

SENATE FILE 392  
BY COMMITTEE ON WAYS  
AND MEANS

(SUCCESSOR TO SSB 1191)

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

**A BILL FOR**

1 An Act relating to entities eligible to claim certain property-  
2 related tax credits.

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

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SF 392

1 Section 1. Section 15E.193B, subsection 5, Code 2005, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. f. If the eligible housing business is a  
4 limited partnership, the name of any limited partner who may  
5 be allocated all or a portion of a tax credit allowed under  
6 subsection 6, paragraph "a".

7 Sec. 2. Section 15E.193B, subsection 6, paragraph a, Code  
8 2005, is amended to read as follows:

9 a. An eligible housing business or a limited partner of  
10 the eligible housing business designated by the eligible  
11 housing business may claim a tax credit up to a maximum of ten  
12 percent of the new investment which is directly related to the  
13 building or rehabilitating of a minimum of four single-family  
14 homes located in that part of a city or county in which there  
15 is a designated enterprise zone or one multiple dwelling unit  
16 building containing three or more individual dwelling units  
17 located in that part of a city or county in which there is a  
18 designated enterprise zone. The new investment that may be  
19 used to compute the tax credit shall not exceed the new  
20 investment used for the first one hundred forty thousand  
21 dollars of value for each single-family home or for each unit  
22 of a multiple dwelling unit building containing three or more  
23 units. The tax credit may be used to reduce the tax liability  
24 imposed under chapter 422, division II, III, or V, or chapter  
25 432. Any credit in excess of the tax liability for the tax  
26 year may be credited to the tax liability for the following  
27 seven years or until depleted, whichever occurs earlier. If  
28 the business is a partnership, S corporation, limited  
29 liability company, or estate or trust electing to have the  
30 income taxed directly to the individual, an individual may  
31 claim the tax credit allowed. The amount claimed by the  
32 individual shall be based upon the pro rata share of the  
33 individual's earnings of the partnership, S corporation,  
34 limited liability company, or estate or trust except when a  
35 limited partnership designates a limited partner to claim the

1 tax credit.

2 Sec. 3. Section 15E.193B, subsection 8, unnumbered  
3 paragraph 1, Code 2005, is amended to read as follows:

4 The amount of the tax credits determined pursuant to  
5 subsection 6, paragraph "a", for each project shall be  
6 approved by the department of economic development. The  
7 department shall utilize the financial information required to  
8 be provided under subsection 5, paragraph "e", to determine  
9 the tax credits allowed for each project. In determining the  
10 amount of tax credits to be allowed for a project, the  
11 department shall not include the portion of the project cost  
12 financed through federal, state, and local government tax  
13 credits, grants, and forgivable loans. Upon approving the  
14 amount of the tax credit, the department of economic  
15 development shall issue a tax credit certificate to the  
16 eligible housing business or to a limited partner designated  
17 by the eligible housing business. An eligible housing  
18 business or the designated limited partner or transferee shall  
19 not claim the tax credit unless a tax credit certificate  
20 issued by the department of economic development is attached  
21 to the taxpayer's return for the tax year for which the tax  
22 credit is claimed. The tax credit certificate shall contain  
23 the taxpayer's name, address, tax identification number, the  
24 amount of the tax credit, and other information required by  
25 the department of revenue. The tax credit certificate shall  
26 be transferable if low-income housing tax credits authorized  
27 under section 42 of the Internal Revenue Code are used to  
28 assist in the financing of the housing development. Tax  
29 credit certificates issued under this chapter may be  
30 transferred to any person or entity. Within ninety days of  
31 transfer, the transferee must submit the transferred tax  
32 credit certificate to the department of economic development  
33 along with a statement containing the transferee's name, tax  
34 identification number, and address, and the denomination that  
35 each replacement tax credit certificate is to carry and any

1 other information required by the department of revenue.  
2 Within thirty days of receiving the transferred tax credit  
3 certificate and the transferee's statement, the department of  
4 economic development shall issue one or more replacement tax  
5 credit certificates to the transferee. Each replacement  
6 certificate must contain the information required to receive  
7 the original certificate and must have the same expiration  
8 date that appeared in the transferred tax credit certificate.  
9 Tax credit certificate amounts of less than the minimum amount  
10 established by rule of the department of economic development  
11 shall not be transferable. A tax credit shall not be claimed  
12 by a transferee under subsection 6, paragraph "a", until a  
13 replacement tax credit certificate identifying the transferee  
14 as the proper holder has been issued.

15 Sec. 4. Section 404A.4, subsection 1, Code 2005, is  
16 amended to read as follows:

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

25 Sec. 5. Section 422.11D, subsection 2, Code 2005, is  
26 amended to read as follows:

27 2. An individual may claim a property rehabilitation tax  
28 credit allowed a partnership, limited liability company, S  
29 corporation, estate, or trust electing to have the income  
30 taxed directly to the individual. The amount claimed by the  
31 individual shall be based upon the pro rata share of the  
32 individual's earnings of a partnership, limited liability  
33 company, S corporation, estate, or trust except when a limited  
34 partnership designates a limited partner to claim the tax  
35 credit.

