



Sen. Steve Stadelman

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LRB100 20468 HLH 39324 a

1 AMENDMENT TO SENATE BILL 3527

2 AMENDMENT NO. _____. Amend Senate Bill 3527 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 221 as follows:

6 (35 ILCS 5/221)

7 Sec. 221. Rehabilitation costs; qualified historic
8 properties; River Edge Redevelopment Zone.

9 (a) For taxable years that begin ~~beginning~~ on or after
10 January 1, 2012 and begin ~~ending~~ prior to January 1, 2018
11 ~~January 1, 2022~~, there shall be allowed a tax credit against
12 the tax imposed by subsections (a) and (b) of Section 201 of
13 this Act in an amount equal to 25% of qualified expenditures
14 incurred by a qualified taxpayer during the taxable year in the
15 restoration and preservation of a qualified historic structure
16 located in a River Edge Redevelopment Zone pursuant to a

1 qualified rehabilitation plan, provided that the total amount
2 of such expenditures (i) must equal \$5,000 or more and (ii)
3 must exceed 50% of the purchase price of the property.

4 (a-1) For taxable years that begin on or after January 1,
5 2018 and end prior to January 1, 2022, there shall be allowed a
6 tax credit against the tax imposed by subsections (a) and (b)
7 of Section 201 of this Act in an aggregate amount equal to 25%
8 of qualified expenditures incurred by a qualified taxpayer in
9 the restoration and preservation of a qualified historic
10 structure located in a River Edge Redevelopment Zone pursuant
11 to a qualified rehabilitation plan, provided that the total
12 amount of such expenditures (i) must equal \$5,000 or more and
13 (ii) must exceed the adjusted basis of the qualified historic
14 structure on the first day the qualified rehabilitation plan
15 begins. If the qualified rehabilitation plan spans multiple
16 years, the aggregate credit for the entire project shall be
17 allowed in the last taxable year.

18 (b) To obtain a tax credit pursuant to this Section, the
19 taxpayer must apply with the Department of Natural Resources
20 ~~Commerce and Economic Opportunity~~. The Department of Natural
21 Resources ~~Commerce and Economic Opportunity~~, in consultation
22 ~~with the Historic Preservation Agency~~, shall determine the
23 amount of eligible rehabilitation costs and expenses within 30
24 days of receipt of a complete application. For rehabilitation
25 projects with qualified rehabilitation costs and expenses in
26 excess of \$250,000, the taxpayer must provide to the Department

1 of Natural Resources a third-party audit conducted by a
2 professionally qualified, independent auditor verifying (i)
3 the project expenses, (ii) whether they are qualified
4 expenditures, and (iii) that the qualified expenditures exceed
5 the adjusted basis of the qualified historic structure on the
6 first day the qualified rehabilitation plan commenced. The
7 Department of Natural Resources is authorized, but not
8 required, to accept this audit to determine the amount of
9 qualified expenditures. For projects with less than \$500,000 in
10 qualified rehabilitation costs, the taxpayer must submit a
11 certification of costs prepared by a certified public
12 accountant and certify that the qualified expenditures exceed
13 the adjusted basis of the qualified historic structure on the
14 first day the qualified rehabilitation plan commenced. The
15 Department of Natural Resources is authorized, but not
16 required, to accept this certification of costs to determine
17 the amount of qualified expenditures and the amount of the
18 credit. The Department of Natural Resources and the National
19 Park Service Historic Preservation Agency shall determine
20 whether the rehabilitation is consistent with the standards of
21 the Secretary of the United States Department of the Interior
22 for rehabilitation.

23 (b-1) Upon completion and review of the project, the
24 Department of Natural Resources ~~Commerce and Economic~~
25 ~~Opportunity~~ shall issue a single certificate in the amount of
26 the eligible credits equal to 25% of qualified expenditures

1 incurred during the eligible taxable years, as defined in
2 subsections (a) and (a-1). At the time the certificate is
3 issued, an issuance fee up to the maximum amount of 2% of the
4 amount of the credits issued by the certificate may be
5 collected from the applicant to administer the provisions of
6 this Section. If collected, this issuance fee shall be
7 deposited into the Historic Property Administrative Fund, a
8 special fund created in the State treasury. Subject to
9 appropriation, moneys in the Historic Property Administrative
10 Fund shall be provided to the Department of Natural Resources
11 as reimbursement evenly divided between the Department of
12 Commerce and Economic Opportunity and the Historic
13 Preservation Agency to reimburse the Department of Commerce and
14 Economic Opportunity and the Historic Preservation Agency for
15 the costs associated with administering this Section. The
16 taxpayer must attach the certificate to the tax return on which
17 the credits are to be claimed. The Department of Commerce and
18 Economic Opportunity may adopt rules to implement this Section.

