



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

May 4, 2009

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 481, an Act relating to historic preservation and cultural and entertainment district tax credits by increasing the aggregate amount of credits that may be approved, changing the amounts allocated to various projects, and modifying certain administrative duties of the department of cultural affairs.

The above Senate File is hereby approved this date.

Sincerely,

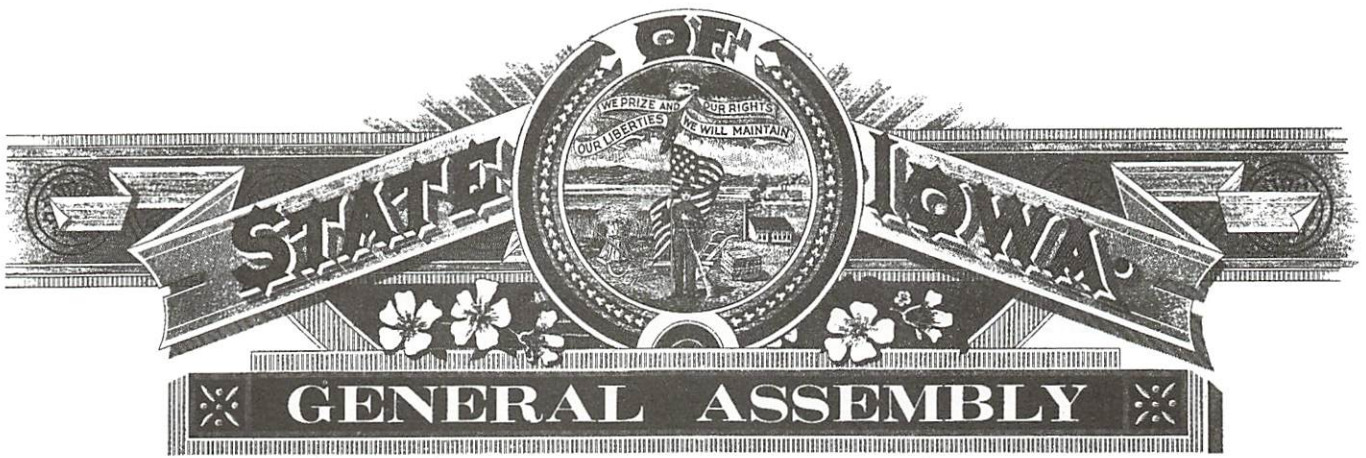
A handwritten signature in black ink, appearing to read "Chester Culver".

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





SENATE FILE 481

AN ACT

RELATING TO HISTORIC PRESERVATION AND CULTURAL AND ENTERTAINMENT DISTRICT TAX CREDITS BY INCREASING THE AGGREGATE AMOUNT OF CREDITS THAT MAY BE APPROVED, CHANGING THE AMOUNTS ALLOCATED TO VARIOUS PROJECTS, AND MODIFYING CERTAIN ADMINISTRATIVE DUTIES OF THE DEPARTMENT OF CULTURAL AFFAIRS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 404A.2, Code 2009, is amended to read as follows:

404A.2 AMOUNT OF CREDIT.

1. The amount of the credit equals twenty-five percent of the qualified rehabilitation costs made to eligible property.

a. In the case of commercial property, rehabilitation costs must equal at least fifty percent of the assessed value of the property, excluding the land, prior to the rehabilitation.

b. In the case of residential property or barns, the rehabilitation costs must equal at least twenty-five thousand dollars or twenty-five percent of the ~~fair-market~~ assessed value, excluding the land, prior to the rehabilitation, whichever is less.

c. In computing the tax credit for eligible property that is classified as residential or as commercial with multifamily residential units, the rehabilitation costs used shall not exceed one hundred thousand dollars per residential unit.

d. In computing the tax credit, the only costs which may be included are the qualified rehabilitation costs incurred between the period ending on the project completion date and beginning on the date two years prior to the project

completion date, provided that any qualified rehabilitation costs incurred prior to the date of approval of the project as provided in section 404A.3 must be qualified rehabilitation expenditures under the federal rehabilitation credit in section 47 of the Internal Revenue Code.

2. For purposes of this chapter, qualified rehabilitation costs include amounts if they are properly includable in computing the basis for tax purposes of the eligible property.

a. Amounts treated as an expense and deducted in the tax year in which they are paid or incurred and amounts that are otherwise not added to the basis for tax purposes of the eligible property are not qualified rehabilitation costs.

b. Amounts incurred for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, development fees, and other construction-related costs are qualified rehabilitation costs to the extent they are added to the basis for tax purposes of the eligible property.

c. Costs of sidewalks, parking lots, and landscaping do not constitute qualified rehabilitation costs.

3. For purposes of individual and corporate income taxes and the franchise tax, the increase in the basis of the rehabilitated property that would otherwise result from the qualified rehabilitation costs shall be reduced by the amount of the credit computed under this chapter.

Sec. 2. Section 404A.3, Code 2009, is amended to read as follows:

404A.3 APPROVAL OF REHABILITATION PROJECT.