EXPLANATION

1  
2 This bill relates to entities eligible to claim certain  
3 property-related tax credits.

4 The bill allows a tax credit to an eligible housing  
5 business under the enterprise zone program to be allocated to  
6 a limited partner designated by the limited partnership. The  
7 bill allows a tax credit for a property rehabilitation project  
8 certified under Code chapter 404A to be claimed by a limited  
9 partner designated by the limited partnership.

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12 **SENATE FILE 392**

13 **S-3159**

14 Amend the amendment, S-3148, to Senate File 392 as  
15 follows:

16 1. Page 1, lines 45 and 46, by striking the words  
17 "tax credit certificate may be issued to" and  
18 inserting the following: "amount claimed by".

19 2. Page 1, line 49, by striking the word "in" and  
20 inserting the following: "shall be based on".

21 **By MIKE CONNOLLY**

22 **S-3159 FILED APRIL 21, 2005**  
23 **ADOPTED**

SENATE FILE 392

S-3148

1 Amend Senate File 392 as follows:  
2 1. Page 1, by striking lines 4 through 6 and  
3 inserting the following: "partnership, S corporation,  
4 or limited liability company using low-income housing  
5 tax credits authorized under section 42 of the  
6 Internal Revenue Code to assist in the financing of  
7 the housing development, the name of any partner if  
8 the business is a partnership, a shareholder if the  
9 business is an S corporation, or a member if the  
10 business is a limited liability company and the amount  
11 designated as allowed under subsection 8."  
12 2. Page 1, by striking lines 9 through 11 and  
13 inserting the following:  
14 "a. An eligible housing business may claim a tax  
15 credit up to a maximum of ten".  
16 3. By striking page 1, line 34, through page 2,  
17 line 1, and inserting the following: "limited  
18 liability company, or estate or trust except as  
19 allowed for under subsection 8 when low-income housing  
20 tax credits authorized under section 42 of the  
21 Internal Revenue Code are used to assist in the  
22 financing of the housing development."  
23 4. Page 2, by striking lines 16 through 18 and  
24 inserting the following: "eligible housing business  
25 except when low-income housing tax credits authorized  
26 under section 42 of the Internal Revenue Code are used  
27 to assist in the financing of the housing development  
28 in which case the tax credit certificate may be issued  
29 to a partner if the business is a partnership, a  
30 shareholder if the business is an S corporation, or a  
31 member if the business is a limited liability company  
32 in the amounts designated by the eligible partnership,  
33 S corporation, or limited liability company. An  
34 eligible housing business or the designated partner if  
35 the business is a partnership, designated shareholder  
36 if the business is an S corporation, or designated  
37 member if the business is a limited liability company,  
38 or transferee shall".  
39 5. Page 3, by striking lines 15 through 24.  
40 6. Page 3, by striking lines 33 through 35 and  
41 inserting the following: "company, S corporation,  
42 estate, or trust except when low-income housing tax  
43 credits authorized under section 42 of the Internal  
44 Revenue Code are used to assist in the financing of  
45 the housing development in which case the tax credit  
46 certificate may be issued to a partner if the business  
47 is a partnership, a shareholder if the business is an  
48 S corporation, or a member if the business is a  
49 limited liability company in the amounts designated by  
50 the eligible partnership, S corporation, or limited

S-3148

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S-3148

Page 2

1 liability company."

2 7. By renumbering as necessary.

By MIKE CONNOLLY

S-3148 FILED APRIL 20, 2005

**Fiscal Services Division**  
**Legislative Services Agency**  
**Fiscal Note**

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SF 392 - Enterprise Zone Historic Preservation Credits (LSB 1892 SV)  
Analyst: Russell Trimble (Phone: (515) 281-4613) (russ.trimble@legis.state.ia.us)  
Fiscal Note Version - New

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**Description**

The Bill allows a tax credit to an eligible housing business under the Enterprise Zone Program to be allocated to a limited partner designated by the limited partnership. The Bill allows a tax credit under a property rehabilitation project certified under Chapter 404A, Code of Iowa, to be claimed by a limited partner designated by the limited partnership.

**Background**

Under current law, tax credits awarded to partnerships are to be allocated on a pro rata share of earnings. Under the proposed legislation, a limited partner could be allocated the tax credits without partaking in any earnings. In other words, the limited partner would be able to reduce tax liability without generating additional liability.

