

House File 2351 - Introduced

HOUSE FILE _____
BY WISE, PETERSEN, and
T. OLSON

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

A BILL FOR

1 An Act relating to certain economic development programs by
2 providing tax credits for the redevelopment of underutilized
3 properties and by clarifying the meaning of an eligible
4 business, and including effective date and retroactive
5 applicability date provisions.

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

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1 1 Section 1. Section 15.291, Code 2007, is amended to read
1 2 as follows:

1 3 15.291 DEFINITIONS.

1 4 As used in this part, unless the context otherwise
1 5 requires:

1 6 1. "Brownfield site" means an abandoned, idled, or
1 7 underutilized industrial or commercial facility where
1 8 expansion or redevelopment is complicated by real or perceived
1 9 environmental contamination. A brownfield site includes
1 10 property contiguous with the property on which the individual
1 11 or commercial facility is located. A brownfield site ~~shall~~
1 12 ~~does not include property which has been placed, or is~~
1 13 ~~proposed to be included for placement,~~ on the national
1 14 priorities list established pursuant to the federal
1 15 Comprehensive Environmental Response, Compensation, and
1 16 Liability Act, 42 U.S.C. } 9601 et seq.

1 17 2. "Council" means the brownfield redevelopment advisory
1 18 council established in section 15.294.

1 19 3. "Grayfield site" means a property that has been
1 20 developed and has infrastructure in place but whose current
1 21 use is outdated or prevents a better or more efficient use of
1 22 the property. Grayfield site includes vacant, blighted,
1 23 obsolete, or otherwise underutilized industrial or commercial
1 24 property.

1 25 4. "Green development" means a brownfield or grayfield
1 26 site which has been redeveloped or improved such that the
1 27 property meets the voluntary performance standards for new
1 28 construction or existing buildings of the United States green
1 29 building council's leadership in energy and environmental
1 30 design green building rating system.

1 31 5. "Qualifying investment" means the purchase price, the
1 32 cleanup costs, and the redevelopment costs directly related to
1 33 a qualifying redevelopment project.

1 34 6. "Qualifying redevelopment project" means a brownfield
1 35 or a grayfield site being redeveloped or improved by the
2 1 property owner. Qualifying redevelopment project does not
2 2 include a previously remediated or redeveloped brownfield
2 3 site.

2 4 2- 7. "Sponsorship" means an agreement between a city or
2 5 county and an applicant for assistance under the brownfield
2 6 redevelopment program where the city or county agrees to offer
2 7 assistance or guidance to the applicant.

2 8 Sec. 2. NEW SECTION. 15.293A REDEVELOPMENT TAX CREDITS.

2 9 1. a. A redevelopment tax credit shall be allowed against
2 10 the taxes imposed in chapter 422, divisions II, III, and V,
2 11 and in chapter 432, and against the moneys and credits tax
2 12 imposed in section 533.329, for a portion of a taxpayer's
2 13 equity investment, as provided in subsection 2, in a
2 14 qualifying redevelopment project.

2 15 b. An individual may claim a tax credit under this
2 16 subsection of a partnership, limited liability company, S

2 17 corporation, estate, or trust electing to have income taxed
2 18 directly to the individual. The amount claimed by the
2 19 individual shall be based upon the pro rata share of the
2 20 individual's earnings from the partnership, limited liability
2 21 company, S corporation, estate, or trust.

2 22 c. Any tax credit in excess of the taxpayer's liability
2 23 for the tax year is not refundable but may be credited to the
2 24 tax liability for the following five years or until depleted,
2 25 whichever is earlier. A tax credit shall not be carried back
2 26 to a tax year prior to the tax year in which the taxpayer
2 27 first receives the tax credit.

2 28 2. The amount of the tax credit shall equal one of the
2 29 following:

2 30 a. Twenty percent of the taxpayer's qualifying investment
2 31 in a grayfield site.

2 32 b. Twenty-five percent of the taxpayer's qualifying
2 33 investment in a grayfield site if the qualifying redevelopment
2 34 project meets the requirements of a green development.

