

House File 819 - Introduced

HOUSE FILE _____
BY COMMITTEE ON WAYS AND
MEANS

(SUCCESSOR TO HF 751)
(SUCCESSOR TO HSB 134)

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

A BILL FOR

1 An Act relating to historic preservation and cultural and
2 entertainment district tax credits by increasing the aggregate
3 amount of credits that may be approved, changing the amounts
4 allocated to various projects, and modifying certain
5 administrative duties of the department of cultural affairs.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 1304HZ 83
8 tw/sc:mg/5

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1 1 Section 1. Section 404A.2, Code 2009, is amended to read
1 2 as follows:
1 3 404A.2 AMOUNT OF CREDIT.
1 4 1. The amount of the credit equals twenty-five percent of
1 5 the qualified rehabilitation costs made to eligible property.
1 6 a. In the case of commercial property, rehabilitation
1 7 costs must equal at least fifty percent of the assessed value
1 8 of the property, excluding the land, prior to the
1 9 rehabilitation.
1 10 b. In the case of residential property or barns, the
1 11 rehabilitation costs must equal at least twenty-five thousand
1 12 dollars or twenty-five percent of the ~~fair-market~~ assessed
1 13 value, excluding the land, prior to the rehabilitation,
1 14 whichever is less.
1 15 c. In computing the tax credit for eligible property that
1 16 is classified as residential or as commercial with multifamily
1 17 residential units, the rehabilitation costs used shall not
1 18 exceed one hundred thousand dollars per residential unit.
1 19 d. In computing the tax credit, the only costs which may
1 20 be included are the qualified rehabilitation costs incurred
1 21 between the period ending on the project completion date and
1 22 beginning on the date two years prior to the project
1 23 completion date, provided that any qualified rehabilitation
1 24 costs incurred prior to the date of approval of the project as
1 25 provided in section 404A.3 must be qualified rehabilitation
1 26 expenditures under the federal rehabilitation credit in
1 27 section 47 of the Internal Revenue Code.
1 28 2. For purposes of this chapter, qualified rehabilitation
1 29 costs include amounts if they are properly includable in
1 30 computing the basis for tax purposes of the eligible property.
1 31 a. Amounts treated as an expense and deducted in the tax
1 32 year in which they are paid or incurred and amounts that are
1 33 otherwise not added to the basis for tax purposes of the
1 34 eligible property are not qualified rehabilitation costs.
1 35 b. Amounts incurred for architectural and engineering
2 1 fees, site survey fees, legal expenses, insurance premiums,
2 2 development fees, and other construction-related costs are
2 3 qualified rehabilitation costs to the extent they are added to
2 4 the basis for tax purposes of the eligible property.
2 5 c. Costs of sidewalks, parking lots, and landscaping do
2 6 not constitute qualified rehabilitation costs.
2 7 3. For purposes of individual and corporate income taxes
2 8 and the franchise tax, the increase in the basis of the
2 9 rehabilitated property that would otherwise result from the
2 10 qualified rehabilitation costs shall be reduced by the amount
2 11 of the credit computed under this chapter.
2 12 Sec. 2. Section 404A.3, Code 2009, is amended to read as
2 13 follows:

2 14 404A.3 APPROVAL OF REHABILITATION PROJECT.

2 15 1. a. In order for costs of a rehabilitation project to
2 16 qualify for a tax credit, the rehabilitation project must
2 17 receive approval from the state historic preservation office
2 18 of the department of cultural affairs.

2 19 b. Applications for approvals from the state historic
2 20 preservation office of the department of cultural affairs
2 21 shall be on forms approved by the state historic preservation
2 22 office and shall contain information as required by the state
2 23 historic preservation office. The information shall at least
2 24 include the approximate date of the start of rehabilitation,
2 25 the approximate date of completion, as well as the cost.