1. a. In order for costs of a rehabilitation project to qualify for a tax credit, the rehabilitation project must receive approval from the state historic preservation office of the department of cultural affairs.

b. Applications for approvals from the state historic preservation office of the department of cultural affairs shall be on forms approved by the state historic preservation office and shall contain information as required by the state historic preservation office. The information shall at least include the approximate date of the start of rehabilitation, the approximate date of completion, as well as the cost.

c. The approval process shall not exceed ninety days beginning from the date ~~the rehabilitation project is submitted~~ on which a completed application is received by the state historic preservation office. After the ninety-day

limit, the rehabilitation project is deemed to be approved unless the state historic preservation office has denied the application or contacted the applicant for further information regarding the application.

2. The state historic preservation office shall establish selection criteria and standards for rehabilitation projects involving eligible property. The main emphasis of the standards shall be to ensure that a rehabilitation project maintains the integrity of the eligible property. To the extent applicable, the standards shall be consistent with the standards of the United States secretary of the interior for rehabilitation of eligible property ~~that-is-listed-on-the national-register-of-historic-places-or-is-designated-as-of historic-significance-to-a-district-listed-in-the-national register-of-historic-places-or-shall-be-consistent-with standards-for-issuance-of-certificates-of-appropriateness under-sections-303-27-through-303-32.~~

~~The-selection-standards-shall-provide-that-a-person-who qualifies-for-the-rehabilitation-tax-credit-under-section-47 of-the-Internal-Revenue-Code-shall-automatically-qualify-for the-state-historic-preservation-and-cultural-and-entertainment district-tax-credit-under-this-chapter.~~

3. a. A rehabilitation project for which the state historic preservation office has reserved tax credits pursuant to section 404A.4 shall begin rehabilitation of the property before the end of the fiscal year in which the project application was approved and for which the tax credits were reserved.

b. The eligible property shall be placed in service within thirty-six months of the date on which the project application was approved. For purposes of this section, "placed in service" has the same meaning as used for purposes of section 47 of the Internal Revenue Code. The department may provide by rule for the allowance of additional time to complete a project.

c. A rehabilitation project for which a project application was approved and tax credits reserved prior to July 1, 2009, shall complete the project and place the building in service on or before June 30, 2011, notwithstanding the time period specified in paragraph "b".

4. A rehabilitation project that does not meet the requirements of subsection 3 is subject to revocation,

repayment, or recapture of tax credits reserved or approved pursuant to this chapter.

Sec. 3. Section 404A.4, Code 2009, is amended to read as follows:

404A.4 PROJECT COMPLETION AND TAX CREDIT CERTIFICATION -- CREDIT REFUND OR CARRYFORWARD.

1. Upon completion of the rehabilitation project, a certification of completion must be obtained from the state historic preservation office of the department of cultural affairs. A completion certificate shall identify the person claiming the tax credit under this chapter and the qualified rehabilitation costs incurred up to the two years preceding the completion date.

2. After verifying the eligibility for the tax credit, the state historic preservation office~~7-in-consultation-with-the department-of-economic-development7~~, shall issue a historic preservation and cultural and entertainment district tax credit certificate to be attached to the person's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of credit, other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred. Of the amount of tax credits that may be approved in a fiscal year pursuant to subsection 4, paragraph "a":

a. For the fiscal year beginning July 1, 2009, the department shall reserve not more than twenty million dollars worth of tax credits for a taxable year beginning on or after January 1, 2009, and not more than thirty million dollars worth of tax credits for a taxable year beginning on or after January 1, 2010.

b. For the fiscal year beginning July 1, 2010, the department shall reserve not more than twenty million dollars worth of tax credits for a taxable year beginning on or after January 1, 2010, and not more than thirty million dollars worth of tax credits for a taxable year beginning on or after January 1, 2011.

c. For the fiscal year beginning July 1, 2011, the department shall reserve not more than twenty million dollars worth of tax credits for a taxable year beginning on or after January 1, 2011, and not more than thirty million dollars

worth of tax credits for a taxable year beginning on or after January 1, 2012.

3. A person receiving a historic preservation and cultural and entertainment district tax credit under this chapter which is in excess of the person's tax liability for the tax year is entitled to a refund. Any credit in excess of the tax liability shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following year.

4. a. The total amount of tax credits that may be approved for a fiscal year under this chapter shall not exceed ~~ten-million-dollars-in-the-fiscal-year-beginning-July-17-20077~~ ~~fifteen-million-dollars-in-the-fiscal-year-beginning-July-17-20087~~ ~~and-twenty-million-dollars-in-the-fiscal-year-beginning-July-17-20097~~ and-each-fiscal-year-thereafter fifty million dollars.

b. Of the tax credits approved for a fiscal year under this chapter, ten the amount of the tax credits shall be allocated as follows:

(1) Ten percent of the dollar amount of tax credits shall be allocated for purposes of new projects with final qualified rehabilitation costs of five hundred thousand dollars or less7 and-forty.

