



Rep. Jehan Gordon-Booth

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LRB100 19223 HLH 43424 a

1 AMENDMENT TO SENATE BILL 3242

2 AMENDMENT NO. _____. Amend Senate Bill 3242 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by
5 changing Section 228 as follows:

6 (35 ILCS 5/228)

7 Sec. 228 ~~227~~. Historic preservation credit. For tax years
8 beginning on or after January 1, 2019 and ending on or before
9 December 31, 2023, a taxpayer who qualifies for a credit under
10 the Historic Preservation Tax Credit Act is entitled to a
11 credit against the taxes imposed under subsections (a) and (b)
12 of Section 201 of this Act as provided in that Act. If the
13 taxpayer is a partnership, ~~or~~ Subchapter S corporation, or a
14 limited liability company, the credit shall be allowed to the
15 partners or shareholders in accordance with the determination
16 of income and distributive share of income under Sections 702

1 and 704 and Subchapter S of the Internal Revenue Code, provided
2 that credits granted to a partnership, a limited liability
3 company taxed as a partnership, or other multiple owners of
4 property shall be passed through to the partners, members, or
5 owners respectively on a pro rata basis or pursuant to an
6 executed agreement among the partners, members, or owners
7 documenting any alternate distribution method. If the amount of
8 any tax credit awarded under this Section exceeds the qualified
9 taxpayer's income tax liability for the year in which the
10 qualified rehabilitation plan was placed in service, the excess
11 amount may be carried forward as provided in the Historic
12 Preservation Tax Credit Act.

13 (Source: P.A. 100-629, eff. 1-1-19; revised 10-9-18.)

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

16 (35 ILCS 31/5)

17 (This Section may contain text from a Public Act with a
18 delayed effective date)

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

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

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

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

5 "Placed in service" means the date when the property is
6 placed in a condition or state of readiness and availability
7 for a specifically assigned function as defined under Section
8 47 of the federal Internal Revenue Code and federal Treasury
9 Regulation Sections 1.46 and 1.48.

10 "Qualified expenditures" means all the costs and expenses
11 defined as qualified rehabilitation expenditures under Section
12 47 of the federal Internal Revenue Code that were incurred in
13 connection with a qualified rehabilitation plan ~~historic~~
14 ~~structure.~~

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

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

24 "Qualified taxpayer" means the owner of the ~~qualified~~
25 ~~historic~~ structure or any other person or entity who may
26 qualify for the federal rehabilitation credit allowed by

1 Section 47 of the federal Internal Revenue Code.

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

4 (1) failure to place in service the rehabilitated
5 portions of the qualified historic structure, or failure to
6 maintain the rehabilitated portions of the qualified
7 historic structure in service after they are placed in
8 service; provided that a recapture event under this
9 paragraph (1) shall not include a removal from service for
10 a reasonable period of time to conduct maintenance and
11 repairs that are reasonably necessary to protect the health
12 and safety of the public or to protect the structural
13 integrity of the qualified historic structure or a
14 neighboring structure;

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

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

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

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

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

7 (1) a transfer by reason of death;

8 (2) a transfer between spouses incident to divorce;

9 (3) a sale by and leaseback to an entity that, when the
10 rehabilitated portions of the qualified historic structure
11 are placed in service, will be a lessee of the qualified
12 historic structure, but only for so long as the entity
13 continues to be a lessee; and

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

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

24 ~~"Substantial rehabilitation" means that the qualified~~
25 ~~rehabilitation expenditures during the 24 month period~~
26 ~~selected by the taxpayer at the time and in the manner~~

