

AN ACT concerning revenue.

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

Section 5. The Historic Preservation Tax Credit Act is amended by changing Sections 5, 10, 20, and 25 as follows:

(35 ILCS 31/5)

Sec. 5. Definitions. As used in this Act, unless the context clearly indicates otherwise:

"Director" means the Director of Natural Resources or his or her designee.

"Division" means the State Historic Preservation Office within the Department of Natural Resources.

~~"Phased rehabilitation" means a project that is completed in phases, as defined under Section 47 of the federal Internal Revenue Code and pursuant to National Park Service regulations at 36 C.F.R. 67.~~

"Placed in service" means the date when the property is placed in a condition or state of readiness and availability for a specifically assigned function as defined under Section 47 of the federal Internal Revenue Code and federal Treasury Regulation Sections 1.46 and 1.48.

"Qualified expenditures" means all the costs and expenses defined as qualified rehabilitation expenditures under Section

47 of the federal Internal Revenue Code that were incurred in connection with a qualified rehabilitation plan ~~historic structure~~.

"Qualified historic structure" means any structure that is located in Illinois and is defined as a certified historic structure under Section 47(c)(3) of the federal Internal Revenue Code.

"Qualified rehabilitation plan" means a project that is approved by the Department of Natural Resources and the National Park Service as being consistent with the United States Secretary of the Interior's Standards for Rehabilitation.

"Qualified taxpayer" means the owner of the ~~qualified historic~~ structure or any other person or entity who may qualify for the federal rehabilitation credit allowed by Section 47 of the federal Internal Revenue Code.

"Recapture event" means any of the following events occurring during the recapture period:

- (1) failure to place in service the rehabilitated portions of the qualified historic structure, or failure to maintain the rehabilitated portions of the qualified historic structure in service after they are placed in service; provided that a recapture event under this paragraph (1) shall not include a removal from service for a reasonable period of time to conduct maintenance and repairs that are reasonably necessary to protect the

health and safety of the public or to protect the structural integrity of the qualified historic structure or a neighboring structure;

(2) demolition or other alteration of the qualified historic structure in a manner that is inconsistent with the qualified rehabilitation plan or the Secretary of the Interior's Standards for Rehabilitation;

(3) disposition of the rehabilitated qualified historic structure in whole or a proportional disposition of a partnership interest therein, except as otherwise permitted by this Section; or

(4) use of the qualified historic structure in a manner that is inconsistent with the qualified rehabilitation plan or that is otherwise inconsistent with the provisions and intent of this Section.

A recapture event occurring in one taxable year shall be deemed continuing to subsequent taxable years unless and until corrected.

The following dispositions of a qualified historic structure shall not be deemed to be a recapture event for purposes of this Section:

(1) a transfer by reason of death;

(2) a transfer between spouses incident to divorce;

(3) a sale by and leaseback to an entity that, when the rehabilitated portions of the qualified historic structure are placed in service, will be a lessee of the qualified

historic structure, but only for so long as the entity continues to be a lessee; and

(4) a mere change in the form of conducting the trade or business by the owner (or, if applicable, the lessee) of the qualified historic structure, so long as the property interest in such qualified historic structure is retained in such trade or business and the owner or lessee retains a substantial interest in such trade or business.

"Recapture period" means the 5-year period beginning on the date that the qualified historic structure or rehabilitated portions of the qualified historic structure are placed in service.

~~"Substantial rehabilitation" means that the qualified rehabilitation expenditures during the 24-month period selected by the taxpayer at the time and in the manner prescribed by rule and ending with or within the taxable year exceed the greater of (i) the adjusted basis of the building and its structural components or (ii) \$5,000. The adjusted basis of the building and its structural components shall be determined as of the beginning of the first day of such 24-month period or as of the beginning of the first day of the holding period of the building, whichever is later. For purposes of determining the adjusted basis, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation. In the case of any phased~~

~~rehabilitation, with phases set forth in architectural plans and specifications completed before the rehabilitation begins, this definition shall be applied by substituting "60 month period" for "24 month period" wherever that term occurs in the definition.~~

(Source: P.A. 100-629, eff. 1-1-19.)

(35 ILCS 31/10)

Sec. 10. Allowable credit.

(a) To the extent authorized by this Act, for taxable years beginning on or after January 1, 2019 and ending on or before December 31, 2023, there shall be allowed a tax credit to the qualified taxpayer against the tax imposed by subsections (a) and (b) of Section 201 of the Illinois Income Tax Act in an aggregate amount equal to 25% of qualified expenditures, but not to exceed \$3,000,000, incurred ~~by a qualified taxpayer~~ undertaking a qualified rehabilitation plan ~~of a qualified historic structure,~~ provided that the total amount of such expenditures must (i) equal \$5,000 or more and ~~or~~ (ii) exceed the adjusted basis of the ~~qualified historic~~ structure on the first day the qualified rehabilitation plan commenced. If the qualified rehabilitation plan spans multiple years, the aggregate credit for the entire project shall be allowed in the last taxable year.

