



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1692

Introduced 2/19/2009, by Sen. Kirk W. Dillard

SYNOPSIS AS INTRODUCED:

20 ILCS 3405/14.1 new
35 ILCS 5/218 new

Amends the Illinois Income Tax Act. Creates the rehabilitation of historic resource credit. Allows a credit against income taxes for 25% of the qualified expenditures for the rehabilitation of a historic resource. Provides that "historic resource" means certain publicly or privately owned historic buildings, structures, sites, objects, features, or open spaces located within a designated historic district or individually designated as historic. Provides that "qualified expenditures" means capital expenditures that qualify for a rehabilitation credit under Internal Revenue Code. Amends the Historic Preservation Agency Act to provide that the Historic Preservation Agency shall exercise all rights, powers, and duties set forth in the credit provisions. Effective immediately.

LRB096 11161 HLH 21541 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Historic Preservation Agency Act is amended
5 by adding Section 14.1 as follows:

6 (20 ILCS 3405/14.1 new)

7 Sec. 14.1. Exercise of rights, powers, and duties;
8 rehabilitation of historic resource tax credit. The Agency
9 shall exercise all rights, powers, and duties set forth in
10 Section 218 of the Illinois Income Tax Act.

11 Section 10. The Illinois Income Tax Act is amended by
12 adding Section 218 as follows:

13 (35 ILCS 5/218 new)

14 Sec. 218. Rehabilitation of historic resource tax credit.

15 (a) A qualified taxpayer with a rehabilitation plan
16 certified after December 31, 2009 is entitled to a credit
17 against the taxes imposed under subsections (a) and (b) of
18 Section 201 in the amount determined pursuant to subsection (b)
19 for the qualified expenditures for the rehabilitation of a
20 historic resource pursuant to the rehabilitation plan in the
21 year in which the certification of completed rehabilitation of

1 the historic resource is issued, provided that the
2 certification of completed rehabilitation was issued not more
3 than 5 years after the rehabilitation plan was certified by the
4 Historic Preservation Agency.

5 (b) The credit allowed under this Section shall be 25% of
6 the qualified expenditures that are eligible for the credit
7 under Section 47(a)(2) of the Internal Revenue Code if the
8 taxpayer is eligible for the credit under Section 47(a)(2) of
9 the Internal Revenue Code or, if the taxpayer is not eligible
10 for the credit under Section 47(a)(2) of the Internal Revenue
11 Code, 25% of the qualified expenditures that would qualify
12 under Section 47(a)(2) of the Internal Revenue Code except that
13 the expenditures are made to a historic resource that is not
14 eligible for the credit under Section 47(a)(2) of the Internal
15 Revenue Code, subject to both of the following:

16 (1) A taxpayer with qualified expenditures that are
17 eligible for the credit under Section 47(a)(2) of the
18 Internal Revenue Code may not claim a credit under this
19 Section for those qualified expenditures unless the
20 taxpayer has claimed and received a credit for those
21 qualified expenditures under Section 47(a)(2) of the
22 Internal Revenue Code.

23 (2) A credit under this Section shall be reduced by the
24 amount of a credit received by the taxpayer for the same
25 qualified expenditures under Section 47(a)(2) of the
26 Internal Revenue Code.

1 (c) To be eligible for the credit under this Section, the
2 taxpayer shall apply to and receive from the Historic
3 Preservation Agency certification that the historic
4 significance, the rehabilitation plan, and the completed
5 rehabilitation of the historic resource meet the criteria under
6 subsection (f) and either of the following:

7 (1) All of the following criteria:

8 (A) The historic resource contributes to the
9 significance of the historic district in which it is
10 located.

11 (B) Both the rehabilitation plan and completed
12 rehabilitation of the historic resource meet the
13 federal Secretary of the Interior's standards for
14 rehabilitation and guidelines for rehabilitating
15 historic buildings, 36 C.F.R. part 67.

16 (C) All rehabilitation work has been done to or
17 within the walls, boundaries, or structures of the
18 historic resource or to historic resources located
19 within the property boundaries of the property.

