

Senate File 309 - Introduced

SENATE FILE _____
BY COMMITTEE ON ECONOMIC
GROWTH

(SUCCESSOR TO SSB 1086)

Passed Senate, Date _____ Passed House, 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 1304SV 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 or
2 32 contacted for further information regarding the application.

2 33 2. The state historic preservation office shall establish
2 34 selection criteria and standards for rehabilitation projects
2 35 involving eligible property. The main emphasis of the
3 1 standards shall be to ensure that a rehabilitation project
3 2 maintains the integrity of the eligible property. To the
3 3 extent applicable, the standards shall be consistent with the
3 4 standards of the United States secretary of the interior for
3 5 the rehabilitation of eligible property that is listed on the
~~3 6 national register of historic places or is designated as of~~
~~3 7 historic significance to a district listed in the national~~
~~3 8 register of historic places or shall be consistent with~~
3 9 standards for issuance of certificates of appropriateness
~~3 10 under sections 303.27 through 303.32.~~

3 11 ~~The selection standards shall provide that a person who~~
~~3 12 qualifies for the rehabilitation tax credit under section 47~~
3 13 of the Internal Revenue Code shall automatically qualify for
~~3 14 the state historic preservation and cultural and entertainment~~
~~3 15 district tax credit under this chapter.~~

3 16 3. a. A rehabilitation project for which the state
3 17 historic preservation office has reserved tax credits pursuant
3 18 to section 404A.4 shall begin rehabilitation of the property
3 19 before the end of the fiscal year in which the project
3 20 application was approved and for which the tax credits were
3 21 reserved.

3 22 b. The eligible property shall be placed in service within
3 23 thirty-six months of the date on which the project application
3 24 was approved. For purposes of this section, "placed in
3 25 service" has the same meaning as used for purposes of section
3 26 47 of the Internal Revenue Code. However, if the state
3 27 historic preservation office determines that extenuating
3 28 circumstances exist, the office may grant an applicant an
3 29 additional twelve months in which to complete a 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.

4 26 3. A person receiving a historic preservation and cultural
4 27 and entertainment district tax credit under this chapter which
4 28 is in excess of the person's tax liability for the tax year is
4 29 entitled to a refund. Any credit in excess of the tax
4 30 liability shall be refunded with interest computed under
4 31 section 422.25. In lieu of claiming a refund, a taxpayer may
4 32 elect to have the overpayment shown on the taxpayer's final,
4 33 completed return credited to the tax liability for the
4 34 following year.

4 35 4. a. The total amount of tax credits that may be
5 1 approved for a fiscal year under this chapter shall not exceed
5 2 ~~ten million dollars in the fiscal year beginning July 1, 2007,~~
~~5 3 fifteen million dollars in the fiscal year beginning July 1,~~
~~5 4 2008, and twenty million dollars in the fiscal year beginning~~
~~5 5 July 1, 2009, and each fiscal year thereafter fifty million~~
5 6 dollars.

5 7 b. Of the tax credits approved for a fiscal year under
5 8 this chapter, ~~ten~~ the amount of the tax credits shall be
5 9 allocated as follows:

5 10 (1) Ten percent of the dollar amount of tax credits shall
5 11 be allocated for purposes of new projects with final qualified
5 12 rehabilitation costs of five hundred thousand dollars or less,
~~5 13 and forty.~~

5 14 (2) Thirty percent of the dollar amount of tax credits
5 15 shall be allocated for purposes of new projects located in
5 16 cultural and entertainment districts certified pursuant to
5 17 section 303.3B or identified in Iowa great places agreements
5 18 developed pursuant to section 303.3C. Any of the tax credits
~~5 19 allocated for projects located in certified cultural and~~
~~5 20 entertainment districts or identified in Iowa great places~~
~~5 21 agreements and for projects with a cost of five hundred~~
~~5 22 thousand dollars or less that are not reserved during a fiscal~~
~~5 23 year shall be applied to reserved tax credits issued in~~
~~5 24 accordance with section 404A.3 in order of original~~
~~5 25 reservation. The department of cultural affairs shall~~
~~5 26 establish by rule the procedures for the application, review,~~
~~5 27 selection, and awarding of certifications of completion.~~

5 28 (3) Twenty percent of the dollar amount of tax credits
5 29 shall be allocated for disaster recovery projects or emergency
5 30 preservation projects. For purposes of this subparagraph,
5 31 "disaster recovery project" means a property meeting the
5 32 requirements of an eligible property as described in section
5 33 404A.1, subsection 2, which is located in an area declared a
5 34 disaster area by the governor or by a federal official and
5 35 which has been physically impacted as a result of a natural
6 1 disaster. "Emergency preservation project" means a property
6 2 meeting the requirements of an eligible property as described
6 3 in section 404A.1, subsection 2, which is under threat of
6 4 physical damage as a result of an emergency event that
6 5 requires timely action to preserve the physical integrity of
6 6 the property. "Emergency preservation project" does not
6 7 include a project threatened by physical damage that is the
6 8 result of neglect or delinquency on the part of the property
6 9 owner.