1 ~~prescribed by rule and ending with or within the taxable year~~
2 ~~exceed the greater of (i) the adjusted basis of the building~~
3 ~~and its structural components or (ii) \$5,000. The adjusted~~
4 ~~basis of the building and its structural components shall be~~
5 ~~determined as of the beginning of the first day of such~~
6 ~~24 month period or as of the beginning of the first day of the~~
7 ~~holding period of the building, whichever is later. For~~
8 ~~purposes of determining the adjusted basis, the determination~~
9 ~~of the beginning of the holding period shall be made without~~
10 ~~regard to any reconstruction by the taxpayer in connection with~~
11 ~~the rehabilitation. In the case of any phased rehabilitation,~~
12 ~~with phases set forth in architectural plans and specifications~~
13 ~~completed before the rehabilitation begins, this definition~~
14 ~~shall be applied by substituting "60 month period" for~~
15 ~~"24 month period" wherever that term occurs in the definition.~~

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

17 (35 ILCS 31/10)

18 Sec. 10. Allowable credit.

19 (a) To the extent authorized by this Act, for taxable years
20 beginning on or after January 1, 2019 and ending on or before
21 December 31, 2023, there shall be allowed a tax credit to the
22 qualified taxpayer against the tax imposed by subsections (a)
23 and (b) of Section 201 of the Illinois Income Tax Act in an
24 aggregate amount equal to the lesser of (i) 25% of qualified
25 expenditures incurred in ~~by a qualified taxpayer~~ undertaking a

1 qualified rehabilitation plan or (ii) \$3,000,000 ~~of a qualified~~
2 ~~historic structure~~, provided that the total amount of such
3 expenditures must (i) equal \$5,000 or more and ~~or~~ (ii) exceed
4 the adjusted basis of the ~~qualified historic~~ structure on the
5 first day the qualified rehabilitation plan commenced. If the
6 qualified rehabilitation plan spans multiple years, the
7 aggregate credit for the entire project shall be allowed in the
8 last taxable year.

9 (b) To obtain a tax credit certificate pursuant to this
10 Section, the qualified taxpayer must apply with the Division.
11 The Division shall determine the amount of eligible
12 rehabilitation expenditures within 45 days after receipt of a
13 complete application. The taxpayer must provide to the Division
14 a third-party cost certification conducted by a certified
15 public accountant verifying (i) the qualified and
16 non-qualified rehabilitation expenses and (ii) that the
17 qualified expenditures exceed the adjusted basis of the
18 ~~qualified historic~~ structure on the first day the qualified
19 rehabilitation plan commenced. The accountant shall provide
20 appropriate review and testing of invoices. The Division is
21 authorized, but not required, to accept this third-party cost
22 certification to determine the amount of qualified
23 expenditures. The Division and the National Park Service shall
24 determine whether the rehabilitation is consistent with the
25 Standards of the Secretary of the United States Department of
26 the Interior.

1 (c) If the amount of any tax credit awarded under this Act
2 exceeds the qualified taxpayer's income tax liability for the
3 year in which the qualified rehabilitation plan was placed in
4 service, the excess amount may be carried forward for deduction
5 from the taxpayer's income tax liability in the next succeeding
6 year or years until the total amount of the credit has been
7 used, except that a credit may not be carried forward for
8 deduction after the tenth taxable year after the taxable year
9 in which the qualified rehabilitation plan was placed in
10 service. Upon completion ~~and review~~ of the project and approval
11 of the complete application, the Division shall issue a single
12 certificate in the amount of the eligible credits equal to 25%
13 of the qualified expenditures incurred during the eligible
14 taxable years, not to exceed the lesser of the allocated amount
15 or \$3,000,000 per single qualified rehabilitation plan. Prior
16 to the issuance of the tax credit certificate, the qualified
17 taxpayer must provide to the Division verification that the
18 rehabilitated structure is a qualified historic structure. At
19 the time the certificate is issued, an issuance fee up to the
20 maximum amount of 2% of the amount of the credits issued by the
21 certificate may be collected from the qualified taxpayer
22 ~~applicant~~ to administer the Act. If collected, this issuance
23 fee shall be directed to the Division Historic Property
24 Administrative Fund or other such fund as appropriate for use
25 of the Division in the administration of the Historic
26 Preservation Tax Credit Program. The taxpayer must attach the

1 certificate or legal documentation of her or his proportional
2 share of the certificate to the tax return on which the credits
3 are to be claimed. The tax credit under this Section may not
4 reduce the taxpayer's liability to less than zero. If the
5 amount of the credit exceeds the tax liability for the year,
6 the excess credit may be carried forward and applied to the tax
7 liability of the 10 taxable years following the first excess
8 credit year. The taxpayer may not receive credits under this
9 Section and Section 221 of the Illinois Income Tax Act for the
10 same qualified expenditures or qualified rehabilitation plan.