**Assumptions**

1. Senate File 392 is similar in some regards to HF 670. House File 670 allows for the sale or transfer of up to \$3.0 million in investment tax credits for eligible housing businesses that locate within brownfield or blighted areas within an enterprise zone. A large project in the City of Des Moines would benefit from the sale of these tax credits. This fiscal note assumes that House File 670 will pass and the impact from the Des Moines project will be captured in the fiscal note for HF 670 and not in the fiscal note for SF 392.
2. Award and utilization of historic rehabilitation tax credits would be unaffected by the proposed legislation.
3. Projects involving federal low-income housing tax credits under Section 42 of the Internal Revenue Code would be unaffected by the proposed legislation. Tax credits for projects under Section 42 of the Internal Revenue Code are currently saleable.
4. Current awards (FY 2004) for eligible housing businesses under the Enterprise Zone Program total \$9.5 million. This includes \$7.8 million in investment tax credits and \$2.2 million in sales and use tax rebates. According to the Department of Economic Development, based on analysis of the types and sizes of the applications received during FY 2004 and discussion with developers and their accountants, the legislation would result in a projected increase in total Program usage of 5.0% in year one and 13.0% in year two compared to the FY 2004 level as more people become aware of the change in law.
5. Projects beginning on or after July 1, 2005, will be the first to benefit from the proposed legislation and will result in an increase of 5.0% in Program utilization compared to the FY 2004 level. The first impact of these projects will occur in FY 2006 with an increase of \$110,000 in sales and use tax rebates (\$2.2 million x .05). The investment tax credit cannot be utilized until the housing units are completed and a certificate of occupancy is issued. This will not occur until FY 2007 and the fiscal impact will be \$390,000 (\$7.8 million x .05).

6. Projects beginning on or after July 1, 2006, will result in a 13.0% increase in Program utilization compared to the FY 2004 level. The first impact of these projects will occur in FY 2007 with an increase of \$286,000 in sales and use tax rebates (\$2.2 million x .13). The investment tax credit cannot be utilized until the housing units are completed and a certificate of occupancy is issued. This will not occur until FY 2008 and the fiscal impact will be \$1.0 million (\$7.8 million x .13).

	FY06	FY07	FY08
Investment Tax Credit Increase	\$ 0	\$ 390,000	\$ 1,000,000
Sales & Use Rebate Tax Increase	110,000	286,000	286,000
Total Fiscal Impact	<u>\$ 110,000</u>	<u>\$ 676,000</u>	<u>\$ 1,286,000</u>

### **Fiscal Impact**

Senate File 392 will reduce General Fund revenues by an estimated \$110,000 in FY 2006 and by \$676,000 in FY 2007. General Fund revenues will be reduced by \$1.3 million annually starting in FY 2008.

### **Sources**

Department of Economic Development  
 Department of Revenue  
 Department of Cultural Affairs

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 /s/ Holly M. Lyons

March 29, 2005

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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SENATE FILE 392  
BY COMMITTEE ON WAYS  
AND MEANS

(SUCCESSOR TO SSB 1191)

(AS AMENDED AND PASSED BY THE SENATE APRIL 21, 2005)

\_\_\_\_\_ - New Language by the Senate  
\* - Language Stricken by the Senate

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

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S.F. 392

1 Section 1. Section 15E.193B, subsection 5, Code 2005, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. f. If the eligible housing business is a  
4 partnership, S corporation, or limited liability company using  
5 low-income housing tax credits authorized under section 42 of  
6 the Internal Revenue Code to assist in the financing of the  
7 housing development, the name of any partner if the business  
8 is a partnership, a shareholder if the business is an S  
9 corporation, or a member if the business is a limited  
10 liability company and the amount designated as allowed under  
11 subsection 8.

12 Sec. 2. Section 15E.193B, subsection 6, paragraph a, Code  
13 2005, is amended to read as follows:

14 a. An eligible housing business may claim a tax credit up  
15 to a maximum of ten percent of the new investment which is  
16 directly related to the building or rehabilitating of a  
17 minimum of four single-family homes located in that part of a  
18 city or county in which there is a designated enterprise zone  
19 or one multiple dwelling unit building containing three or  
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22 new investment that may be used to compute the tax credit  
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24 hundred forty thousand dollars of value for each single-family  
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27 reduce the tax liability imposed under chapter 422, division  
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29 tax liability for the tax year may be credited to the tax  
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31 whichever occurs earlier. If the business is a partnership, S  
32 corporation, limited liability company, or estate or trust  
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35 claimed by the individual shall be based upon the pro rata

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3 except as allowed for under subsection 8 when low-income  
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7 Sec. 3. Section 15E.193B, subsection 8, unnumbered  
8 paragraph 1, Code 2005, is amended to read as follows:

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10 Within ninety days of transfer, the transferee must submit the  
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13 transferee's name, tax identification number, and address, and  
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\* 30 Sec. 4. Section 422.11D, subsection 2, Code 2005, is  
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Miller co-chair  
Connolly co-chair  
Zawn  
Danielson

Succeeded By  
SF/HF 392

SSB# 1191

Ways + Means

SENATE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
WAYS AND MEANS BILL BY  
CO-CHAIRPERSON ZIEMAN)

Passed Senate, Date \_\_\_\_\_

Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

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EXPLANATION

This bill relates to entities eligible to claim certain property-related tax credits.

The bill allows a tax credit to an eligible housing business under the enterprise zone program to be allocated to a limited partner designated by the limited partnership. The bill allows a tax credit for a property rehabilitation project certified under Code chapter 404A to be claimed by a limited partner designated by the limited partnership.