

SENATE FILE 441
BY COMMITTEE ON WAYS AND MEANS
(SUCCESSOR TO SSB 1193)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the transfer of certain property-related tax
2 credits.

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

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SF 441

1 Section 1. Section 15E.193B, subsection 8, Code 2003,
2 amended to read as follows:

3 8. The amount of the tax credits determined pursuant to
4 subsection 6, paragraph "a", for each project shall be
5 approved by the department of economic development. The
6 department shall utilize the financial information required to
7 be provided under subsection 5, paragraph "e", to determine
8 the tax credits allowed for each project. In determining the
9 amount of tax credits to be allowed for a project, the
10 department shall not include the portion of the project cost
11 financed through federal, state, and local government tax
12 credits, grants, and forgivable loans. Upon approving the
13 amount of the tax credit, the department of economic
14 development shall issue a tax credit certificate to the
15 eligible housing business. An eligible housing business or
16 transferee shall not claim the tax credit unless a tax credit
17 certificate issued by the department of economic development
18 is attached to the taxpayer's return for the tax year for
19 which the tax credit is claimed. The tax credit certificate
20 shall contain the taxpayer's name, address, tax identification
21 number, the amount of the tax credit, and other information
22 required by the department of revenue and finance. The tax
23 credit certificate shall be transferable if low-income housing
24 tax credits authorized under section 42 of the Internal
25 Revenue Code are used to assist in the financing of the
26 housing development. The department of economic development
27 and the department of revenue and finance shall adopt
28 procedures relating to the issuance of the certificates, the
29 transfer of a certificate and related tax credit by an
30 eligible housing business, and for the redemption of a
31 certificate and related tax credit by an eligible housing
32 business or transferee.

33 Sec. 2. Section 404A.2, Code 2003, is amended by adding
34 the following new unnumbered paragraph after unnumbered
35 paragraph 3:

1 NEW UNNUMBERED PARAGRAPH. A person receiving a tax credit
2 under this chapter may transfer all or a portion of the unused
3 tax credit to any other person. The transferee may use the
4 amount of the tax credit transferred against taxes imposed
5 under chapter 422, division II, III, or V, or chapter 432 for
6 any tax year the transferor could have claimed the credit.
7 Any consideration received for the transfer of the tax credit
8 shall not be included as income under chapter 422, division
9 II, III, or V, or chapter 432. Any consideration paid for the
10 transfer of the tax credit shall not be deducted under chapter
11 422, division II, III, or V, or chapter 432.

12 Sec. 3. Section 404A.4, subsection 2, Code 2003, is
13 amended to read as follows:

14 2. After verifying the eligibility for the tax credit, the
15 state historic preservation office, in consultation with the
16 department of economic development, shall issue a property
17 rehabilitation tax credit certificate to be attached to the
18 person's tax return. The tax credit certificate shall contain
19 the taxpayer's name, address, tax identification number, the
20 date of project completion, the amount of credit, and other
21 information required by the department of revenue and finance,
22 and a place for the name and tax identification number of a
23 transferee and the amount of the tax credit being transferred.

24 EXPLANATION

25 This bill relates to the transfer of certain property-
26 related tax credits.

27 The bill amends the tax credit provisions for eligible
28 housing businesses under the enterprise zone program. Under
29 the enterprise zone program, an eligible housing business may
30 claim a tax credit up to a maximum of 10 percent of the new
31 investment which is directly related to the eligible housing
32 project. The new investment that may be used to compute the
33 tax credit shall not exceed the new investment used for the
34 first \$140,000 of value for each single-family home or for
35 each unit of a multiple dwelling unit building containing

1 three or more units.

2 The bill provides that, upon approving the amount of the
3 tax credit, the department of economic development shall issue
4 a tax credit certificate to the eligible housing business.

5 The bill provides that an eligible housing business or
6 transferee shall not claim the tax credit unless a tax credit
7 certificate issued by the department of economic development
8 is attached to the taxpayer's return for the tax year for
9 which the tax credit is claimed. The bill provides that the
10 tax credit certificate shall be transferable if low-income
11 housing tax credits authorized under section 42 of the
12 Internal Revenue Code are used to assist in the financing of
13 the housing development. The bill provides that the
14 department of economic development and the department of
15 revenue and finance shall adopt procedures relating to the
16 issuance of the certificates, the transfer of a certificate
17 and related tax credit by an eligible housing business, and
18 the redemption of a certificate and related tax credit by an
19 eligible housing business or transferee.

20 The bill provides that a person receiving a historic
21 property rehabilitation tax credit may transfer all or a
22 portion of the unused tax credit to any other person. For any
23 tax year the transferor could have claimed the tax credit, the
24 bill provides that the transferee may use the amount of the
25 tax credit against personal or corporate income tax liability,
26 franchise tax liability, or insurance premium tax liability.
27 The bill provides that consideration received for the transfer
28 of a tax credit shall not be included as income for state tax
29 purposes and any consideration paid for the transfer of a tax
30 credit shall not be deducted from income for state tax
31 purposes.

