

House Study Bill 231 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
CULTURAL AFFAIRS BILL)

A BILL FOR

1 An Act relating to the administration of the property
2 rehabilitation tax credit program by the department of
3 cultural affairs and including retroactive applicability
4 provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 404A.1, subsection 1, Code 2011, is
2 amended to read as follows:

3 1. A historic preservation and cultural and entertainment
4 district tax credit, subject to the availability of the
5 credit, is granted against the tax imposed under chapter 422,
6 division II, III, or V, or chapter 432, for the substantial
7 rehabilitation of eligible property located in this state
8 as provided in this chapter. Tax credits in excess of tax
9 liabilities shall be refunded or credited as provided in
10 section 404A.4, subsection 3.

11 Sec. 2. Section 404A.1, Code 2011, is amended by adding the
12 following new subsection:

13 NEW SUBSECTION. 3. For purposes of this chapter, unless the
14 context otherwise requires:

15 a. *"Eligible property"* means property meeting the
16 requirements of subsection 2.

17 b. *"Measuring period"* means any period of twenty-four
18 consecutive months during the rehabilitation period, as
19 designated by the taxpayer, during which the qualified
20 rehabilitation costs meet the requirements of a substantial
21 rehabilitation.

22 c. *"Placed in service"* means the same as used in section 47
23 of the Internal Revenue Code.

24 d. *"Qualified rehabilitation costs"* means expenditures made
25 for the rehabilitation of eligible property that meet the
26 requirements of section 404A.2, subsections 2 and 2A.

27 e. *"Rehabilitation period"* means the period of time during
28 which an eligible property is rehabilitated, commencing from
29 the date the rehabilitation project is approved pursuant to
30 section 404A.3 and ending with the end of the taxable year in
31 which the property is placed in service.

32 f. *"Substantial rehabilitation"* means qualified
33 rehabilitation costs that meet or exceed the following:

34 (1) In the case of commercial property, costs totaling at
35 least fifty percent of the assessed value of the property,

1 excluding the land, prior to the rehabilitation.

2 (2) In the case of residential property or barns, costs
3 totaling at least twenty-five thousand dollars or twenty-five
4 percent of the assessed value, excluding the land, prior to
5 rehabilitation, whichever is less.

6 Sec. 3. Section 404A.2, subsection 1, paragraphs a through
7 d, Code 2011, are amended by striking the paragraphs.

8 Sec. 4. Section 404A.2, Code 2011, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 2A. For purposes of this chapter, qualified
11 rehabilitation costs include all costs incurred during the
12 rehabilitation period and are not limited to costs incurred
13 during the measuring period.

14 Sec. 5. Section 404A.3, subsections 1 and 2, Code 2011, are
15 amended to read as follows:

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

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

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

35 2. The ~~state historic preservation office~~ department shall

1 establish selection criteria and standards for rehabilitation
2 projects involving eligible property. The main emphasis of
3 the standards shall be to ensure that a rehabilitation project
4 maintains the integrity of the eligible property. To the
5 extent applicable, the standards shall be consistent with the
6 standards of the United States secretary of the interior for
7 rehabilitation of eligible property.

8 Sec. 6. Section 404A.3, subsection 3, paragraphs a and b,
9 Code 2011, are amended to read as follows:

10 a. A rehabilitation project for which the ~~state historic~~
11 ~~preservation office~~ department has reserved tax credits
12 pursuant to section 404A.4 shall begin rehabilitation of the
13 property before the end of the fiscal year in which the project
14 application was approved and for which the tax credits were
15 reserved.

16 b. The Except as provided in subsection 5, eligible property
17 shall be placed in service within thirty-six months of the date
18 on which the project application was approved. ~~For purposes of~~
19 ~~this section, "placed in service" has the same meaning as used~~
20 ~~for purposes of section 47 of the Internal Revenue Code.~~ The
21 department may provide by rule for the allowance of additional
22 time to complete a project.

23 Sec. 7. Section 404A.3, subsection 4, Code 2011, is amended
24 to read as follows:

25 4. A rehabilitation project that does not meet the
26 requirements of subsection 3 or subsection 5, as applicable, is
27 subject to revocation, repayment, or recapture of tax credits
28 reserved or approved pursuant to this chapter.

29 Sec. 8. Section 404A.3, Code 2011, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 5. a. The department of cultural affairs
32 may provide for the phasing of a rehabilitation project if the
33 project meets all of the following requirements:

34 (1) The project involves qualified rehabilitation costs of
35 five million dollars or more.

1 (2) A written set of architectural plans and specifications
2 for all phases of the project is completed and submitted to the
3 department before the physical work on the project begins.

4 (3) The written plans and specifications submitted pursuant
5 to subparagraph (2) contemplate realistic phasing of the
6 project and can reasonably be expected to be completed during
7 the rehabilitation period.

8 *b.* A rehabilitation project approved for phasing pursuant to
9 this subsection shall be completed and placed in service within
10 sixty months of the date on which the project application was
11 approved.

12 *c.* The department of cultural affairs shall adopt rules
13 for the implementation of this subsection that provide for the
14 administration of phasing as nearly as possible in conjunction
15 with the phasing of projects under the federal historic
16 preservation tax incentives program.