(b) To obtain a tax credit certificate pursuant to this Section, the qualified taxpayer must apply with the Division.

The Division shall determine the amount of eligible rehabilitation expenditures within 45 days after receipt of a complete application. The taxpayer must provide to the Division a third-party cost certification conducted by a certified public accountant verifying (i) the qualified and non-qualified rehabilitation expenses and (ii) that the qualified expenditures exceed the adjusted basis of the ~~qualified historic~~ structure on the first day the qualified rehabilitation plan commenced. The accountant shall provide appropriate review and testing of invoices. The Division is authorized, but not required, to accept this third-party cost certification to determine the amount of qualified expenditures. The Division and the National Park Service shall determine whether the rehabilitation is consistent with the Standards of the Secretary of the United States Department of the Interior.

(c) If the amount of any tax credit awarded under this Act exceeds the qualified taxpayer's income tax liability for the year in which the qualified rehabilitation plan was placed in service, the excess amount may be carried forward for deduction from the taxpayer's income tax liability in the next succeeding year or years until the total amount of the credit has been used, except that a credit may not be carried forward for deduction after the tenth taxable year after the taxable year in which the qualified rehabilitation plan was placed in service. Upon completion of the project and approval of the

complete application ~~review of the project~~, the Division shall issue a single certificate in the amount of the eligible credits equal to 25% of the qualified expenditures incurred during the eligible taxable years, not to exceed the lesser of the allocated amount or \$3,000,000 per single qualified rehabilitation plan. Prior to the issuance of the tax credit certificate, the qualified taxpayer must provide to the Division verification that the rehabilitated structure is a qualified historic structure. At the time the certificate is issued, an issuance fee up to the maximum amount of 2% of the amount of the credits issued by the certificate may be collected from the qualified taxpayer ~~applicant~~ to administer the Act. If collected, this issuance fee shall be directed to the Division Historic Property Administrative Fund or other such fund as appropriate for use of the Division in the administration of the Historic Preservation Tax Credit Program. The taxpayer must attach the certificate or legal documentation of her or his proportional share of the certificate to the tax return on which the credits are to be claimed. The tax credit under this Section may not reduce the taxpayer's liability to less than zero. If the amount of the credit exceeds the tax liability for the year, the excess credit may be carried forward and applied to the tax liability of the 10 taxable years following the first excess credit year. The taxpayer is not eligible to receive credits under this Section and under Section 221 of the Illinois Income Tax

Act for the same qualified expenditures or qualified rehabilitation plan.

(d) If the taxpayer is (i) a corporation having an election in effect under Subchapter S of the federal Internal Revenue Code, (ii) a partnership, or (iii) a limited liability company, the credit provided under this Act may be claimed by the shareholders of the corporation, the partners of the partnership, or the members of the limited liability company in the same manner as those shareholders, partners, or members account for their proportionate shares of the income or losses of the corporation, partnership, or limited liability company, or as provided in the bylaws or other executed agreement of the corporation, partnership, or limited liability company. Credits granted to a partnership, a limited liability company taxed as a partnership, or other multiple owners of property shall be passed through to the partners, members, or owners respectively on a pro rata basis or pursuant to an executed agreement among the partners, members, or owners documenting any alternate distribution method.

(e) If a recapture event occurs during the recapture period with respect to a qualified historic structure, then for any taxable year in which the credits are allowed as specified in this Act, the tax under the applicable Section of this Act shall be increased by applying the recapture percentage set forth below to the tax decrease resulting from the application of credits allowed under this Act to the

taxable year in question.

For the purposes of this subsection, the recapture percentage shall be determined as follows:

(1) if the recapture event occurs within the first year after commencement of the recapture period, then the recapture percentage is 100%;

(2) if the recapture event occurs within the second year after commencement of the recapture period, then the recapture percentage is 80%;

(3) if the recapture event occurs within the third year after commencement of the recapture period, then the recapture percentage is 60%;

(4) if the recapture event occurs within the fourth year after commencement of the recapture period, then the recapture percentage is 40%; and

(5) if the recapture event occurs within the fifth year after commencement of the recapture period, then the recapture percentage is 20%.

In the case of any recapture event, the carryforwards under this Act shall be adjusted by reason of such event.

(f) The Division may adopt rules to implement this Section in addition to the rules expressly authorized herein.

(Source: P.A. 100-629, eff. 1-1-19; 101-81, eff. 7-12-19.)

