

House Study Bill 540 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED ECONOMIC
DEVELOPMENT AUTHORITY BILL)

A BILL FOR

1 An Act relating to the administration of the redevelopment tax
2 credits program by the economic development authority and
3 including applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 15.291, Code 2014, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 01. *"Abandoned public building"* means a
4 vertical improvement, as defined in section 15J.1, constructed
5 for use primarily by a political subdivision of the state for a
6 public purpose and whose current use is outdated or prevents
7 a better or more efficient use of the property by the current
8 owner. *"Abandoned public building"* includes vacant, blighted,
9 obsolete, or otherwise underutilized property.

10 NEW SUBSECTION. 4A. *"Political subdivision"* means a city,
11 county, township, or school district.

12 NEW SUBSECTION. 4B. *"Previously remediated or redeveloped"*
13 means any prior remediation or redevelopment, including
14 development for which an award of tax credits under this part
15 has been made.

16 NEW SUBSECTION. 6A. *"Redevelopment tax credits program"*
17 means the tax credits program administered pursuant to sections
18 15.293A and 15.293B.

19 Sec. 2. Section 15.291, subsection 3, unnumbered paragraph
20 1, Code 2014, is amended to read as follows:

21 *"Grayfield site"* means an abandoned public building or an
22 industrial or commercial property meeting that meets all of the
23 following requirements:

24 Sec. 3. Section 15.291, subsection 6, Code 2014, is amended
25 to read as follows:

26 6. *"Qualifying redevelopment project"* means a brownfield or
27 a grayfield site being redeveloped or improved by the property
28 owner. *"Qualifying redevelopment project"* does not include a
29 previously remediated or redeveloped brownfield or grayfield
30 site.

31 Sec. 4. Section 15.293A, subsection 1, paragraph c, Code
32 2014, is amended to read as follows:

33 c. (1) Any Except as provided in subparagraph (2), any
34 tax credit in excess of the taxpayer's liability for the tax
35 year is not refundable but may be credited to the tax liability

1 for the following five years or until depleted, whichever is
2 earlier.

3 (2) A tax credit in excess of the taxpayer's liability for
4 the tax year is refundable if all of the following conditions
5 are met:

6 (a) The taxpayer is an investor making application for tax
7 credits provided in this section and is an entity organized
8 under chapter 504 and qualifying under section 501(c)(3) of the
9 Internal Revenue Code as an organization exempt from federal
10 income tax under section 501(a) of the Internal Revenue Code.

11 (b) The taxpayer establishes during the application
12 process described in section 15.293B that the requirement in
13 subparagraph division (a) is satisfied. The authority, when
14 issuing a certificate to a taxpayer that meets the requirements
15 in this subparagraph (2), shall indicate on the certificate
16 that such requirements have been satisfied.

17 (3) A tax credit shall not be carried back to a tax year
18 prior to the tax year in which the taxpayer first receives the
19 tax credit.

20 Sec. 5. Section 15.293A, subsection 2, paragraph a, Code
21 2014, is amended by striking the paragraph.

22 Sec. 6. Section 15.293A, subsection 2, paragraph b,
23 subparagraph (1), Code 2014, is amended to read as follows:

24 (1) To claim a redevelopment tax credit under this
25 section, a taxpayer must ~~attach~~ include one or more tax credit
26 certificates ~~to~~ with the taxpayer's tax return. A tax credit
27 certificate shall not be used or ~~attached to~~ included with a
28 return filed for a taxable year beginning prior to ~~July 1, 2009~~
29 the tax year listed on the certificate.

30 Sec. 7. Section 15.293A, subsection 3, unnumbered paragraph
31 1, Code 2014, is amended to read as follows:

32 The amount of the tax credit shall ~~equal one of~~ be determined
33 by the board in conjunction with the council. However, the tax
34 credit shall not exceed the following amount, as applicable:

35 Sec. 8. Section 15.293A, subsection 6, Code 2014, is amended

1 to read as follows:

2 ~~6. For the fiscal year beginning July 1, 2009, the maximum~~
3 ~~amount of tax credits issued by the authority shall not exceed~~
4 ~~one million dollars. For each subsequent fiscal year, the~~
5 The amount of tax credits that may be issued awarded by the
6 authority board shall be subject to the limitation in section
7 15.119.

