

# Senate File 191 - Introduced

SENATE FILE \_\_\_\_\_  
BY DANIELSON

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act providing for a disaster recovery tax credit and including  
2 a retroactive applicability date provision.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 1822SS 83  
5 tw/mg:sc/8

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1 1 Section 1. NEW SECTION. 404B.1 DISASTER RECOVERY TAX  
1 2 CREDIT.  
1 3 1. a. A disaster recovery tax credit shall be allowed  
1 4 against the taxes imposed in chapter 422, divisions II, III,  
1 5 and V, and in chapter 432, for a portion of a taxpayer's costs  
1 6 incurred in projects rehabilitating certain historic property  
1 7 located in this state and damaged as a result of a natural  
1 8 disaster occurring in calendar year 2008.  
1 9 b. To be eligible for the credit, a taxpayer shall meet  
1 10 all of the following requirements:  
1 11 (1) The rehabilitation project shall be one of the  
1 12 following:  
1 13 (a) A certified rehabilitation of a certified historic  
1 14 structure, as designated by the United States secretary of the  
1 15 interior pursuant to 36 C.F.R. pt. 67.  
1 16 (b) The rehabilitation of a nonhistoric, nonresidential  
1 17 building placed in service before 1936.  
1 18 (2) The rehabilitation project shall be for property  
1 19 located in an area declared a disaster area in calendar year  
1 20 2008 by the governor or by a federal official.  
1 21 (3) The rehabilitation project shall be for property  
1 22 damaged as a result of a natural disaster occurring in  
1 23 calendar year 2008.  
1 24 (4) The rehabilitation project shall have begun on or  
1 25 before December 31, 2009.  
1 26 c. An individual may claim a tax credit under this section  
1 27 of a partnership, limited liability company, S corporation,  
1 28 estate, or trust electing to have income taxed directly to the  
1 29 individual. The amount claimed by the individual shall be  
1 30 based upon the pro rata share of the individual's earnings  
1 31 from the partnership, limited liability company, S  
1 32 corporation, estate, or trust.  
1 33 d. A tax credit in excess of a taxpayer's tax liability  
1 34 shall be refunded with interest computed under section 422.25.  
1 35 In lieu of claiming a refund, a taxpayer may elect to have the  
2 1 overpayment shown on the taxpayer's final, completed return  
2 2 credited to the tax liability for the following year.  
2 3 2. a. The amount of the tax credit shall be one of the  
2 4 following:  
2 5 (1) If the property is a certified rehabilitation of a  
2 6 certified historic structure, the amount of the tax credit  
2 7 shall equal twenty percent of the qualified rehabilitation  
2 8 costs.  
2 9 (2) If the property is a nonhistoric, nonresidential  
2 10 building placed in service before 1936, the amount of the tax  
2 11 credit shall equal ten percent of the qualified rehabilitation  
2 12 costs.  
2 13 b. In computing the amount of the tax credit, the only  
2 14 costs which may be included are the rehabilitation costs  
2 15 incurred between the period ending on the project completion  
2 16 date and beginning on the date two years prior to the project  
2 17 completion date, provided that any qualified rehabilitation  
2 18 costs incurred prior to the date of approval of the project as

2 19 provided in this section must be qualified rehabilitation  
2 20 expenditures under the federal rehabilitation credit in  
2 21 section 47 of the Internal Revenue Code.  
2 22 c. For purposes of this subsection, qualified  
2 23 rehabilitation costs include amounts if they are properly  
2 24 includable in computing the basis of the eligible property for  
2 25 tax purposes. Amounts treated as an expense and deducted in  
2 26 the tax year in which they are paid or incurred and amounts  
2 27 that are otherwise not added to the basis of the eligible  
2 28 property for tax purposes are not qualified rehabilitation  
2 29 costs. Amounts incurred for architectural and engineering  
2 30 fees, site survey fees, legal expenses, insurance premiums,  
2 31 development fees, and other construction-related costs are  
2 32 qualified rehabilitation costs to the extent they are added to  
2 33 the basis of the eligible property for tax purposes. Costs of  
2 34 sidewalks, parking lots, and landscaping do not constitute  
2 35 qualified rehabilitation costs.

3 1 d. For purposes of individual and corporate income taxes  
3 2 and the franchise tax, the increase in the basis of the  
3 3 rehabilitated property that would otherwise result from the  
3 4 qualified rehabilitation costs shall be reduced by the amount  
3 5 of the credit computed under this section.

3 6 3. a. In order to qualify for a tax credit pursuant to  
3 7 this section, a rehabilitation project shall receive approval  
3 8 from the state historic preservation office of the department  
3 9 of cultural affairs in the same manner described in section  
3 10 404A.3.

3 11 b. Upon completion of the rehabilitation project, a  
3 12 certification of completion must be obtained from the state  
3 13 historic preservation office of the department of cultural  
3 14 affairs. A completion certificate shall identify the person  
3 15 claiming the tax credit under this section and the  
3 16 rehabilitation costs incurred up to the two years preceding  
3 17 the completion date.

3 18 c. To claim a tax credit under this section, a taxpayer  
3 19 must attach a tax credit certificate issued by the department  
3 20 of cultural affairs to the taxpayer's tax return verifying the  
3 21 taxpayer's eligibility for the credit.