6 10 (4) Twenty percent of the dollar amount of the tax credits
6 11 shall be allocated for projects that involve the creation of
6 12 more than five hundred new jobs.

6 13 (5) Twenty percent of the dollar amount of the tax credits
6 14 shall be allocated for any eligible project.

6 15 c. If in any fiscal year an amount of tax credits
6 16 allocated pursuant to paragraph "b", subparagraph (1), (2),
6 17 (3), or (4), goes unclaimed, the amount of the unclaimed tax
6 18 credits shall be reserved for and allocated to projects under
6 19 subparagraph (5) for the subsequent fiscal year.

6 20 d. The departments of cultural affairs and revenue shall
6 21 each adopt rules to jointly administer this subsection and
6 22 shall provide by rule for the method to be used to determine
6 23 for which fiscal year the tax credits are available.

6 24 e. With the exception of tax credits issued pursuant to
6 25 contracts entered into prior to July 1, 2007, tax credits
6 26 shall not be reserved for more than three years.

6 27 5. a. Tax credit certificates issued under this chapter
6 28 may be transferred to any person or entity.

6 29 b. Within ninety days of transfer, the transferee must
6 30 submit the transferred tax credit certificate to the
6 31 department of revenue along with a statement containing the
6 32 transferee's name, tax identification number, and address, and
6 33 the denomination that each replacement tax credit certificate
6 34 is to carry and any other information required by the

6 35 department of revenue.

7 1 c. Within thirty days of receiving the transferred tax
7 2 credit certificate and the transferee's statement, the
7 3 department of revenue shall issue one or more replacement tax
7 4 credit certificates to the transferee. Each replacement
7 5 certificate must contain the information required under
7 6 subsection 2 and must have the same expiration date that
7 7 appeared in the transferred tax credit certificate.

7 8 d. Tax credit certificate amounts of less than the minimum
7 9 amount established by rule of the ~~state historic preservation~~
7 10 ~~office department of revenue~~ shall not be transferable.

7 11 e. A tax credit shall not be claimed by a transferee under
7 12 this chapter until a replacement tax credit certificate
7 13 identifying the transferee as the proper holder has been
7 14 issued.

7 15 f. The transferee may use the amount of the tax credit
7 16 transferred against the taxes imposed under chapter 422,
7 17 divisions II, III, and V, and chapter 432 for any tax year the
7 18 original transferor could have claimed the tax credit. Any
7 19 consideration received for the transfer of the tax credit
7 20 shall not be included as income under chapter 422, divisions
7 21 II, III, and V. Any consideration paid for the transfer of
7 22 the tax credit shall not be deducted from income under chapter
7 23 422, divisions II, III, and V.

7 24 Sec. 4. Section 404A.5, Code 2009, is amended to read as
7 25 follows:

7 26 404A.5 ECONOMIC IMPACT == RECOMMENDATIONS.

7 27 1. The department of cultural affairs, in consultation
7 28 with the department of ~~economic development~~ revenue, shall be
7 29 responsible for keeping the general assembly and the
7 30 legislative services agency informed on the overall economic
7 31 impact to the state of the rehabilitation of eligible
7 32 properties.

7 33 2. An annual report shall be filed which shall include,
7 34 but is not limited to, data on the number and potential value
7 35 of rehabilitation projects begun during the latest
8 1 twelve-month period, the total historic preservation and
8 2 cultural and entertainment district tax credits originally
8 3 granted during that period, the potential reduction in state
8 4 tax revenues as a result of all tax credits still unused and
8 5 eligible for refund, and the potential increase in local
8 6 property tax revenues as a result of the rehabilitated
8 7 projects.

8 8 3. The department of cultural affairs, to the extent it is
8 9 able, shall provide recommendations on whether a limit on tax
8 10 credits should be established, the need for a broader or more
8 11 restrictive definition of eligible property, and other
8 12 adjustments to the tax credits under this chapter.

8 13 EXPLANATION

8 14 This bill relates to historic preservation and cultural and
8 15 entertainment district tax credits.

8 16 The bill increases the aggregate amount of tax credits that
8 17 may be approved in a fiscal year from \$20 million to \$50
8 18 million.

8 19 The bill changes the amount of tax credits that may be
8 20 allocated by the department to certain types of projects. Of
8 21 the \$50 million that may be approved, 10 percent must be
8 22 allocated for projects costing less than \$500,000, 30 percent
8 23 must be allocated for projects in cultural and entertainment
8 24 districts, 20 percent must be allocated for disaster recovery
8 25 or emergency preservation projects, 20 percent must be
8 26 allocated for projects that will result in the creation of 500
8 27 or more jobs, and 20 percent must be allocated for eligible
8 28 projects generally, without imposing special requirements.

8 29 The bill modifies some of the duties relating to the
8 30 administration of the tax credit program, including removing
8 31 certain consultation duties of the department of economic
8 32 development, changing the approval process, providing for a
8 33 36-month period for project completion, and allowing the
8 34 department of cultural affairs to recapture credits under
8 35 certain circumstances.

9 1 LSB 1304SV 83

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