2 26 c. The approval process shall not exceed ninety days
2 27 beginning from the date ~~the rehabilitation project is~~
~~2 28 submitted on which a completed application is received by the~~
2 29 ~~state historic preservation office.~~ After the ninety-day
2 30 limit, the rehabilitation project is deemed to be approved
2 31 ~~unless the state historic preservation office has denied the~~
2 32 ~~application or contacted the applicant for further information~~
2 33 ~~regarding the application.~~

2 34 2. The state historic preservation office shall establish
2 35 selection criteria and standards for rehabilitation projects
3 1 involving eligible property. The main emphasis of the
3 2 standards shall be to ensure that a rehabilitation project
3 3 maintains the integrity of the eligible property. To the
3 4 extent applicable, the standards shall be consistent with the
3 5 standards of the United States secretary of the interior for
3 6 rehabilitation of eligible property ~~that is listed on the~~
~~3 7 national register of historic places or is designated as of~~
~~3 8 historic significance to a district listed in the national~~
~~3 9 register of historic places or shall be consistent with~~
3 10 ~~standards for issuance of certificates of appropriateness~~
~~3 11 under sections 303.27 through 303.32.~~

3 12 ~~The selection standards shall provide that a person who~~
~~3 13 qualifies for the rehabilitation tax credit under section 47~~
~~3 14 of the Internal Revenue Code shall automatically qualify for~~
~~3 15 the state historic preservation and cultural and entertainment~~
~~3 16 district tax credit under this chapter.~~

3 17 3. a. A rehabilitation project for which the state
3 18 historic preservation office has reserved tax credits pursuant
3 19 to section 404A.4 shall begin rehabilitation of the property
3 20 before the end of the fiscal year in which the project
3 21 application was approved and for which the tax credits were
3 22 reserved.

3 23 b. The eligible property shall be placed in service within
3 24 thirty-six months of the date on which the project application
3 25 was approved. For purposes of this section, "placed in
3 26 service" has the same meaning as used for purposes of section
3 27 47 of the Internal Revenue Code. The department may provide
3 28 by rule for the allowance of additional time to complete a
3 29 project.

3 30 c. A rehabilitation project for which a project
3 31 application was approved and tax credits reserved prior to
3 32 July 1, 2009, shall complete the project and place the
3 33 building in service on or before June 30, 2011,
3 34 notwithstanding the time period specified in paragraph "b".

3 35 4. A rehabilitation project that does not meet the
4 1 requirements of subsection 3 is subject to revocation,
4 2 repayment, or recapture of tax credits reserved or approved
4 3 pursuant to this chapter.

4 4 Sec. 3. Section 404A.4, Code 2009, is amended to read as
4 5 follows:

4 6 404A.4 PROJECT COMPLETION AND TAX CREDIT CERTIFICATION ==
4 7 CREDIT REFUND OR CARRYFORWARD.

4 8 1. Upon completion of the rehabilitation project, a
4 9 certification of completion must be obtained from the state
4 10 historic preservation office of the department of cultural
4 11 affairs. A completion certificate shall identify the person
4 12 claiming the tax credit under this chapter and the qualified
4 13 rehabilitation costs incurred up to the two years preceding
4 14 the completion date.

4 15 2. After verifying the eligibility for the tax credit, the
4 16 state historic preservation office, ~~in consultation with the~~
~~4 17 department of economic development,~~ shall issue a historic
4 18 preservation and cultural and entertainment district tax
4 19 credit certificate to be attached to the person's tax return.
4 20 The tax credit certificate shall contain the taxpayer's name,
4 21 address, tax identification number, the date of project
4 22 completion, the amount of credit, other information required
4 23 by the department of revenue, and a place for the name and tax
4 24 identification number of a transferee and the amount of the

4 25 tax credit being transferred. Of the amount of tax credits
4 26 that may be approved in a fiscal year pursuant to subsection

4 27 4, paragraph "a":

4 28 a. For the fiscal year beginning July 1, 2009, the
4 29 department shall reserve not more than twenty million dollars
4 30 worth of tax credits for a taxable year beginning on or after
4 31 January 1, 2009, and not more than thirty million dollars
4 32 worth of tax credits for a taxable year beginning on or after
4 33 January 1, 2010.