2 35 c. Forty percent of the taxpayer's qualifying investment
3 1 in a brownfield site.

3 2 d. Fifty percent of the taxpayer's qualifying investment
3 3 in a brownfield site if the qualifying redevelopment project
3 4 meets the requirements of a green development.

3 5 3. For purposes of individual and corporate income taxes
3 6 and the franchise tax, the increase in the basis of the
3 7 redeveloped property that would otherwise result from the
3 8 qualified redevelopment costs shall be reduced by the amount
3 9 of the credit computed under this part.

3 10 4. The maximum amount of a tax credit for a qualifying
3 11 investment in any one qualifying redevelopment project shall
3 12 not exceed twenty percent of the maximum amount of tax credits
3 13 available in any one fiscal year pursuant to subsection 5.

3 14 5. For the fiscal year beginning July 1, 2008, the maximum
3 15 amount of tax credits issued by the department shall not
3 16 exceed three million dollars. For the fiscal year beginning
3 17 July 1, 2009, the maximum amount of tax credits issued by the
3 18 department shall not exceed six million dollars. For the
3 19 fiscal year beginning July 1, 2010, and for every fiscal year
3 20 thereafter, the maximum amount of tax credits issued by the
3 21 department shall not exceed ten million dollars.

3 22 6. An investment shall be deemed to have been made on the
3 23 date the qualifying redevelopment project is completed. An
3 24 investment made prior to January 1, 2008, shall not qualify
3 25 for a tax credit under this part.

3 26 7. The department shall develop a system for registration
3 27 and authorization of tax credits authorized pursuant to this
3 28 part and shall control distribution of all tax credits
3 29 distributed to investors pursuant to this part.

3 30 8. The department shall develop rules for the
3 31 qualification of qualifying redevelopment projects and
3 32 qualifying investments. The department of revenue shall adopt
3 33 these criteria as administrative rules and shall adopt any
3 34 other rules pursuant to chapter 17A necessary for the
3 35 administration of this part.

4 1 9. The department may cooperate with the department of
4 2 natural resources and local governments in an effort to
4 3 disseminate information regarding the availability of tax
4 4 credits for investments in qualifying redevelopment projects
4 5 under this part.

4 6 Sec. 3. NEW SECTION. 15.293B APPROVAL == REQUIREMENTS ==
4 7 REPAYMENT.

4 8 1. An investor seeking to claim a tax credit pursuant to
4 9 section 15.293A shall apply to the council which shall have
4 10 the power to approve the amount of tax credit available for
4 11 each qualifying redevelopment project.

4 12 2. An investor applying for a tax credit shall provide the
4 13 council with all of the following:

4 14 a. Information showing the total costs of the qualifying
4 15 redevelopment project, including the costs of land
4 16 acquisition, cleanup, and redevelopment.

4 17 b. Information about the financing sources of the
4 18 investment which are directly related to the qualifying
4 19 redevelopment project for which the taxpayer is seeking
4 20 approval for a tax credit, as provided in section 15.293A.

4 21 3. If a taxpayer receives a tax credit pursuant to section
4 22 15.293A, but fails to comply with any of the requirements, the
4 23 taxpayer loses any right to the tax credit, and the department
4 24 of revenue shall seek recovery of the value of the credit
4 25 received.

4 26 Sec. 4. Section 15.294, Code 2007, is amended by adding
4 27 the following new subsection:

4 28 NEW SUBSECTION. 4. The council shall consider
4 29 applications for redevelopment tax credits as described in
4 30 sections 15.293A and 15.293B, and the council may approve the
4 31 amount of such tax credits for qualifying investments in
4 32 qualifying redevelopment projects.

