

Senate File 514 - Introduced

SENATE FILE 514

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 237)

(SUCCESSOR TO SF 178)

A BILL FOR

1 An Act relating to the administration of the redevelopment tax
2 credit program for brownfields and grayfields and including
3 retroactive applicability provisions.

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

1 Section 1. Section 15.119, subsection 2, Code 2011, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *f.* The redevelopment tax credit program for
4 brownfields and grayfields administered pursuant to sections
5 15.293A and 15.293B.

6 Sec. 2. Section 15.119, Code 2011, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 2A. In allocating the amount of tax
9 credits authorized pursuant to subsection 1 among the programs
10 specified in subsection 2, the department shall allocate at
11 least five million dollars for purposes of subsection 2,
12 paragraph "f".

13 Sec. 3. Section 15.291, subsection 5, Code 2011, is amended
14 to read as follows:

15 5. "Qualifying investment" means the purchase price, the
16 cleanup costs, and the redevelopment costs that are directly
17 related to a qualifying redevelopment project and that are
18 incurred after the project has been registered and approved by
19 the board. "Qualifying investment" only includes the purchase
20 price, the cleanup costs, and the redevelopment costs.

21 Sec. 4. Section 15.292, subsections 1 and 4, Code 2011, are
22 amended to read as follows:

23 1. The department shall establish and administer a
24 brownfield redevelopment program for purposes of providing
25 financial and technical assistance for the acquisition,
26 remediation, or redevelopment of brownfield sites. Financial
27 assistance under the program shall be provided from the
28 brownfield redevelopment fund created in section 15.293.

29 ~~Technical assistance under the program shall be in the form~~
30 ~~of providing an applicant with assistance in identifying~~
31 ~~other alternative forms of assistance for which the applicant~~
32 ~~may be eligible. The department may provide information on~~
33 alternative forms of assistance.

34 4. An application for assistance under the program shall
35 include any information required by the department including,

1 ~~but not limited to, all of the following:~~

2 *a.* A business plan which includes a remediation plan.

3 *b.* A budget for remediating or redeveloping the site.

4 *c.* A statement of purpose describing the intended use of
5 and proposed repayment schedule for any financial assistance
6 received by the applicant.

7 *d.* Evidence of sponsorship.

8 *e.* Other information the department deems necessary in order
9 to process and review the application.

10 Sec. 5. Section 15.293A, subsections 2, 6, 7, 8, and 9, Code
11 2011, are amended to read as follows:

12 2. *a.* (1) The department shall accept and, in conjunction
13 with the council and the board, review applications for tax
14 credits pursuant to this section.

15 (2) Upon review of an application, the department may
16 register the project under the program. If the department
17 registers the project, the department shall, in conjunction
18 with the council and the board, make a preliminary
19 determination as to the amount of tax credit for which the
20 investor qualifies.

21 (3) After registering the project, the department
22 shall issue a letter notifying the investor of successful
23 registration under the program. The letter shall include
24 the amount of tax credit for which the investor has received
25 preliminary approval. The letter shall state that the amount
26 is a preliminary determination only. The amount of tax credit
27 included on a certificate issued pursuant to this section
28 shall be contingent upon completion of the requirements of
29 subparagraphs (4) and (5).

30 (4) Upon completion of a registered project, an audit
31 of the project, completed by an independent certified public
32 accountant licensed in this state, shall be submitted to the
33 department.

34 (5) Upon review of the audit and verification of the amount
35 of the investment, the department may issue a certificate to

1 the investor stating the amount of tax credit the investor may
2 claim.

3 b. (1) To claim a redevelopment tax credit under this
4 section, a taxpayer must attach one or more tax credit
5 certificates to the taxpayer's tax return. A tax credit
6 certificate shall not be used or attached to a return filed
7 for a taxable year beginning prior to July 1, 2009. ~~The tax~~
8 ~~credit certificate or certificates attached to the taxpayer's~~
9 ~~tax return shall be issued in the taxpayer's name, expire on or~~
10 ~~after the last day of the taxable year for which the taxpayer~~
11 ~~is claiming the tax credit, and show a tax credit amount equal~~
12 ~~to or greater than the tax credit claimed on the taxpayer's tax~~
13 ~~return.~~

14 b. (2) ~~After verifying the eligibility of a qualifying~~
15 ~~investor for a tax credit pursuant to this section, the~~
16 ~~department of economic development shall issue a redevelopment~~
17 ~~tax credit certificate to be attached to the investor's~~
18 ~~tax return.~~ The tax credit certificate shall contain the
19 taxpayer's name, address, tax identification number, the amount
20 of the credit, the name of the qualifying investor, any other
21 information required by the department of revenue, and a place
22 for the name and tax identification number of a transferee and
23 the amount of the tax credit being transferred.

24 c. (3) The tax credit certificate, unless rescinded by
25 the board, shall be accepted by the department of revenue as
26 payment for taxes imposed pursuant to chapter 422, divisions
27 II, III, and V, and in chapter 432, and for the moneys and
28 credits tax imposed in section 533.329, subject to any
29 conditions or restrictions placed by the board upon the face of
30 the tax credit certificate and subject to the limitations of
31 this section.

32 d. (4) Tax credit certificates issued under this section
33 may be transferred to any person or entity. Within ninety days
34 of transfer, the transferee shall submit the transferred tax
35 credit certificate to the department of revenue along with a

1 statement containing the transferee's name, tax identification
2 number, and address, the denomination that each replacement
3 tax credit certificate is to carry, and any other information
4 required by the department of revenue.