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SF 441 - Housing Tax Credit Bifurcation (LSB 2087 SV)

Analyst: Russell Trimble (Phone: (515) 281-4613) (russ.trimble@legis.state.ia.us)

Fiscal Note Version — New

Description

Senate File 441 allows for the transfer (sale) of State housing investment tax credits under the Enterprise Zone Program if the project is also financed with low-income housing tax credits authorized under Section 42 of the Internal Revenue Code. Senate File 441 specifies certain requirements that must be met in the awarding and claiming of the tax credits. The Bill requires the Departments of Economic Development and Revenue and Finance to adopt procedures relating to the issuance, transfer, and redemption of these tax credits. The proposed legislation allows a person receiving a historic property rehabilitation tax credit to transfer all or a portion of the unused tax credit to any other person. Senate File 441 allows the transferee to use the amount of the tax credit against personal or corporate income tax liability, franchise tax liability, or insurance premium tax liability for any tax year the transferor could have claimed the tax credit. The Bill prohibits the transfer of tax credits from being considered as income or deducted from income for State tax purposes.

Assumptions

1. Under current law, the federal low-income housing tax credits under Section 42 of the Internal Revenue Code and the State investment tax credits on housing projects within enterprise zones must be sold together and are not transferable. Therefore, investors who purchase these tax credits must have both federal and State tax liability. This limits the supply of investors who would purchase the tax credits and reduces the demand for the tax credits as well. As a result, the State tax credits are purchased by investors for approximately 40 cents on the dollar. Senate File 441 allows the State tax credits to be transferred and sold separately from the federal credits, increasing the supply of investors able to use the State tax credits and increasing the demand for the credits. This will increase the rate of return on the State tax credits. The Iowa Finance Authority estimates the State tax credits will now be sold for 80 cents on the dollar.
 2. The rate of return on State tax credits for housing projects in enterprise zones will double from 40 cents on the dollar to 80 cents on the dollar. The increased rate of return on State tax credits will decrease the per project utilization of federal low-income housing tax credits under Section 42 of the Internal Revenue Code. Assuming the savings that result to the federal tax credits will be used for additional low-income housing projects, two additional low-income housing projects per year will be able to receive the federal tax credits. This will increase the award and utilization of State tax credits provided at least one of the two additional projects locates within an enterprise zone.
 3. During FY 2002, there were 16 low-income housing projects, 10 of which were located within an enterprise zone. This equates to 62.5% of low-income housing projects being located within enterprise zones. Assuming the same percentage of projects will continue in future fiscal years, at least one of the additional two projects mentioned above will locate within an enterprise zone.
 4. Tax credits may be awarded in FY 2004 for the additional project, but cannot be utilized until the completion of the project. The average completion time of a low-income housing project is over one year. The fiscal impact of the proposed legislation will not occur until FY 2005.
 5. The ten low-income housing projects in FY 2002, located within enterprise zones, received State investment tax credits totaling approximately \$2.1 million. This is an average award of \$210,000 in tax credits per project.
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6. The utilization rate of State investment tax credits for low-income housing projects under the Enterprise Zone Program is unknown. It is assumed that an investor currently purchasing the federal and State tax credits has a federal and State tax liability equal to or greater than the dollar amount of the tax credits awarded and purchased. Therefore, current utilization of State tax credits awarded is close to 100.0%. If current utilization is less than 100.0%, the fiscal impact of Senate File 441 would be the difference between the current utilization rate and a 100.0% utilization rate. Allowing for the transfer of tax credits would almost ensure a 100.0% utilization rate.
 7. The historic property rehabilitation tax credit is capped at \$2.4 million annually, and therefore, will not add to the fiscal impact of this Bill.

Fiscal Impact

Senate File 441 would reduce General Fund revenues by approximately \$210,000 annually starting in FY 2005.

Sources

Iowa Department of Economic Development
Iowa Finance Authority

/s/ Dennis C Prouty

April 16, 2003

SENATE FILE 441

S-3226

1 Amend Senate File 441 as follows:

2 1. By striking page 1, line 26, through page 2,
3 line 11, and inserting the following: "housing
4 development. Tax credit certificates issued under
5 this chapter may be transferred to any person or
6 entity. Within ninety days of transfer, the
7 transferee must submit the transferred tax credit
8 certificate to the department of economic development
9 along with a statement containing the transferee's
10 name, tax identification number, and address, and the
11 denomination that each replacement tax credit
12 certificate is to carry and any other information
13 required by the department of revenue and finance.
14 Within thirty days of receiving the transferred tax
15 credit certificate and the transferee's statement, the
16 department of economic development shall issue one or
17 more replacement tax credit certificates to the
18 transferee. Each replacement certificate must contain
19 the information required to receive the original
20 certificate and must have the same expiration date
21 that appeared in the transferred tax credit
22 certificate. Tax credit certificate amounts of less
23 than the minimum amount established by rule of the
24 department of economic development shall not be
25 transferable. A tax credit shall not be claimed by a
26 transferee under subsection 6, paragraph "a",
27 until a replacement tax credit certificate identifying
28 the transferee as the proper holder has been issued.
29 The transferee may use the amount of the tax credit
30 transferred against the taxes imposed under chapter
31 422, divisions II, III, and V, and chapter 432 for any
32 tax year the original transferor could have claimed
33 the tax credit. Any consideration received for the
34 transfer of the tax credit shall not be included as
35 income under chapter 422, divisions II, III, and V.
36 Any consideration paid for the transfer of the tax
37 credit shall not be deducted from income under chapter
38 422, divisions II, III, and V."