4 33 Sec. 5. Section 15.329, subsection 1, paragraph b, Code
4 34 2007, is amended to read as follows:

4 35 b. The business, or the business's successors or assigns,
5 1 has not closed or substantially reduced its operation in one
5 2 area of the state community and relocated substantially the
5 3 same operation in the another community. A business is not
5 4 eligible to receive incentives under this part if it is
5 5 closing, or has closed, or is reducing, or has reduced, its
5 6 operations in one city or county and is relocating, or has
5 7 relocated, substantially the same operation to any other city
5 8 or county. This subsection does not prohibit a business from
5 9 expanding its operation in the community if existing
5 10 operations of a similar nature in the state are not closed or
5 11 substantially reduced.

5 12 Sec. 6. NEW SECTION. 422.11V REDEVELOPMENT TAX CREDIT.
5 13 The taxes imposed under this division, less the credits
5 14 allowed under section 422.12, shall be reduced by a
5 15 redevelopment tax credit allowed under chapter 15, part 9.

5 16 Sec. 7. Section 422.33, Code Supplement 2007, is amended
5 17 by adding the following new subsection:

5 18 NEW SUBSECTION. 25. The taxes imposed under this division
5 19 shall be reduced by a redevelopment tax credit allowed under
5 20 chapter 15, part 9.

5 21 Sec. 8. Section 422.60, Code Supplement 2007, is amended
5 22 by adding the following new subsection:

5 23 NEW SUBSECTION. 15. The taxes imposed under this division
5 24 shall be reduced by a redevelopment tax credit allowed under
5 25 chapter 15, part 9.

5 26 Sec. 9. NEW SECTION. 432.12L REDEVELOPMENT TAX CREDIT.
5 27 The taxes imposed under this chapter shall be reduced by a
5 28 redevelopment tax credit allowed under chapter 15, part 9.

5 29 Sec. 10. Section 533.329, subsection 2, Code Supplement
5 30 2007, is amended by adding the following new paragraph:

5 31 NEW PARAGRAPH. n. The moneys and credits tax imposed
5 32 under this section shall be reduced by a redevelopment tax
5 33 credit allowed under chapter 15, part 9.

5 34 Sec. 11. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.
5 35 This Act, being deemed of immediate importance, takes effect
6 1 upon enactment and applies retroactively to January 1, 2008,
6 2 for tax years beginning on or after that date.

6 3 EXPLANATION

6 4 This bill relates to the redevelopment of underused
6 5 industrial and commercial properties, the use or development
6 6 of which is sometimes complicated by real or perceived
6 7 contamination or by a lack of an economic incentive to
6 8 redevelop. These properties are often referred to as
6 9 "brownfield" or "grayfield" sites.

6 10 The bill creates a two-tiered system of tax credits for
6 11 these sites. An investor who redevelops a grayfield site is
6 12 eligible for a tax credit in an amount equal to 20 percent of
6 13 that investor's qualifying investment. An investor in a
6 14 brownfield site is eligible for a tax credit for an amount
6 15 equal to 40 percent. If the investor redevelops the property
6 16 to meet the standards of certain "green" development
6 17 certification programs, additional tax credits are available.
6 18 Brownfield sites meeting the green development standards are
6 19 eligible for an additional 10 percent tax credit and grayfield
6 20 sites are eligible for an additional 5 percent.

6 21 The bill limits the amount of tax credits available. For
6 22 the fiscal year beginning July 1, 2008, the limit is \$3
6 23 million. For the fiscal year beginning July 1, 2009, the
6 24 limit is \$6 million. For the fiscal year beginning July 1,
6 25 2010, and for each fiscal year thereafter, the limit is \$10
6 26 million.

6 27 The bill authorizes the department of economic development
6 28 to adopt rules for the issuance of tax credits and provides
6 29 that the brownfield redevelopment advisory council approve the
6 30 amount of each tax credit issued.

6 31 Finally, the bill clarifies the meaning of eligible
6 32 business in Code section 15.329 which defines which businesses
6 33 are eligible for incentives under the high quality job
6 34 creation Act.

6 35 The bill takes effect upon enactment and applies
7 1 retroactively to January 1, 2008, for tax years beginning on
7 2 or after that date.