(2) Thirty percent of the dollar amount of tax credits shall be allocated for purposes of new projects located in cultural and entertainment districts certified pursuant to section 303.3B or identified in Iowa great places agreements developed pursuant to section 303.3C. Any-of-the-tax-credits allocated-for-projects-located-in-certified-cultural-and entertainment-districts-or-identified-in-Iowa-great-places agreements-and-for-projects-with-a-cost-of-five-hundred thousand-dollars-or-less-that-are-not-reserved-during-a-fiscal year-shall-be-applied-to-reserved-tax-credits-issued-in accordance-with-section-404A.3-in-order-of-original reservation.--The-department-of-cultural-affairs-shall establish-by-rule-the-procedures-for-the-application7-review7 selection7-and-awarding-of-certifications-of-completion.

(3) Twenty percent of the dollar amount of tax credits shall be allocated for disaster recovery projects. For purposes of this subparagraph, "disaster recovery project"

means a property meeting the requirements of an eligible property as described in section 404A.1, subsection 2, which is located in an area declared a disaster area by the governor or by a federal official and which has been physically impacted as a result of a natural disaster.

(4) Twenty percent of the dollar amount of the tax credits shall be allocated for projects that involve the creation of more than five hundred new permanent jobs. A taxpayer receiving a tax credit certificate for a project under this allocation shall provide information documenting the creation of the jobs to the department and to the department of economic development. The jobs shall be created within two years of the date a tax credit certificate is issued. The department of economic development shall verify the creation of the jobs. The amount of any tax credits received is subject to recapture by the department of revenue if the jobs are not created within two years. The department and the department of economic development may adopt rules for the implementation of this subparagraph. The rules shall provide for a method or form that allows a city or county to track the number of jobs created in the construction industry by the project.

(5) Twenty percent of the dollar amount of the tax credits shall be allocated for any eligible project.

c. (1) If, in any fiscal year, an amount of tax credits allocated pursuant to paragraph "b", subparagraph (2) or (4), goes unclaimed, the amount of the unclaimed tax credits shall, during the same fiscal year, be reallocated to disaster recovery projects as described in paragraph "b", subparagraph (3).

(2) If, in any fiscal year, an amount of tax credits reallocated pursuant to subparagraph (1) of this paragraph "c" goes unclaimed, the tax credits shall, during the same fiscal year, be reallocated to the projects described in paragraph "b", subparagraph (5).

d. The departments of cultural affairs and revenue shall each adopt rules to jointly administer this subsection and shall provide by rule for the method to be used to determine for which fiscal year the tax credits are available.

e. With the exception of tax credits issued pursuant to contracts entered into prior to July 1, 2007, tax credits shall not be reserved for more than three years.

5. a. Tax credit certificates issued under this chapter may be transferred to any person or entity.

b. Within ninety days of transfer, the transferee must submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue.

c. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement certificate must contain the information required under subsection 2 and must have the same expiration date that appeared in the transferred tax credit certificate.

d. Tax credit certificate amounts of less than the minimum amount established by rule of the ~~state-historic-preservation office~~ department of revenue shall not be transferable.

e. A tax credit shall not be claimed by a transferee under this chapter until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

f. The transferee may use the amount of the tax credit transferred against the taxes imposed under chapter 422, divisions II, III, and V, and chapter 432 for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V.

Sec. 4. Section 404A.5, Code 2009, is amended to read as follows:

404A.5 ECONOMIC IMPACT -- RECOMMENDATIONS.

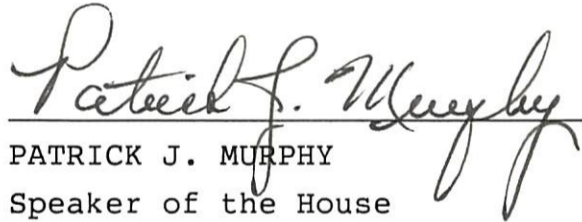
1. The department of cultural affairs, in consultation with the department of ~~economic-development~~ revenue, shall be responsible for keeping the general assembly and the legislative services agency informed on the overall economic impact to the state of the rehabilitation of eligible properties.

2. An annual report shall be filed which shall include, but is not limited to, data on the number and potential value of rehabilitation projects begun during the latest twelve-month period, the total historic preservation and cultural and entertainment district tax credits originally granted during that period, the potential reduction in state tax revenues as a result of all tax credits still unused and eligible for refund, and the potential increase in local property tax revenues as a result of the rehabilitated projects.

3. The department of cultural affairs, to the extent it is able, shall provide recommendations on whether a limit on tax credits should be established, the need for a broader or more restrictive definition of eligible property, and other adjustments to the tax credits under this chapter.



JOHN P. KIBBIE
President of the Senate



PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 481, Eighty-third General Assembly.



MICHAEL E. MARSHALL
Secretary of the Senate

Approved May 4th, 2009



CHESTER J. CULVER
Governor