20 (2) The taxpayer has received certification from the
21 National Park Service that the historic resource's
22 significance, the rehabilitation plan, and the completed
23 rehabilitation qualify for the credit allowed under
24 Section 47(a)(2) of the Internal Revenue Code.

25 (c-5) The Director of Historic Preservation may approve
26 county or municipal ordinances that qualify historic resources

1 for consideration under this Section. However, no ordinance
2 shall be approved unless it:

3 (1) is designed to preserve and rehabilitate buildings
4 of historic significance;

5 (2) contains criteria for the designation of landmarks
6 consistent with those established by the U.S. Department of
7 the Interior for the inclusion of places on the National
8 Register of Historic Places; and

9 (3) contains criteria for review of demolition and
10 major alterations.

11 (d) If a qualified taxpayer is eligible for the credit
12 allowed under Section 47(a)(2) of the Internal Revenue Code,
13 the qualified taxpayer shall file for certification with the
14 Historic Preservation Agency to qualify for the credit allowed
15 under Section 47(a)(2) of the Internal Revenue Code. If the
16 qualified taxpayer has previously filed for certification with
17 the center to qualify for the credit allowed under Section
18 47(a)(2) of the Internal Revenue Code, additional filing for
19 the credit allowed under this Section is not required.

20 (e) The Historic Preservation Agency may inspect a historic
21 resource at any time during the rehabilitation process and may
22 revoke certification of completed rehabilitation if the
23 rehabilitation was not undertaken as represented in the
24 rehabilitation plan or if unapproved alterations to the
25 completed rehabilitation are made during the 5 years after the
26 tax year in which the credit was claimed. The Historic

1 Preservation Agency shall promptly notify the Department of a
2 revocation.

3 (f) Qualified expenditures for the rehabilitation of a
4 historic resource may be used to calculate the credit under
5 this Section if the historic resource meets one of the criteria
6 listed in subdivision (f) (1) and one of the criteria listed in
7 subdivision (f) (2):

8 (1) The resource is one of the following during the tax
9 year in which a credit under this Section is claimed for
10 those qualified expenditures:

11 (A) Individually listed on the National Register
12 of Historic Places or the Illinois Register of Historic
13 Places.

14 (B) A contributing resource located within a
15 historic district listed on the National Register of
16 Historic Places or the Illinois Register of Historic
17 Places.

18 (C) A contributing resource located within a
19 historic district designated by a county or municipal
20 ordinance approved by the Historic Preservation Agency
21 under subsection (c-5).

22 (2) The resource meets one of the following criteria
23 during the tax year in which a credit under this Section is
24 claimed for those qualified expenditures:

25 (A) The historic resource is located in a
26 designated historic district in a county or

1 municipality with an existing ordinance approved by
2 the Historic Preservation Agency under subsection
3 (c-5).

4 (B) The historic resource is located in a county or
5 municipality that does not have an ordinance approved
6 by the Historic Preservation Agency under subsection
7 (c-5) and has a population of less than 5,000.

8 (C) The historic resource is located in the
9 unincorporated area of a county.

10 (g) If a qualified taxpayer is a partnership, limited
11 liability company, or subchapter S corporation, the qualified
12 taxpayer may assign all or any portion of a credit allowed
13 under this Section to its partners, members, or shareholders,
14 based on the partner's, member's, or shareholder's
15 proportionate share of ownership or based on an alternative
16 method approved by the Department. A credit assignment under
17 this subsection is irrevocable and shall be made in the tax
18 year in which a certificate of completed rehabilitation is
19 issued. A qualified taxpayer may claim a portion of a credit
20 and assign the remaining credit amount. A partner, member, or
21 shareholder that is an assignee shall not subsequently assign a
22 credit or any portion of a credit assigned to the partner,
23 member, or shareholder under this subsection. A credit amount
24 assigned under this subsection may be claimed against the
25 partner's, member's, or shareholder's tax liability under this
26 Act. A credit assignment under this subsection shall be made on

1 a form prescribed by the Department. The qualified taxpayer and
2 assignees shall send a copy of the completed assignment form to
3 the Department in the tax year in which the assignment is made
4 and attach a copy of the completed assignment form to the
5 annual return required to be filed under this Act for that tax
6 year.