4 34 b. For the fiscal year beginning July 1, 2010, the
4 35 department shall reserve not more than twenty million dollars
5 1 worth of tax credits for a taxable year beginning on or after
5 2 January 1, 2010, and not more than thirty million dollars
5 3 worth of tax credits for a taxable year beginning on or after
5 4 January 1, 2011.

5 5 c. For the fiscal year beginning July 1, 2011, the
5 6 department shall reserve not more than twenty million dollars
5 7 worth of tax credits for a taxable year beginning on or after
5 8 January 1, 2011, and not more than thirty million dollars
5 9 worth of tax credits for a taxable year beginning on or after
5 10 January 1, 2012.

5 11 3. A person receiving a historic preservation and cultural
5 12 and entertainment district tax credit under this chapter which
5 13 is in excess of the person's tax liability for the tax year is
5 14 entitled to a refund. Any credit in excess of the tax
5 15 liability shall be refunded with interest computed under
5 16 section 422.25. In lieu of claiming a refund, a taxpayer may
5 17 elect to have the overpayment shown on the taxpayer's final,
5 18 completed return credited to the tax liability for the
5 19 following year.

5 20 4. a. The total amount of tax credits that may be
5 21 approved for a fiscal year under this chapter shall not exceed
5 22 ten million dollars in the fiscal year beginning July 1, 2007,
5 23 fifteen million dollars in the fiscal year beginning July 1,
5 24 2008, and twenty million dollars in the fiscal year beginning
5 25 July 1, 2009, and each fiscal year thereafter fifty million
5 26 dollars.

5 27 b. Of the tax credits approved for a fiscal year under
5 28 this chapter, ten the amount of the tax credits shall be
5 29 allocated as follows:

5 30 (1) Ten percent of the dollar amount of tax credits shall
5 31 be allocated for purposes of new projects with final qualified
5 32 rehabilitation costs of five hundred thousand dollars or less,
5 33 and forty.

5 34 (2) Thirty percent of the dollar amount of tax credits
5 35 shall be allocated for purposes of new projects located in
6 1 cultural and entertainment districts certified pursuant to
6 2 section 303.3B or identified in Iowa great places agreements
6 3 developed pursuant to section 303.3C. Any of the tax credits
6 4 allocated for projects located in certified cultural and
6 5 entertainment districts or identified in Iowa great places
6 6 agreements and for projects with a cost of five hundred
6 7 thousand dollars or less that are not reserved during a fiscal
6 8 year shall be applied to reserved tax credits issued in
6 9 accordance with section 404A.3 in order of original
6 10 reservation. The department of cultural affairs shall
6 11 establish by rule the procedures for the application, review,
6 12 selection, and awarding of certifications of completion.

6 13 (3) Twenty percent of the dollar amount of tax credits
6 14 shall be allocated for disaster recovery projects. For
6 15 purposes of this subparagraph, "disaster recovery project"
6 16 means a property meeting the requirements of an eligible
6 17 property as described in section 404A.1, subsection 2, which
6 18 is located in an area declared a disaster area by the governor
6 19 or by a federal official and which has been physically
6 20 impacted as a result of a natural disaster.

6 21 (4) Twenty percent of the dollar amount of the tax credits
6 22 shall be allocated for projects that involve the creation of
6 23 more than five hundred new permanent jobs. A taxpayer
6 24 receiving a tax credit certificate for a project under this
6 25 allocation shall provide information documenting the creation
6 26 of the jobs to the department and to the department of
6 27 economic development. The jobs shall be created within two
6 28 years of the date a tax credit certificate is issued. The
6 29 department of economic development shall verify the creation
6 30 of the jobs. The amount of any tax credits received is
6 31 subject to recapture by the department of revenue if the jobs
6 32 are not created within two years. The department and the
6 33 department of economic development may adopt rules for the
6 34 implementation of this subparagraph. The rules shall provide
6 35 for a method or form that allows a city or county to track the

7 1 number of jobs created in the construction industry by the
7 2 project.