(35 ILCS 31/20)

Sec. 20. Limitations, reporting, and monitoring.

(a) In every calendar year that this program is in effect, the Division is authorized to allocate \$15,000,000 in tax credits in addition to any unallocated, returned, or rescinded allocations from previous years, pursuant to qualified rehabilitation plans. ~~The Division shall award not more than an aggregate of \$15,000,000 in total annual tax credits pursuant to qualified rehabilitation plans for qualified historic structures.~~ The Division shall not allocate or award ~~award not~~ more than \$3,000,000 in tax credits with regard to a single qualified rehabilitation plan. In allocating ~~awarding~~ tax credits under this Act, the Division must prioritize applications ~~projects~~ that meet one or more of the following:

(1) the ~~qualified historic~~ structure is located in a county that borders a State with a historic income-producing property rehabilitation credit;

(2) the ~~qualified historic~~ structure was previously owned by a federal, state, or local governmental entity for no less than 6 months;

(3) the ~~qualified historic~~ structure is located in a census tract that has a median family income at or below the State median family income; data from the most recent 5-year estimate from the American Community Survey (ACS), published by the U.S. Census Bureau, shall be used to determine eligibility;

(4) the qualified rehabilitation plan includes in the development partnership a Community Development Entity or

a low-profit (B Corporation) or not-for-profit organization, as defined by Section 501(c)(3) of the Internal Revenue Code; or

(5) the ~~qualified historic~~ structure is located in an area declared under an Emergency Declaration or Major Disaster Declaration under the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act. The declaration must be no older than 3 years at the time of application.

(b) The annual aggregate authorization ~~program allocation~~ of \$15,000,000 set forth in subsection (a) shall be allocated by the Division, in such proportion as determined by the Director ~~Department, on a per calendar basis~~ twice in each calendar year that the program is in effect, provided that: ~~(i)~~ the amount initially allocated by the Division for the first any one calendar year application period shall not exceed 65% of the total allowable amount available for allocation. Any unallocated ~~and (ii) any portion of the allocated allowable amount remaining unused as of the end of any of the second calendar application period of a given calendar year shall be rolled over into~~ and added to the total authorized ~~allocated~~ amount for the next available calendar year. The qualified rehabilitation plan must meet a readiness test, as defined ~~in the rules created~~ by the Division, in order for the application Applicant to qualify. In any given application period, applications Applicants that qualify under

this Act will be prioritized as set forth in subsection (a) and placed in a queue based on the date and time the application is received. Applicants whose applications qualify but do not receive an allocation until such time as the application period total allowable amount is reached. Applicants must reapply to be considered in subsequent ~~for each~~ application ~~periods~~ period.

(c) ~~Subject~~ Subject ~~On or before December 31, 2019, and on or before December 31 of each odd numbered year thereafter through 2023, subject to appropriation and prior to equal disbursement~~ to the Division, moneys in the Historic Property Administrative Fund shall be used, on a biennial basis, beginning at the end of the second ~~first~~ fiscal year after the effective date of this Act, to hire a qualified third party to prepare a biennial report to assess the overall impact ~~effectiveness~~ of this Act from the qualified rehabilitation plans ~~projects~~ under this Act completed in that year and in previous years. Baseline data of the metrics in the report shall be collected at the initiation of a qualified rehabilitation plan ~~project~~. The overall economic impact shall include at least:

(1) the number of applications, project locations, and proposed use of qualified historic structures;

(2) the amount of credits awarded and the number and location of projects receiving credit allocations;

(3) the status of ongoing projects and projected

qualifying expenditures for ongoing projects;

(4) for completed projects, the total amount of qualifying rehabilitation expenditures and non-qualifying expenditures, the number of housing units created and the number of housing units that qualify as affordable, and the total square footage rehabilitated and developed;

(5) direct, indirect, and induced economic impacts;

(6) temporary, permanent, and construction jobs created; and

(7) sales, income, and property tax generation before construction, during construction, and after completion.

The report to the General Assembly shall be filed with the Clerk of the House of Representatives and the Secretary of the Senate in electronic form only, in the manner that the Clerk and the Secretary shall direct.

(d) Any time prior to issuance of a tax credit certificate, the Director of the Division, the State Historic Preservation Officer, or staff of the Division may, upon reasonable notice ~~to the project owner~~ of not less than 3 business days, conduct a site visit to the project to inspect and evaluate the project.

(e) Any time prior to the issuance of a tax credit certificate ~~and for a period of 4 years following the effective date of a project tax credit certificate~~, the Director may, upon reasonable notice of not less than 30 calendar days, request a status report from the Applicant

consisting of information and updates relevant to the status of the project. Status reports shall not be requested more than twice yearly.