7 (h) If the credit allowed under this Section for the tax
8 year and any unused carryforward of the credit allowed by this
9 Section exceed the taxpayer's tax liability for the tax year,
10 that portion that exceeds the tax liability for the tax year
11 shall not be refunded but may be carried forward to offset tax
12 liability in subsequent tax years for 10 years or until used
13 up, whichever occurs first.

14 (i) If the taxpayer sells a historic resource for which a
15 credit under this Section was claimed less than 5 years after
16 the year in which the credit was claimed, the following
17 percentage of the credit amount previously claimed relative to
18 that historic resource shall be added back to the tax liability
19 of the taxpayer in the year of the sale:

20 (1) If the sale is less than one year after the year in
21 which the credit was claimed, 100%.

22 (2) If the sale is at least one year but less than 2
23 years after the year in which the credit was claimed, 80%.

24 (3) If the sale is at least 2 years but less than 3
25 years after the year in which the credit was claimed, 60%.

26 (4) If the sale is at least 3 years but less than 4

1 years after the year in which the credit was claimed, 40%.

2 (5) If the sale is at least 4 years but less than 5
3 years after the year in which the credit was claimed, 20%.

4 (6) If the sale is 5 years or more after the year in
5 which the credit was claimed, an addback to the taxpayer's
6 tax liability shall not be made.

7 (j) If a certification of completed rehabilitation is
8 revoked under subsection (e) less than 5 years after the year
9 in which a credit was claimed, the following percentage of the
10 credit amount previously claimed relative to that historic
11 resource shall be added back to the tax liability of the
12 taxpayer in the year of the revocation:

13 (1) If the revocation is less than one year after the
14 year in which the credit was claimed, 100%.

15 (2) If the revocation is at least one year but less
16 than 2 years after the year in which the credit was
17 claimed, 80%.

18 (3) If the revocation is at least 2 years but less than
19 3 years after the year in which the credit was claimed,
20 60%.

21 (4) If the revocation is at least 3 years but less than
22 4 years after the year in which the credit was claimed,
23 40%.

24 (5) If the revocation is at least 4 years but less than
25 5 years after the year in which the credit was claimed,
26 20%.

1 (6) If the revocation is 5 years or more after the year
2 in which the credit was claimed, an addback to the
3 taxpayer's tax liability shall not be made.

4 (k) The Historic Preservation Agency may impose a fee to
5 cover the administrative cost of implementing the program under
6 this Section.

7 (l) The qualified taxpayer shall attach all of the
8 following to the qualified taxpayer's annual return required
9 under this Act, on which the credit is claimed:

10 (1) Certification of completed rehabilitation.

11 (2) Certification of historic significance related to
12 the historic resource and the qualified expenditures used
13 to claim a credit under this Section.

14 (3) A completed assignment form if the qualified
15 taxpayer has assigned any portion of a credit allowed under
16 this Section to a partner, member, or shareholder, or if
17 the taxpayer is an assignee of any portion of a credit
18 allowed under this Section.

19 (m) The Historic Preservation Agency shall adopt rules to
20 implement this Section pursuant to the Illinois Administrative
21 Procedure Act.

22 (n) The total of the credits claimed under this Section for
23 a rehabilitation project shall not exceed 25% of the total
24 qualified expenditures eligible for the credit under this
25 Section for that rehabilitation project.

26 (o) The Historic Preservation Agency shall report all of

1 the following to the General Assembly annually for the
2 immediately preceding State fiscal year:

3 (1) The fee schedule used by the Historic Preservation
4 Agency and the total amount of fees collected.

5 (2) A description of each rehabilitation project
6 certified.

7 (3) The location of each new and ongoing rehabilitation
8 project.

9 (p) As used in this Section:

10 (1) "Contributing resource" means a historic resource
11 that contributes to the significance of the historic
12 district in which it is located.

13 (2) "Historic district" means an area or group of areas
14 not necessarily having contiguous boundaries that contains
15 one resource or a group of resources that are related by
16 history, architecture, archaeology, engineering, or
17 culture.