7 3 (5) Twenty percent of the dollar amount of the tax credits
7 4 shall be allocated for any eligible project.

7 5 c. (1) If, in any fiscal year, an amount of tax credits
7 6 allocated pursuant to paragraph "b", subparagraph (2) or (4),
7 7 goes unclaimed, the amount of the unclaimed tax credits shall,
7 8 during the same fiscal year, be reallocated to disaster
7 9 recovery projects as described in paragraph "b", subparagraph
7 10 (3).

7 11 (2) If, in any fiscal year, an amount of tax credits
7 12 reallocated pursuant to subparagraph (1) of this paragraph "c"
7 13 goes unclaimed, the tax credits shall, during the same fiscal
7 14 year, be reallocated to the projects described in paragraph
7 15 "b", subparagraph (5).

7 16 d. The departments of cultural affairs and revenue shall
7 17 each adopt rules to jointly administer this subsection and
7 18 shall provide by rule for the method to be used to determine
7 19 for which fiscal year the tax credits are available.

7 20 e. With the exception of tax credits issued pursuant to
7 21 contracts entered into prior to July 1, 2007, tax credits
7 22 shall not be reserved for more than three years.

7 23 5. a. Tax credit certificates issued under this chapter
7 24 may be transferred to any person or entity.

7 25 b. Within ninety days of transfer, the transferee must
7 26 submit the transferred tax credit certificate to the
7 27 department of revenue along with a statement containing the
7 28 transferee's name, tax identification number, and address, and
7 29 the denomination that each replacement tax credit certificate
7 30 is to carry and any other information required by the
7 31 department of revenue.

7 32 c. Within thirty days of receiving the transferred tax
7 33 credit certificate and the transferee's statement, the
7 34 department of revenue shall issue one or more replacement tax
7 35 credit certificates to the transferee. Each replacement
8 1 certificate must contain the information required under
8 2 subsection 2 and must have the same expiration date that
8 3 appeared in the transferred tax credit certificate.

8 4 d. Tax credit certificate amounts of less than the minimum
8 5 amount established by rule of the ~~state historic preservation~~
8 6 ~~office~~ department of revenue shall not be transferable.

8 7 e. A tax credit shall not be claimed by a transferee under
8 8 this chapter until a replacement tax credit certificate
8 9 identifying the transferee as the proper holder has been
8 10 issued.

8 11 f. The transferee may use the amount of the tax credit
8 12 transferred against the taxes imposed under chapter 422,
8 13 divisions II, III, and V, and chapter 432 for any tax year the
8 14 original transferor could have claimed the tax credit. Any
8 15 consideration received for the transfer of the tax credit
8 16 shall not be included as income under chapter 422, divisions
8 17 II, III, and V. Any consideration paid for the transfer of
8 18 the tax credit shall not be deducted from income under chapter
8 19 422, divisions II, III, and V.

8 20 Sec. 4. Section 404A.5, Code 2009, is amended to read as
8 21 follows:

8 22 404A.5 ECONOMIC IMPACT == RECOMMENDATIONS.

8 23 1. The department of cultural affairs, in consultation
8 24 with the department of ~~economic development~~ revenue, shall be
8 25 responsible for keeping the general assembly and the
8 26 legislative services agency informed on the overall economic
8 27 impact to the state of the rehabilitation of eligible
8 28 properties.

8 29 2. An annual report shall be filed which shall include,
8 30 but is not limited to, data on the number and potential value
8 31 of rehabilitation projects begun during the latest
8 32 twelve-month period, the total historic preservation and
8 33 cultural and entertainment district tax credits originally
8 34 granted during that period, the potential reduction in state
8 35 tax revenues as a result of all tax credits still unused and
9 1 eligible for refund, and the potential increase in local
9 2 property tax revenues as a result of the rehabilitated
9 3 projects.