(f) In order to demonstrate sufficient evidence of reviewable progress within 12 months after the date the Applicant received notification of allocation approval from the Division, the Director may require the Applicant to shall provide all of the following:

(1) a viable financial plan which demonstrates by way of an executed agreement that all financing has been secured for the project; such financing shall include, but not be limited to, equity investment as demonstrated by letters of commitment from the owner of the property, investment partners, and equity investors;

(2) (blank); ~~final construction drawings or approved building permits that demonstrate the complete rehabilitation of the full scope of the application;~~ and

(3) all historic approvals, including all federal and State rehabilitation documents required by the Division.

The Director shall review the submitted evidence and may request additional documentation from the Applicant if necessary. The Applicant will have 30 calendar days to provide the information requested, otherwise the allocation approval may be rescinded at the discretion of the Director.

(g) In order to demonstrate sufficient evidence of reviewable progress within 24 ~~18~~ months after the date the

application received notification of approval from the Division, the Director may require the Applicant ~~is required~~ to provide detailed evidence that the Applicant has secured and closed on financing for the complete scope of rehabilitation for the project. To demonstrate evidence that the Applicant has secured and closed on financing, the Applicant will need to provide signed and processed loan agreements, bank financing documents or other legal and contractual evidence to demonstrate that adequate financing is available to complete the project. The Director shall review the submitted evidence and may request additional documentation from the Applicant if necessary. The Applicant will have 30 calendar days to provide the information requested, otherwise the allocation approval may be rescinded at the discretion of the Director.

If the Applicant fails to document reviewable progress within 24 ~~18~~ months of approval, the Director may notify the Applicant that the allocation application is rescinded. However, should financing and construction be imminent, the Director may elect to grant the Applicant no more than 5 months to close on financing and commence construction. If the Applicant fails to meet these conditions in the required timeframe, the Director shall notify the Applicant that the allocation application is rescinded. Any such rescinded allocation shall be added to the aggregate amount of credits available for allocation for the year in which the forfeiture

occurred.

The amount of the qualified expenditures identified in the qualified taxpayer's ~~Applicant's~~ certification of completion and reflected on the Historic Preservation Tax Credit certificate issued by the Director is subject to inspection, examination, and audit by the Department of Revenue.

The qualified taxpayer ~~Applicant~~ shall establish and maintain for a period of 4 years following the effective date on a project tax credit certificate such records as required by the Director. Such records include, but are not limited to, records documenting project expenditures and compliance with the U.S. Secretary of the Interior's Standards. The qualified taxpayer ~~Applicant~~ shall make such records available for review and verification by the Director, the State Historic Preservation Officer, the Department of Revenue, or appropriate staff, as well as other appropriate State agencies. In the event the Director determines an Applicant has submitted a status ~~an annual~~ report containing erroneous information or data not supported by records established and maintained under this Act, the Director may, after providing notice, require the Applicant to resubmit corrected reports.

(Source: P.A. 100-629, eff. 1-1-19.)

(35 ILCS 31/25)

Sec. 25. Powers. The Division may ~~shall~~ adopt rules for the administration of this Act. The Division may enter into an

intergovernmental agreement with the Department of Commerce and Economic Opportunity, the Department of Revenue, or both, for the administration of this Act. Such intergovernmental agreement may allow for the distribution of all or a portion of the issuance fee imposed under Section 10 to the Department of Commerce and Economic Opportunity or the Department of Revenue, as applicable.

(Source: P.A. 100-629, eff. 1-1-19.)

Section 10. The Illinois Income Tax Act is amended by changing Section 228 as follows:

(35 ILCS 5/228)

Sec. 228. Historic preservation credit. For tax years beginning on or after January 1, 2019 and ending on or before December 31, 2023, a taxpayer who qualifies for a credit under the Historic Preservation Tax Credit Act is entitled to a credit against the taxes imposed under subsections (a) and (b) of Section 201 of this Act as provided in that Act. If the taxpayer is a partnership, ~~or~~ Subchapter S corporation, or a limited liability company the credit shall be allowed to the partners, ~~or~~ shareholders, or members in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code provided that credits granted to a partnership, a limited liability company taxed as a partnership, or other multiple

owners of property shall be passed through to the partners, members, or owners respectively on a pro rata basis or pursuant to an executed agreement among the partners, members, or owners documenting any alternate distribution method. If the amount of any tax credit awarded under this Section exceeds the qualified taxpayer's income tax liability for the year in which the qualified rehabilitation plan was placed in service, the excess amount may be carried forward as provided in the Historic Preservation Tax Credit Act.

(Source: P.A. 100-629, eff. 1-1-19; 101-81, eff. 7-12-19.)

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