3 22 4. a. After verifying the eligibility for the tax credit,  
3 23 the state historic preservation office of the department of  
3 24 cultural affairs, in consultation with the department of  
3 25 economic development, shall issue a disaster recovery tax  
3 26 credit certificate to be attached to the person's tax return.

3 27 b. The tax credit certificate shall contain the taxpayer's  
3 28 name, address, tax identification number, the date of project  
3 29 completion, the amount of credit, any other information  
3 30 required by the department of revenue, and a place for the  
3 31 name and tax identification number of a transferee and the  
3 32 amount of the tax credit being transferred.

3 33 5. a. Tax credit certificates issued under this section  
3 34 may be transferred to any person or entity. Within ninety  
3 35 days of transfer, the transferee must submit the transferred  
4 1 tax credit certificate to the department of revenue along with  
4 2 a statement containing the transferee's name, tax  
4 3 identification number, and address, and the denomination that  
4 4 each replacement tax credit certificate is to carry and any  
4 5 other information required by the department of revenue.

4 6 b. Within thirty days of receiving the transferred tax  
4 7 credit certificate and the transferee's statement, the  
4 8 department of revenue shall issue one or more replacement tax  
4 9 credit certificates to the transferee. Each replacement  
4 10 certificate must contain the information required under  
4 11 subsection 4, paragraph "b".

4 12 c. Tax credit certificate amounts of less than the minimum  
4 13 amount established by rule of the state historic preservation  
4 14 office shall not be transferable. A tax credit shall not be  
4 15 claimed by a transferee under this section until a replacement  
4 16 tax credit certificate identifying the transferee as the  
4 17 proper holder has been issued.

4 18 d. The transferee may use the amount of the tax credit  
4 19 transferred against the taxes imposed under chapter 422,  
4 20 divisions II, III, and V, and chapter 432 for any tax year the  
4 21 original transferor could have claimed the tax credit. Any  
4 22 consideration received for the transfer of the tax credit  
4 23 shall not be included as income under chapter 422, divisions  
4 24 II, III, and V. Any consideration paid for the transfer of  
4 25 the tax credit shall not be deducted from income under chapter  
4 26 422, divisions II, III, and V.

4 27 6. a. A taxpayer claiming a tax credit pursuant to this  
4 28 section cannot claim a tax credit pursuant to chapter 404A for  
4 29 the same rehabilitation costs for the same project.

4 30 b. A taxpayer claiming a tax credit pursuant to chapter  
4 31 404A cannot claim a tax credit pursuant to this section for  
4 32 the same rehabilitation costs for the same project.

4 33 7. The department of cultural affairs shall establish by  
4 34 rule the procedures for the application, review, selection,  
4 35 and awarding of certifications of completion under this  
5 1 section.

5 2 8. Tax credits under this section shall not be issued for  
5 3 rehabilitation projects completed after June 30, 2012.

5 4 Sec. 2. RETROACTIVE APPLICABILITY DATE. This Act applies  
5 5 retroactively to January 1, 2009, for tax years beginning on  
5 6 or after that date.

5 7 EXPLANATION

5 8 This bill provides for a disaster recovery tax credit.

5 9 The tax credit is allowed against the individual and  
5 10 corporate income taxes, the franchise tax, and the insurance  
5 11 companies tax.

5 12 To be eligible for the credit, a taxpayer has to meet the  
5 13 following requirements: (1) The rehabilitation project shall  
5 14 be either a certified rehabilitation of a certified historic  
5 15 structure, as designated by the United States secretary of the  
5 16 interior, or the project shall be for the rehabilitation of a  
5 17 nonhistoric, nonresidential building placed in service before  
5 18 1936; (2) the rehabilitation project shall be for property  
5 19 located in an area declared a disaster area in calendar year  
5 20 2008; (3) the rehabilitation project shall be for property  
5 21 damaged as a result of a natural disaster occurring in  
5 22 calendar year 2008; and (4) the rehabilitation project shall  
5 23 have begun on or before December 31, 2009.

5 24 The tax credit is refundable, or, at the taxpayer's  
5 25 election, may be credited to the tax liability in the  
5 26 following year.

5 27 The amount of the tax credit is 20 percent of certain  
5 28 qualified rehabilitation costs of a certified historic  
5 29 structure or 10 percent of certain qualified rehabilitation  
5 30 costs of a nonhistoric, nonresidential building placed in  
5 31 service before 1936.

5 32 In order to claim the tax credit, a taxpayer must receive  
5 33 approval in the same manner as currently provided for under  
5 34 the historic preservation and cultural entertainment district  
5 35 tax credit in Code chapter 404A.

6 1 Upon completion of the project, a certification of  
6 2 completion must be obtained from the state historic  
6 3 preservation office of the department of cultural affairs. To  
6 4 claim the credit, a taxpayer must attach a tax credit  
6 5 certificate to the taxpayer's tax return.

6 6 Disaster recovery tax credit certificates are transferable  
6 7 in most circumstances.

6 8 A taxpayer claiming a disaster recovery tax credit cannot  
6 9 also claim a historic preservation and cultural entertainment  
6 10 district tax credit pursuant to Code chapter 404A and vice  
6 11 versa for the same costs for the same project.

6 12 Tax credits shall not be issued for projects completed  
6 13 after June 30, 2012.

6 14 The bill applies retroactively to January 1, 2009, for tax  
6 15 years beginning on or after that date.

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