8 Sec. 9. Section 15.293A, subsections 8, 9, 10, 11, 12, and
9 13, Code 2014, are amended by striking the subsections.

10 Sec. 10. Section 15.293B, Code 2014, is amended to read as
11 follows:

12 ~~15.293B Approval — requirements — repayment~~ Application —
13 registration — agreement.

14 1. a. The authority shall develop a system for the
15 application, review, registration, and authorization of
16 projects awarded tax credits pursuant to this part and
17 shall control the issuance of all tax credit certificates to
18 investors pursuant to this part.

19 b. The authority shall accept and, in conjunction with
20 the council, review applications for tax credits pursuant to
21 provided in section 15.293A and, with the approval of the
22 council, make tax credit award recommendations regarding the
23 applications to the board.

24 c. Applications for redevelopment tax credits shall be
25 accepted during an annual application period established by the
26 authority.

27 d. Upon review of an application, the authority may
28 register the project with the redevelopment tax credits
29 program. If the authority registers the project, the authority
30 may, in conjunction with the council, make a preliminary
31 determination as to the amount of tax credit for which an award
32 recommendation will be made to the board.

33 e. After registering the project, the authority shall notify
34 the investor of successful registration under the redevelopment
35 tax credits program. The notification may include the amount

1 of tax credit for which an award recommendation will be made
2 to the board. If an award recommendation is included in the
3 notification, such notification shall include a statement that
4 the award recommendation is a recommendation only. The amount
5 of tax credit included on a tax credit certificate issued
6 pursuant to this section shall be contingent upon an award
7 by the board and upon completion of the requirements in this
8 section.

9 f. All completed applications shall be reviewed and scored
10 on a competitive basis by the council and the board. In
11 reviewing and scoring applications, the council and the board
12 may consider any factors the council and board deem appropriate
13 for a competitive application process, including but not
14 limited to the financial need, quality, and feasibility of a
15 qualifying redevelopment project.

16 g. Upon reviewing and scoring all applications that are
17 part of an annual application period, the board may award tax
18 credits provided in section 15.293A.

19 h. If the applicant for a tax credit provided in section
20 15.293A has also applied to an agency of the federal government
21 or to the authority, the board, or any other agency of state
22 government for additional financial assistance, the authority,
23 the council, and the board shall consider the amount of funding
24 to be received from such public sources when making a tax
25 credit award pursuant to this section.

26 i. An applicant that is unsuccessful in receiving a tax
27 credit award during an annual application period may make
28 additional applications during subsequent annual application
29 periods. Such applicants shall be required to submit a new
30 application and shall be competitively reviewed and scored in
31 the same manner as other applicants in that annual application
32 period.

33 2. An investor applying for a tax credit shall provide the
34 authority with all of the following:

35 a. Information showing the total costs of the qualifying

1 redevelopment project, including the costs of land acquisition,
2 cleanup, and redevelopment.

3 *b.* Information about the financing sources of the investment
4 which are directly related to the qualifying redevelopment
5 project for which the ~~taxpayer investor~~ is seeking approval for
6 a tax credit, ~~as provided in section 15.293A.~~

7 *c.* Any other information deemed necessary by the board and
8 the council to review and score the application pursuant to
9 subsection 1.

10 3. ~~If a taxpayer receives an investor is awarded a tax~~
11 ~~credit pursuant to section 15.293A, but this section, the~~
12 authority and the investor shall enter into an agreement
13 concerning the qualifying redevelopment project. If the
14 investor fails to comply with any of the requirements of the
15 agreement, the taxpayer loses any right to the tax credit,
16 and the authority may find the investor in default under the
17 agreement and may revoke all or a portion of the tax credit
18 award. The department of revenue, upon notification by the
19 authority of an event of default, shall seek recovery repayment
20 of the value of the any such tax credit received already
21 claimed in the same manner as provided in section 15.330,
22 subsection 2.

