. This section is repealed on June 30, 2021. A registered project shall be completed within thirty months of the date the project was registered unless the authority provides additional time to complete the project. A project shall not be provided more than twelve months of additional time. If the registered project is not completed within the time required, the project is not eligible to claim a tax credit provided in section 15.293A.~~

5. a. Upon completion of a registered project, an audit of the project, completed by an independent certified public accountant licensed in this state, shall be submitted to the authority.

b. Upon review of the audit and verification of the amount of the qualifying investment, the authority may issue a tax credit certificate to the investor stating the amount of tax credit under section 15.293A the investor may claim.

6. The authority, in conjunction with the department of revenue, shall adopt rules to administer the redevelopment tax credits program.

7. This section is repealed on June 30, 2021.

Sec. 11. Section 15.294, subsection 1, paragraph c, Code 2014, is amended by striking the paragraph and inserting in lieu thereof the following:

c. One person selected by the board of directors of the professional developers of Iowa.

Sec. 12. Section 15.294, subsection 4, Code 2014, is amended to read as follows:

4. The council, in conjunction with the authority, shall consider applications for redevelopment tax credits as ~~described provided in sections section 15.293A and 15.293B,~~ and may recommend to the authority which applications to approve and the amount of such tax credits that each project is eligible to receive should be awarded by the board.

Sec. 13. APPLICABILITY. This Act applies to qualifying redevelopment projects for which a redevelopment tax credit is awarded on or after the effective date of this Act, and qualifying redevelopment projects for which a redevelopment tax credit was awarded prior

to the effective date of this Act shall be governed by sections 15.291, 15.293A, and 15.293B, Code 2014.

Approved April 10, 2014