11 (d) If the taxpayer is (i) a corporation having an election
12 in effect under Subchapter S of the federal Internal Revenue
13 Code, (ii) a partnership, or (iii) a limited liability company,
14 the credit provided under this Act may be claimed by the
15 shareholders of the corporation, the partners of the
16 partnership, or the members of the limited liability company in
17 the same manner as those shareholders, partners, or members
18 account for their proportionate shares of the income or losses
19 of the corporation, partnership, or limited liability company,
20 or as provided in the bylaws or other executed agreement of the
21 corporation, partnership, or limited liability company.
22 Credits granted to a partnership, a limited liability company
23 taxed as a partnership, or other multiple owners of property
24 shall be passed through to the partners, members, or owners
25 respectively on a pro rata basis or pursuant to an executed
26 agreement among the partners, members, or owners documenting

1 any alternate distribution method.

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

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

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

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

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

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

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

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

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

5 (Source: P.A. 100-629, eff. 1-1-19; revised 10-1-18.)

6 (35 ILCS 31/20)

7 (This Section may contain text from a Public Act with a
8 delayed effective date)

9 Sec. 20. Limitations, reporting, and monitoring.

10 (a) In every calendar year that this program is in effect,
11 the Division is authorized to allocate \$15,000,000 worth of tax
12 credits in addition to any unallocated, returned, or rescinded
13 allocations from previous years, pursuant to qualified
14 rehabilitation plans. ~~The Division shall award not more than an~~
15 ~~aggregate of \$15,000,000 in total annual tax credits pursuant~~
16 ~~to qualified rehabilitation plans for qualified historic~~
17 ~~structures.~~ The Division shall allocate and award not more than
18 \$3,000,000 in tax credits with regard to a single qualified
19 rehabilitation plan. In allocating ~~awarding~~ tax credits under
20 this Act, the Division must prioritize applications ~~projects~~
21 that meet one or more of the following:

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

25 (2) the ~~qualified historic~~ structure was previously

1 owned by a federal, state, or local governmental entity for
2 no less than 6 months;

3 (3) the ~~qualified historic~~ structure is located in a
4 census tract that has a median family income at or below
5 the State median family income; data from the most recent
6 5-year estimate from the American Community Survey (ACS),
7 published by the U.S. Census Bureau, shall be used to
8 determine eligibility;

9 (4) the qualified rehabilitation plan includes in the
10 development partnership a Community Development Entity or
11 a low-profit (B Corporation) or not-for-profit
12 organization, as defined by Section 501(c)(3) of the
13 Internal Revenue Code; or

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

20 (b) The annual aggregate authorization ~~program allocation~~
21 of \$15,000,000 set forth in subsection (a) shall be allocated
22 by the Division, in such proportion as determined by the
23 Director ~~Department, on a per calendar basis~~ twice in each
24 calendar year that the program is in effect, provided that: ~~(i)~~
25 the amount initially allocated by the Division for the first
26 ~~any one~~ year application period shall not exceed 65%

1 of the total ~~allowable~~ amount available for allocation. Any
2 unallocated and ~~(ii) any portion of the allocated allowable~~
3 amount remaining ~~unused~~ as of the end of ~~any of~~ the second
4 ~~calendar~~ application period of a given calendar year shall be
5 rolled over into and added to the total authorized allocated
6 amount for the next available calendar year. The qualified
7 rehabilitation plan must meet a readiness test, as defined ~~in~~
8 ~~the rules created~~ by the Division, in order for the application
9 ~~Applicant~~ to qualify. In any given application period,
10 applications Applicants that qualify under this Act and are
11 prioritized as set forth in subsection (a) will be placed in a
12 queue based on the date and time the application is received
13 ~~until such time as the application period total allowable~~
14 ~~amount is reached.~~ Applications that qualify but do not receive
15 an allocation Applicants must reapply to be considered in
16 subsequent for each application periods period.