39 2. Page 2, by inserting after line 23 the
40 following:

41 "Sec. ____ . Section 404A.4, Code 2003, is amended
42 by adding the following subsection:
43 NEW SUBSECTION. 5. Tax credit certificates issued
44 under this chapter may be transferred to any person or
45 entity. Within ninety days of transfer, the
46 transferee must submit the transferred tax credit
47 certificate to the state historic preservation office
48 along with a statement containing the transferee's
49 name, tax identification number, and address, and the
50 denomination that each replacement tax credit

S-3226

1 certificate is to carry and any other information
2 required by the department of revenue and finance.
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13 not be claimed by a transferee under this chapter
14 until a replacement tax credit certificate identifying
15 the transferee as the proper holder has been issued.

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19 tax year the original transferor could have claimed
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21 transfer of the tax credit shall not be included as
22 income under chapter 422, divisions II, III, and V.
23 Any consideration paid for the transfer of the tax
24 credit shall not be deducted from income under chapter
25 422, divisions II, III, and V."

26 2. Page 2, by inserting after line 23 the
27 following:

28 "Sec. ____ . EFFECTIVE AND APPLICABILITY DATE. This
29 Act, being deemed of immediate importance, takes
30 effect upon enactment and applies retroactively to
31 January 1, 2003, for tax years beginning on or after
32 that date."

33 3. Title page, line 2, by inserting after the
34 word "credits" the following: "and including
35 effective and retroactive applicability date
36 provisions".

By JOE BOLKCOM
LARRY MCKIBBEN
STEVEN H. WARNSTADT

1 Section 1. Section 15E.193B, subsection 8, Code 2003, is
2 amended to read as follows:

3 8. The amount of the tax credits determined pursuant to
4 subsection 6, paragraph "a", for each project shall be
5 approved by the department of economic development. The
6 department shall utilize the financial information required to
7 be provided under subsection 5, paragraph "e", to determine
8 the tax credits allowed for each project. In determining the
9 amount of tax credits to be allowed for a project, the
10 department shall not include the portion of the project cost
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18 is attached to the taxpayer's return for the tax year for
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25 Revenue Code are used to assist in the financing of the
26 housing development. Tax credit certificates issued under
27 this chapter may be transferred to any person or entity.
28 Within ninety days of transfer, the transferee must submit the
29 transferred tax credit certificate to the department of
30 economic development along with a statement containing the
31 transferee's name, tax identification number, and address, and
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34 department of revenue and finance. Within thirty days of
35 receiving the transferred tax credit certificate and the

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3 the transferee. Each replacement certificate must contain the
4 information required to receive the original certificate and
5 must have the same expiration date that appeared in the
6 transferred tax credit certificate. Tax credit certificate
7 amounts of less than the minimum amount established by rule of
8 the department of economic development shall not be
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10 transferee under subsection 6, paragraph "a",
11 until a replacement tax credit certificate identifying the
12 transferee as the proper holder has been issued.

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22 Sec. 2. Section 404A.4, subsection 2, Code 2003, is
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33 transferee and the amount of the tax credit being transferred.

34 Sec. 3. Section 404A.4, Code 2003, is amended by adding
35 the following subsection:

1 NEW SUBSECTION. 5. Tax credit certificates issued under
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4 transferred tax credit certificate to the state historic
5 preservation office along with a statement containing the
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30 Sec. 4. EFFECTIVE AND APPLICABILITY DATE. This Act, being
31 deemed of immediate importance, takes effect upon enactment
32 and applies retroactively to January 1, 2003, for tax years
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Bolkcom
McKibben
McCoy

Ways & Means

SSB 1193

Succeeded By

(S) HF 441

SENATE FILE

BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON MCKIBBEN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
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SENATE FILE 441

AN ACT

RELATING TO THE TRANSFER OF CERTAIN PROPERTY-RELATED TAX
CREDITS AND INCLUDING EFFECTIVE AND RETROACTIVE APPLICABILITY
DATE PROVISIONS.

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

Section 1. Section 15E.193B, subsection 8, Code 2003, is amended to read as follows:

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NEW SUBSECTION. 5. Tax credit certificates issued under this chapter may be transferred to any person or entity. Within ninety days of transfer, the transferee must submit the transferred tax credit certificate to the state historic preservation office 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 and finance. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the office 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. Tax credit certificate amounts of less than the minimum amount established by rule of the office shall not be transferable. 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.

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Sec. 4. EFFECTIVE AND APPLICABILITY DATE. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2003, for tax years beginning on or after that date.

MARY E. KRAMER
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 441, Eightieth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2003

THOMAS J. VILSACK
Governor