18 (3) "Historic resource" means a publicly or privately
19 owned historic building, structure, site, object, feature,
20 or open space located within a historic district designated
21 by the National Register of Historic Places, the Illinois
22 Register of Historic Places, or a county or municipal
23 ordinance approved by the Historic Preservation Agency
24 under subsection (c-5); or that is individually listed on
25 the Illinois Register of Historic Places or National
26 Register of Historic Places and includes all of the

1 following:

2 (A) An owner-occupied personal residence or a
3 historic resource located within the property
4 boundaries of that personal residence.

5 (B) An income-producing commercial, industrial, or
6 residential resource or a historic resource located
7 within the property boundaries of that resource.

8 (C) A resource owned by a governmental body,
9 nonprofit organization, or tax-exempt entity that is
10 used primarily by a taxpayer lessee in a trade or
11 business unrelated to the governmental body, nonprofit
12 organization, or tax-exempt entity and that is subject
13 to tax under this Act.

14 (D) A resource that is occupied or used by a
15 governmental body, nonprofit organization, or
16 tax-exempt entity pursuant to a long-term lease or
17 lease with option to buy agreement.

18 (E) Any other resource that could benefit from
19 rehabilitation.

20 (4) "Long-term lease" means a lease term of at least
21 27.5 years for a residential resource or at least 31.5
22 years for a nonresidential resource.

23 (5) "Historic Preservation Agency" means the Illinois
24 Historic Preservation Agency.

25 (6) "Open space" means undeveloped land, a naturally
26 landscaped area, or a formal or man-made landscaped area

1 that provides a connective link or a buffer between other
2 resources.

3 (7) "Person" means an individual, partnership,
4 corporation, association, governmental entity, or other
5 legal entity.

6 (8) "Qualified expenditures" means capital
7 expenditures that qualify for a rehabilitation credit
8 under Section 47(a)(2) of the Internal Revenue Code if the
9 taxpayer is eligible for the credit under Section 47(a)(2)
10 of the Internal Revenue Code or, if the taxpayer is not
11 eligible for the credit under Section 47(a)(2) of the
12 Internal Revenue Code, the qualified expenditures that
13 would qualify under Section 47(a)(2) of the Internal
14 Revenue Code except that the expenditures are made to a
15 historic resource that is not eligible for the credit under
16 Section 47(a)(2) of the Internal Revenue Code that were
17 paid not more than 5 years after the certification of the
18 rehabilitation plan that included those expenditures was
19 approved by the Historic Preservation Agency, and that were
20 paid after December 31, 2005 for the rehabilitation of a
21 historic resource. Qualified expenditures do not include
22 capital expenditures for nonhistoric additions to a
23 historic resource except an addition that is required by
24 State or federal regulations that relate to historic
25 preservation, safety, or accessibility.

26 (9) "Qualified taxpayer" means a person that is an

1 assignee under subsection (g) or either owns the resource
2 to be rehabilitated or has a long-term lease agreement with
3 the owner of the historic resource and that has qualified
4 expenditures for the rehabilitation of the historic
5 resource equal to or greater than 10% of the equalized
6 assessed valuation of the property. If the historic
7 resource to be rehabilitated is a portion of a historic or
8 nonhistoric resource, the equalized assessed valuation of
9 only that portion of the property shall be used for
10 purposes of this subdivision. If the chief county
11 assessment officer for the county in which the historic
12 resource is located determines the equalized assessed
13 valuation of that portion, that chief county assessment
14 officer's determination shall be used for purposes of this
15 subdivision. If the chief county assessment officer does
16 not determine the equalized assessed valuation of that
17 portion, "qualified expenditures", for purposes of this
18 subdivision, shall be equal to or greater than 5% of the
19 appraised value as determined by a certified appraiser. If
20 the historic resource to be rehabilitated does not have an
21 equalized assessed valuation, qualified expenditures for
22 purposes of this subdivision shall be equal to or greater
23 than 5% of the appraised value of the resource as
24 determined by a certified appraiser.

25 (10) "Rehabilitation plan" means a plan for the
26 rehabilitation of a historic resource that meets the

1 federal Secretary of the Interior's standards for
2 rehabilitation and guidelines for rehabilitation of
3 historic buildings under 36 C.F.R. part 67.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.