5 ~~e.~~ (5) Within thirty days of receiving the transferred
6 tax credit certificate and the transferee's statement, the
7 department of revenue shall issue one or more replacement tax
8 credit certificates to the transferee. Each replacement tax
9 credit certificate must contain the information required for
10 the original tax credit certificate and must have the same
11 expiration date that appeared in the transferred tax credit
12 certificate. Tax credit certificate amounts of less than
13 the minimum amount established by rule of the department of
14 economic development shall not be transferable.

15 ~~f.~~ (6) A tax credit shall not be claimed by a transferee
16 under this section until a replacement tax credit certificate
17 identifying the transferee as the proper holder has been
18 issued. The transferee may use the amount of the tax credit
19 transferred against the taxes imposed in chapter 422, divisions
20 II, III, and V, and in chapter 432, and against the moneys and
21 credits tax imposed in section 533.329, for any tax year the
22 original transferor could have claimed the tax credit. Any
23 consideration received for the transfer of the tax credit shall
24 not be included as income under chapter 422, divisions II, III,
25 and V, under chapter 432, or against the moneys and credits tax
26 imposed in section 533.329. Any consideration paid for the
27 transfer of the tax credit shall not be deducted from income
28 under chapter 422, divisions II, III, and V, under chapter
29 432, or against the moneys and credits tax imposed in section
30 533.329.

31 6. For the fiscal year beginning July 1, 2009, the maximum
32 amount of tax credits issued by the department shall not
33 exceed one million dollars. ~~The department shall not issue~~
34 ~~tax credits pursuant to this section in subsequent fiscal~~
35 ~~years unless authorized pursuant to this subsection.~~ For each

1 subsequent fiscal year, the amount of tax credits that may be
2 issued by the department shall be subject to the limitation in
3 section 15.119.

4 7. An investment shall be deemed to have been made on the
5 date the qualifying redevelopment project is completed. An
6 ~~investment made prior to January 1, 2009, or after June 30,~~
7 ~~2010, shall not qualify for a tax credit under this part.~~

8 8. ~~A qualifying redevelopment project that is not completed~~
9 ~~within thirty months after issuance of an approval for the~~
10 ~~project by the board shall cease to be eligible for a tax~~
11 ~~credit pursuant to this section, however, the board in its~~
12 ~~discretion may provide for an additional twelve-month period~~
13 ~~in which to complete a project. A registered project shall~~
14 be completed within thirty months of the project's approval
15 unless the department, with the approval of the board, provides
16 additional time to complete the project. A project shall not
17 be provided more than twelve months of additional time. If the
18 registered project is not completed within the time required,
19 the project is not eligible to claim a tax credit pursuant to
20 this section.

21 9. The department shall develop a system for registration
22 and authorization of projects receiving tax credits authorized
23 pursuant to this part and shall control distribution of all
24 tax credits distributed to investors pursuant to this part.
25 In developing the system, the department shall provide for a
26 list of applicants for the tax credit and maintain it from
27 year to year so that if the maximum aggregate amount of tax
28 credits available under the program is reached in one year, an
29 applicant can be given priority consideration for the credit
30 in an ensuing year.

31 Sec. 6. Section 15.293A, subsection 12, Code 2011, is
32 amended by striking the subsection.

33 Sec. 7. Section 15.293B, subsection 1, Code 2011, is amended
34 by striking the subsection and inserting in lieu thereof the
35 following:

1 1. The department shall accept and review applications for
2 tax credits pursuant to section 15.293A and, with the approval
3 of the council, make recommendations regarding the applications
4 to the board.

5 Sec. 8. Section 15.293B, subsection 2, unnumbered paragraph
6 1, Code 2011, is amended to read as follows:

7 An investor applying for a tax credit shall provide the
8 ~~council~~ department with all of the following:

9 Sec. 9. Section 15.294, subsection 4, Code 2011, is amended
10 to read as follows:

11 4. The council, in conjunction with the department,
12 shall consider applications for redevelopment tax credits as
13 described in sections 15.293A and 15.293B, and ~~the council~~
14 ~~may approve~~ may recommend to the board which applications to
15 approve and the amount of such tax credits ~~for qualifying~~
16 ~~investments in qualifying redevelopment projects~~ that each
17 project is eligible to receive.

18 Sec. 10. RETROACTIVE APPLICABILITY. The sections of this
19 Act amending sections 15.291 and 15.293A apply retroactively to
20 January 1, 2011, for tax years beginning on or after that date.

21 EXPLANATION

22 This bill makes changes to the administration of the
23 brownfield redevelopment program and the redevelopment tax
24 credits for brownfields and grayfields by the department of
25 economic development.

26 The bill provides that the department may provide
27 information on alternative forms of assistance to participants
28 in the brownfield redevelopment program and provides that
29 the department may require certain additional information of
30 applicants for financial assistance under the program.

31 Current law provides for the verification of eligibility
32 for redevelopment tax credits and the issuance of tax credits.
33 The bill specifies a detailed process for verification of
34 eligibility, including the registration of projects, the
35 review of applications, and the issuance of letters containing

1 preliminary approval for an amount of tax credits. The bill
2 also requires investors to submit an audit of a project to the
3 department before a tax credit certificate may be issued.

4 Current law requires that all projects be completed within
5 the period of time between January 1, 2009, and June 30, 2010.
6 The bill eliminates this requirement.

7 The bill also eliminates the department's ability to carry
8 over any unissued tax credit amounts from one year to the next
9 and provides that a qualifying investment only includes costs
10 incurred after the project is registered.

11 The changes to the redevelopment tax credit program and tax
12 credits, including the definition of qualifying investment,
13 apply retroactively to January 1, 2011, for tax years beginning
14 on or after that date.

15 The bill makes a number of conforming changes to provisions
16 related to the administration of the program by the department,
17 the brownfield redevelopment advisory council, and the Iowa
18 economic development board.