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SENATE FILE 385
BY DVORSKY

Passed Senate, Date ____________ Passed House, Date ____________
Vote: Ayes ______ Nays ______ Vote: Ayes ______ Nays ______
Approved ______________________________

A BILL FOR

An Act allowing certain entities to derivatively claim certain property-related tax credits.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SF 385

TLSB 1892SS 81
tm/gg/14

S.F. 385 H.F. ______

Section 1. Section 15E.193B, subsection 5, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. If the eligible housing business is a limited partnership, the name of any limited partner who may be allocated all or a portion of a tax credit allowed under subsection 6, paragraph "a".

Sec. 2. Section 15E.193B, subsection 6, paragraph a, Code 2005, is amended to read as follows:

a. An eligible housing business or a limited partner of the eligible housing business designated by the eligible housing business may claim a tax credit up to a maximum of ten percent of the new investment which is directly related to the building or rehabilitating of a minimum of four single-family homes located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units located in that part of a city or county in which there is a designated enterprise zone. The new investment that may be used to compute the tax credit shall not exceed the new investment used for the first one hundred forty thousand dollars of value for each single-family home or for each unit of a multiple dwelling unit building containing three or more units. The tax credit may be used to reduce the tax liability imposed under chapter 422, division II, III, or V, or chapter 432. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. If the business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust except when a limited partnership designates a limited partner to claim the tax credit.

Sec. 3. Section 15E.193B, subsection 8, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The amount of the tax credits determined pursuant to subsection 6, paragraph "a", for each project shall be approved by the department of economic development. The department shall utilize the financial information required to be provided under subsection 5, paragraph "e", to determine the tax credits allowed for each project. In determining the amount of tax credits to be allowed for a project, the department shall not include the portion of the project cost financed through federal, state, and local government tax credits, grants, and forgivable loans. Upon approving the amount of the tax credit, the department of economic development shall issue a tax credit certificate to the eligible housing business or to a limited partner designated by the eligible housing business. An eligible housing business or the designated limited partner or transferee shall not claim the tax credit unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's return for the tax year for which the tax credit is claimed. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue. The tax credit certificate shall be transferable if low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development. 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 department of economic development 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. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the department of economic development shall issue one or more replacement tax credit certificates to the transferee. Each replacement certificate must contain the information required to receive the original certificate 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 department of economic development shall not be transferable. A tax credit shall not be claimed by a transferee under subsection 6, paragraph "a", until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

Sec. 4. Section 404A.4, subsection 1, Code 2005, is amended to read as follows:

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 rehabilitation costs incurred up to the two years preceding the completion date. The person claiming the tax credit may be a limited partner designated by the limited partnership.

Sec. 5. Section 422.11D, subsection 2, Code 2005, is amended to read as follows:

2. An individual may claim a property rehabilitation tax credit allowed a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, limited liability company, S corporation, estate, or trust except when a limited partnership designates a limited partner to claim the tax credit.

EXPLANATION

This bill relates to entities eligible to claim certain property-related tax credits.

The bill allows a tax credit to an eligible housing business under the enterprise zone program to be allocated to a limited partner designated by the limited partnership. The bill allows a tax credit for a property rehabilitation project certified under Code chapter 404A to be claimed by a limited partner designated by the limited partnership.

Fiscal Services Division
Legislative Services Agency
Fiscal Note

SF 385 - Enterprise Zone Historic Preservation Credits (LSB 1892 SS)
Analyst: Russell Trimble (Phone: (515) 281-4613) (russ.trimble@legis.state.ia.us)
Fiscal Note Version - New

Description

The Bill allows a tax credit to an eligible housing business under the Enterprise Zone Program to be allocated to a limited partner designated by the limited partnership. The Bill allows a tax credit under a property rehabilitation project certified under Chapter 404A, Code of Iowa, to be claimed by a limited partner designated by the limited partnership.

Background

Under current law, tax credits awarded to partnerships are to be allocated on a pro rata share of earnings. Under the proposed legislation, a limited partner could be allocated the tax credits without partaking in any earnings. In other words, the limited partner would be able to reduce tax liability without generating additional liability.

Assumptions

1. Senate File 385 is similar in some regards to HF 670. House File 670 allows for the sale or transfer of up to $3.0 million in investment tax credits for eligible housing businesses that locate within brownfield or blighted areas within an enterprise zone. A large project in the City of Des Moines would benefit from the sale of these tax credits. This fiscal note assumes that House File 670 will pass and the impact from the Des Moines project will be captured in the fiscal note for HF 670 and not in the fiscal note for SF 385.
2. Award and utilization of historic rehabilitation tax credits would be unaffected by the proposed legislation.
3. Projects involving federal low-income housing tax credits under Section 42 of the Internal Revenue Code would be unaffected by the proposed legislation. Tax credits for projects under Section 42 of the Internal Revenue Code are currently saleable.
4. Current awards (FY 2004) for eligible housing businesses under the Enterprise Zone Program total $9.5 million. This includes $7.8 million in investment tax credits and $2.2 million in sales and use tax rebates. According to the Department of Economic Development, based on analysis of the types and sizes of the applications received during FY 2004 and discussion with developers and their accountants, the legislation would result in a projected increase in total Program usage of 5.0% in year one and 13.0% in year two compared to the FY 2004 level as more people become aware of the change in law.
5. Projects beginning on or after July 1, 2005, will be the first to benefit from the proposed legislation and will result in an increase of 5.0% in Program utilization compared to the FY 2004 level. The first impact of these projects will occur in FY 2006 with an increase of $110,000 in sales and use tax rebates ($2.2 million x .05). The investment tax credit cannot be utilized until the housing units are completed and a certificate of occupancy is issued. This will not occur until FY 2007 and the fiscal impact will be $390,000 ($7.8 million x .05).

6. Projects beginning on or after July 1, 2006, will result in a 13.0% increase in Program utilization compared to the FY 2004 level. The first impact of these projects will occur in FY 2007 with an increase of $286,000 in sales and use tax rebates ($2.2 million x .13). The investment tax credit cannot be utilized until the housing units are completed and a certificate of occupancy is issued. This will not occur until FY 2008 and the fiscal impact will be $1.0 million ($7.8 million x .13).

	FY 06	FY 07	FY 08
Investment Tax Credit Increase	$ 0	$ 390,000	$ 1,000,000
Sales & Use Rebate Tax Increase	110,000	286,000	286,000
Total Fiscal Impact	$ 110,000	$ 676,000	$ 1,286,000

Fiscal Impact

Senate File 385 will reduce General Fund revenues by an estimated $110,000 in FY 2006 and by $676,000 in FY 2007. General Fund revenues will be reduced by $1.3 million annually starting in FY 2008.

Sources

Department of Economic Development
Department of Revenue
Department of Cultural Affairs

March 29, 2005

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.