17 Sec. 9. Section 404A.4, subsection 1, Code 2011, is amended
18 to read as follows:

19 1. Upon completion of the rehabilitation project, a
20 certification of completion must be obtained from ~~the state~~
21 ~~historic preservation office~~ of the department of cultural
22 affairs. A completion certificate shall identify the person
23 claiming the tax credit under this chapter and the qualified
24 rehabilitation costs incurred up to the two years preceding the
25 completion date.

26 Sec. 10. Section 404A.4, subsection 2, Code 2011, is amended
27 to read as follows:

28 2. After verifying the eligibility for the tax credit,
29 the ~~state historic preservation office~~ department shall
30 issue a historic preservation and cultural and entertainment
31 district tax credit certificate to be attached to the person's
32 tax return. The tax credit certificate shall contain the
33 taxpayer's name, address, tax identification number, the date
34 of project completion, the amount of credit, other information
35 required by the department of revenue, and a place for the name

1 and tax identification number of a transferee and the amount of
2 the tax credit being transferred. Of the amount of tax credits
3 that may be approved in a fiscal year pursuant to subsection
4 4, paragraph "a":

5 *a.* For the fiscal year beginning July 1, 2009, the ~~office~~
6 department shall reserve not more than twenty million dollars
7 worth of tax credits for a taxable year beginning on or after
8 January 1, 2009, and not more than thirty million dollars worth
9 of tax credits for a taxable year beginning on or after January
10 1, 2010.

11 *b.* For the fiscal year beginning July 1, 2010, the ~~office~~
12 department shall reserve not more than twenty million dollars
13 worth of tax credits for a taxable year beginning on or after
14 January 1, 2010, and not more than thirty million dollars worth
15 of tax credits for a taxable year beginning on or after January
16 1, 2011.

17 *c.* For the fiscal year beginning July 1, 2011, the ~~office~~
18 department shall reserve not more than twenty million dollars
19 worth of tax credits for a taxable year beginning on or after
20 January 1, 2011, and not more than thirty million dollars worth
21 of tax credits for a taxable year beginning on or after January
22 1, 2012.

23 *d.* For the fiscal year beginning July 1, 2012, and for each
24 fiscal year thereafter, the department shall reserve not more
25 than forty-five million dollars worth of tax credits for any
26 one taxable year.

27 Sec. 11. Section 404A.4, subsection 4, paragraph b,
28 subparagraph (4), Code 2011, is amended to read as follows:

29 (4) Twenty percent of the dollar amount of the tax
30 credits shall be allocated for projects that involve the
31 creation of more than five hundred new permanent jobs. A
32 taxpayer receiving a tax credit certificate for a project
33 under this allocation shall provide information documenting
34 the creation of the jobs to the ~~state historic preservation~~
35 office department of cultural affairs and to the department of

1 economic development. The jobs shall be created within two
2 years of the date a tax credit certificate is issued. The
3 department of economic development shall verify the creation
4 of the jobs. The amount of any tax credits received is subject
5 to recapture by the department of revenue if the jobs are not
6 created within two years. The state historic preservation
7 office and the department of economic development may adopt
8 rules for the implementation of this subparagraph. The rules
9 shall provide for a method or form that allows a city or
10 county to track the number of jobs created in the construction
11 industry by the project.

12 Sec. 12. RETROACTIVE APPLICABILITY. The following
13 provision or provisions of this Act apply retroactively to July
14 1, 2009, for projects approved and tax credits reserved on or
15 after that date:

- 16 1. The sections of this Act amending section 404A.1.
- 17 2. The sections of this Act amending section 404A.2.

18 EXPLANATION

19 This bill relates to the administration of the historic
20 preservation property rehabilitation tax credit program
21 administered by the department of cultural affairs.

22 The bill makes the following changes to the administration
23 of the program:

24 (1) Currently, property classified as residential or as
25 commercial with multifamily residential units may not exceed
26 \$100,000 per residential unit. The bill eliminates this
27 requirement.

28 (2) Currently, the program uses the same 24-month period to
29 both gauge the size of a project and determine the costs that
30 qualify for purposes of computing the amount of the tax credit.
31 The bill provides for a rehabilitation period and a measuring
32 period. The rehabilitation period is the period of time
33 beginning with the project's approval and ending with the end
34 of the taxable year in which the project is placed in service.
35 The rehabilitation period is the period of time used for

1 purposes of determining the amount of qualified rehabilitation
2 costs. The measuring period is a period of 24 months during
3 the rehabilitation period, designated by the taxpayer, and
4 is used to determine whether a project is a substantial
5 rehabilitation for purposes of eligibility for the tax credits.

6 (3) Currently, all rehabilitation projects must be
7 completed and placed in service within 36 months of the
8 project's approval. The bill provides for the phasing of
9 certain projects. A project approved for phasing has 60 months
10 in which to complete the project and place it in service.

11 (4) References to the state historic preservation office
12 are changed to the department of cultural affairs.

13 In general, the changes numbered (2) and (3) align the
14 program more closely with the federal historic preservation tax
15 incentives program.

16 The changes described in numbers (1) and (2) apply
17 retroactively to July 1, 2009, for projects approved and tax
18 credits reserved on or after that date.