23 4. ~~This section is repealed on June 30, 2021. A registered~~
24 project shall be completed within thirty months of the date the
25 project was registered unless the authority provides additional
26 time to complete the project. A project shall not be provided
27 more than twelve months of additional time. If the registered
28 project is not completed within the time required, the project
29 is not eligible to claim a tax credit provided in section
30 15.293A.

31 5. *a.* Upon completion of a registered project, an audit
32 of the project, completed by an independent certified public
33 accountant licensed in this state, shall be submitted to the
34 authority.

35 *b.* Upon review of the audit and verification of the amount

1 of the qualifying investment, the authority may issue a tax
2 credit certificate to the investor stating the amount of tax
3 credit under section 15.293A the investor may claim.

4 6. The authority, in conjunction with the department of
5 revenue, shall adopt rules to administer the redevelopment tax
6 credits program.

7 Sec. 11. Section 15.294, subsection 4, Code 2014, is amended
8 to read as follows:

9 4. The council, in conjunction with the authority, shall
10 consider applications for redevelopment tax credits ~~as~~
11 ~~described provided in sections~~ section 15.293A and 15.293B,
12 and may recommend to the authority which applications to
13 approve and the amount of such tax credits that each project ~~is~~
14 ~~eligible to receive~~ should be awarded by the board.

15 Sec. 12. APPLICABILITY. This Act applies to qualifying
16 redevelopment projects for which a redevelopment tax credit
17 is awarded on or after the effective date of this Act, and
18 qualifying redevelopment projects for which a redevelopment
19 tax credit was awarded prior to the effective date of this Act
20 shall be governed by sections 15.291, 15.293A, and 15.293B,
21 Code 2014.

22 EXPLANATION

23 The inclusion of this explanation does not constitute agreement with
24 the explanation's substance by the members of the general assembly.

25 This bill makes several changes to the redevelopment tax
26 credits program administered by the economic development
27 authority (EDA).

28 The bill defines the "redevelopment tax credits program"
29 to be the tax credits program administered pursuant to Code
30 sections 15.293A and 15.293B.

31 The bill affects the qualification of redevelopment projects
32 under the redevelopment tax credits program (program) by
33 amending the definition of "grayfield site" to include an
34 abandoned public building, and by specifying that a previously
35 remediated or redeveloped brownfield site, which does not

1 qualify for the program, means any prior remediation or
2 redevelopment, including redevelopment for which an award of
3 tax credits has been made under the program. "Abandoned public
4 building" and related terms are defined in the bill.

5 The bill amends the tax credit application and award
6 process. The bill provides that tax credit applications shall
7 be accepted by the EDA during an annual application period
8 established by the EDA. After an application is received, the
9 EDA may register the project under the program and may make a
10 preliminary determination as to the amount of tax credit for
11 which an award recommendation will be made to the economic
12 development authority board (board). The EDA then notifies
13 the investor of successful registration and, if applicable,
14 the amount of tax credit for which an award recommendation
15 will be made to the board. All applications that are part of
16 that annual application period are required to be reviewed and
17 scored on a competitive basis by the brownfield redevelopment
18 advisory council (council) and the board. In reviewing and
19 scoring applications, the council and the board are allowed to
20 consider any factors they deem appropriate for a competitive
21 application process, including but not limited to the financial
22 need, quality, and feasibility of a project.

23 The bill provides that if an applicant is unsuccessful in
24 receiving a tax credit award from the board during one annual
25 application period, the applicant may apply in a subsequent
26 annual application period provided the applicant submits a new
27 application and is competitively reviewed and scored in the
28 same manner as other applicants in that annual application
29 period.

30 The bill requires a tax credit application to include any
31 information deemed necessary by the board and the council to
32 appropriately review and score the application, in addition to
33 the information already required under Iowa law relating to the
34 project's total costs and financing sources. The bill strikes
35 language requiring the EDA to maintain a wait list for tax

1 credits.