17 (c) Subject ~~On or before December 31, 2019, and on or~~
18 ~~before December 31 of each odd numbered year thereafter through~~
19 ~~2023, subject to appropriation and prior to equal disbursement~~
20 to the Division, moneys in the Historic Property Administrative
21 Fund shall be used, on a biennial basis beginning at the end of
22 the second ~~first~~ fiscal year after the effective date of this
23 Act, to hire a qualified third party to prepare a biennial
24 report to assess the overall impact effectiveness of this Act
25 from the qualified rehabilitation plans projects under this Act
26 completed in that year and in previous years. Baseline data of

1 the metrics in the report shall be collected at the initiation
2 of a qualified rehabilitation plan ~~project~~. The overall
3 economic impact shall include at least:

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

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

8 (3) the status of ongoing projects and projected
9 qualifying expenditures for ongoing projects;

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

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

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

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

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

24 (d) Any time prior to issuance of a tax credit certificate,
25 the Director of the Division, the State Historic Preservation
26 Officer, or staff of the Division may, upon reasonable notice

1 ~~to the project owner~~ of not less than 3 business days, conduct
2 a site visit to the project to inspect and evaluate the
3 project.

4 (e) Any time prior to the issuance of a tax credit
5 certificate ~~and for a period of 4 years following the effective~~
6 ~~date of a project tax credit certificate~~, the Director may,
7 upon reasonable notice of not less than 30 calendar days,
8 request a status report from the Applicant consisting of
9 information and updates relevant to the status of the project.
10 Status reports shall not be requested more than twice yearly.

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

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

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

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

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

6 (g) In order to demonstrate sufficient evidence of
7 reviewable progress within 24 ~~18~~ months after the date the
8 application received notification of approval from the
9 Division, the Director may require the Applicant ~~is required~~ to
10 provide detailed evidence that the Applicant has secured and
11 closed on financing for the complete scope of rehabilitation
12 for the project. To demonstrate evidence that the Applicant has
13 secured and closed on financing, the Applicant will need to
14 provide signed and processed loan agreements, bank financing
15 documents or other legal and contractual evidence to
16 demonstrate that adequate financing is available to complete
17 the project. The Director shall review the submitted evidence
18 and may request additional documentation from the Applicant if
19 necessary. The Applicant will have 30 calendar days to provide
20 the information requested, otherwise the allocation approval
21 may be rescinded at the discretion of the Director.

22 If the Applicant fails to document reviewable progress
23 within 24 ~~18~~ months of approval, the Director may notify the
24 Applicant that the allocation application is rescinded.
25 However, should financing and construction be imminent, the
26 Director may elect to grant the Applicant no more than 5 months

1 to close on financing and commence construction. If the
2 Applicant fails to meet these conditions in the required
3 timeframe, the Director shall notify the Applicant that the
4 allocation ~~application~~ is rescinded. Any such rescinded
5 allocation shall be added to the aggregate amount of credits
6 available for allocation for the year in which the forfeiture
7 occurred.

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

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

1 Applicant to resubmit corrected reports.

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

3 (35 ILCS 31/25)

4 (This Section may contain text from a Public Act with a
5 delayed effective date)

6 Sec. 25. Powers. The Division may ~~shall~~ adopt rules for the
7 administration of this Act. The Division may enter into an
8 intergovernmental agreement with the Department of Commerce
9 and Economic Opportunity, the Department of Revenue, or both,
10 for the administration of this Act. Such intergovernmental
11 agreement may allow for the distribution of all or a portion of
12 the issuance fee imposed under Section 10 to the Department of
13 Commerce and Economic Opportunity or the Department of Revenue,
14 as applicable.

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

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