9 4 3. The department of cultural affairs, to the extent it is
9 5 able, shall provide recommendations on whether a limit on tax
9 6 credits should be established, the need for a broader or more
9 7 restrictive definition of eligible property, and other
9 8 adjustments to the tax credits under this chapter.

9 9 EXPLANATION

9 10 This bill relates to historic preservation and cultural and
9 11 entertainment district tax credits.

9 12 Current law provides that the rehabilitation costs of
9 13 residential property or barns must equal \$25,000 or 25 percent
9 14 of the fair market value of the structure, whichever is less.
9 15 The bill provides that the 25 percent provision is calculated
9 16 against the assessed value, instead of the fair market value.
9 17 Current law provides that the approval process for a
9 18 project applying for the credit must be completed within 90
9 19 days of the date on which the project is submitted to the
9 20 department. The bill provides that the 90-day period is
9 21 measured from the date on which the completed application is
9 22 received by the department.
9 23 Current law provides that a project not acted upon by the
9 24 department within the 90-day period is automatically approved.
9 25 The bill provides that it is not automatically approved unless
9 26 the department has failed within the 90-day period to either
9 27 deny the application or contact the applicant for further
9 28 information.
9 29 The bill increases the aggregate amount of tax credits that
9 30 may be approved in a fiscal year from \$20 million to \$50
9 31 million. Of the \$50 million of tax credits that may be
9 32 approved in a fiscal year, for the fiscal period beginning
9 33 July 1, 2009, and ending June 30, 2012, the department must
9 34 reserve a portion of the tax credits for different tax years.
9 35 For the fiscal year beginning July 1, 2009, the department
10 1 must reserve not more than \$20 million worth of tax credits
10 2 for a taxable year beginning on or after January 1, 2009, and
10 3 not more than \$30 million worth of tax credits for a taxable
10 4 year beginning on or after January 1, 2010. For the fiscal
10 5 year beginning July 1, 2010, the department must reserve not
10 6 more than \$20 million worth of tax credits for a taxable year
10 7 beginning on or after January 1, 2010, and not more than \$30
10 8 million worth of tax credits for a taxable year beginning on
10 9 or after January 1, 2011. For the fiscal year beginning July
10 10 1, 2011, the department must reserve not more than \$20 million
10 11 worth of tax credits for a taxable year beginning on or after
10 12 January 1, 2011, and not more than \$30 million worth of tax
10 13 credits for a taxable year beginning on or after January 1,
10 14 2012.
10 15 The bill changes the amount of tax credits that may be
10 16 allocated by the department to certain types of projects. Of
10 17 the \$50 million that may be approved, 10 percent must be
10 18 allocated for projects costing less than \$500,000, 30 percent
10 19 must be allocated for projects in cultural and entertainment
10 20 districts, 20 percent must be allocated for disaster recovery
10 21 projects, 20 percent must be allocated for projects that will
10 22 result in the creation of 500 or more jobs, and 20 percent
10 23 must be allocated for eligible projects generally, without
10 24 imposing special requirements. Taxpayers receiving a tax
10 25 credit allocation for projects that involve the creation of
10 26 500 or more jobs must provide documentation on the creation of
10 27 the jobs to the department and the department of economic
10 28 development. If, in any fiscal year, an amount of tax credits
10 29 allocated pursuant to certain projects goes unclaimed, those
10 30 tax credits may be reallocated by the department to other
10 31 projects according to the relative priority of projects.
10 32 The bill modifies some of the duties relating to the
10 33 administration of the tax credit program, including removing
10 34 certain consultation duties of the department of economic
10 35 development, changing the approval process, providing for a
11 1 36-month period for project completion, and allowing the
11 2 department of cultural affairs to recapture credits under
11 3 certain circumstances.
11 4 LSB 1304HZ 83
11 5 tw/sc:mg/5