2 The bill strikes the provision requiring that if a
3 redevelopment tax credit recipient has also applied to the
4 state for additional financial assistance, the state shall not
5 consider the receipt of the tax credit when considering the
6 application for additional financial assistance and instead
7 provides that if a redevelopment tax credit applicant also
8 applies to a federal or state agency for additional financial
9 assistance, the EDA and the board shall consider the amount
10 of funding from these public sources when making a tax credit
11 award.

12 The bill amends the amount of the tax credit. Under
13 current law, the amount of the tax credit is equal to a certain
14 percentage of the investor's qualifying investment depending
15 on whether the project is located on a grayfield site or a
16 brownfield site and whether or not the project meets green
17 development requirements. The bill provides that the amount
18 of the tax credit shall be an amount determined by the board
19 in conjunction with the council, but shall not exceed those
20 percentages already provided under current law. The bill
21 provides that the amount of tax credit included on a tax credit
22 certificate shall be contingent on an award by the board, and
23 on the completion of an audit of the project which audit is
24 already required under Iowa law.

25 The bill requires agreements under the program. An investor
26 awarded tax credits is required to enter into an agreement
27 with the EDA concerning the qualifying redevelopment project.
28 The bill amends language relating to a taxpayer's loss of
29 any right to a tax credit for failure to comply with any
30 requirements, to specify that if an investor fails to comply
31 with any requirements of the agreement, the authority may find
32 the investor in default and revoke all or a portion of the
33 tax credit award. If recovery of a claimed tax credit by the
34 department of revenue (DOR), as required under current law,
35 is necessary for failure to maintain the requirements of an

1 agreement, the bill provides that such recovery shall be in
2 the same manner as provided in Code section 15.330, subsection
3 2, which relates to the recovery of incentives under the high
4 quality jobs program.

5 The bill amends the process of claiming the tax credits
6 by allowing the currently nonrefundable tax credits to be
7 refundable, but only to nonprofit organizations under certain
8 conditions. In order for tax credits to qualify as refundable,
9 a nonprofit organization must be an investor applying for
10 the tax credits, must be organized under Code chapter 504,
11 must qualify as a tax-exempt organization under section
12 501(c)(3) of the Internal Revenue Code, and must establish
13 these requirements during the tax credit application process.
14 The EDA will be required to indicate on the tax credit
15 certificate issued to these nonprofit organizations that such
16 requirements have been met. The bill requires that a taxpayer
17 include, rather than attach, a tax credit certificate with the
18 taxpayer's tax return. The bill amends the requirement that
19 tax credits shall not be claimed for taxable years beginning
20 prior to July 1, 2009, to require that tax credits shall not
21 be claimed prior to the tax year listed on the tax credit
22 certificate.

23 The bill strikes Code section 15.293A, subsections 10 and
24 11, relating to the adoption of administrative rules by the
25 EDA and the DOR, and the EDA's cooperation with the department
26 of natural resources and local governments regarding the
27 dissemination of information about the program. The bill
28 requires the authority, in conjunction with the department
29 of revenue, to adopt rules to administer the program. The
30 bill transfers to Code section 15.293B the language from
31 Code section 15.293A, subsection 8, relating to the deadline
32 for completing registered projects, and amends part of that
33 language referencing the project's approval date to instead
34 reference the date upon which the project was registered.

35 The bill amends the duties and powers of the council to

1 provide that it may recommend to the EDA the amount of tax
2 credits that a redevelopment project should be awarded, instead
3 of the amount of tax credits that a redevelopment project is
4 eligible to receive.

5 Finally, the bill removes the automatic repeal date of the
6 program, which under current law is set to expire on June 30,
7 2021.

8 The bill applies to qualifying redevelopment projects for
9 which a redevelopment tax credit is awarded on or after the
10 effective date of the bill. The bill provides that qualifying
11 redevelopment projects for which a redevelopment tax credit
12 was awarded prior to the effective date of the bill shall be
13 governed by current law.