19 (c) The taxpayer must attach the certificate to the tax
20 return on which the credits are to be claimed. The tax credit
21 under this Section may not reduce the taxpayer's liability to
22 less than zero. If the amount of the credit exceeds the tax
23 liability for the year, the excess credit may be carried
24 forward and applied to the tax liability of the 5 taxable years
25 following the excess credit year.

26 (c-1) If the taxpayer is a partnership, a Subchapter S

1 corporation, or a limited liability company that has elected
2 partnership tax treatment, the credit is allowed to the
3 partners, shareholders, or members in accordance with the
4 determination of income and distributive share of income under
5 the Internal Revenue Code.

6 (c-3) If a recapture event occurs during the recapture
7 period with respect to a qualified historic structure, then for
8 any taxable year in which the credits allowed under subsection
9 (a) or (a-1) have been applied, the tax under the applicable
10 section of this Act shall be increased by applying the
11 recapture percentage set forth below to the tax decrease
12 resulting from the application of credits allowed under
13 subsection (a) or (a-1) to the taxable year in question.

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

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

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

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

25 (4) if the recapture event occurs within the fourth
26 year after commencement of the recapture period, then the

1 recapture percentage is 40%; and

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

5 In the case of any recapture event, the carryforwards under
6 subsection (c) above shall be adjusted by reason of such event.

7 (c-4) Subject to appropriation and prior to equal
8 disbursement to the Department of Natural Resources, moneys in
9 the Historic Property Administrative Fund shall be used, on a
10 biennial basis beginning at the end of the second fiscal year
11 after the effective date of this amendatory Act of the 100th
12 General Assembly, to hire a qualified third party to prepare a
13 biennial report to assess the overall economic impact to the
14 State from the qualified rehabilitation projects under this Act
15 completed in that year and in previous years. The overall
16 economic impact shall include at least: (i) the direct and
17 indirect or induced economic impacts of completed projects;
18 (ii) temporary, permanent, and construction jobs created;
19 (iii) sales, income, and property tax generation before, during
20 construction, and after completion; and (iv) indirect
21 neighborhood impact after completion.

22 (c-5) The Department of Natural Resources may adopt rules
23 to implement this Section in addition to the rules expressly
24 authorized herein.

25 (d) As used in this Section, the following terms have the
26 following meanings.

1 "Placed in service" means the date the historic structure
2 or the rehabilitated portion thereof is first placed in a
3 condition or state of readiness or occupancy and is operational
4 for its specifically assigned function or use. If the property
5 remains in service during the rehabilitation, the placed in
6 service date will be commensurate with the date of completion
7 of the rehabilitation project as per the qualified
8 rehabilitation plan.

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

13 "Qualified historic structure" means a certified historic
14 structure as defined under Section 47(c)(3) of the federal
15 Internal Revenue Code.

16 "Qualified rehabilitation plan" means a project that is
17 approved by the Department of Natural Resources and the
18 National Park Service ~~Historic Preservation Agency~~ as being
19 consistent with the standards ~~in effect on the effective date~~
20 ~~of this amendatory Act of the 97th General Assembly~~ for
21 rehabilitation as adopted by the federal Secretary of the
22 Interior.

23 "Qualified taxpayer" means the owner of the qualified
24 historic structure or any other person who qualifies for the
25 federal rehabilitation credit allowed by Section 47 of the
26 federal Internal Revenue Code with respect to that qualified

1 historic structure. Partners, shareholders of subchapter S
2 corporations, and owners of limited liability companies (if the
3 limited liability company is treated as a partnership for
4 purposes of federal and State income taxation) are entitled to
5 a credit under this Section to be determined in accordance with
6 the determination of income and distributive share of income
7 under Sections 702 and 703 and subchapter S of the Internal
8 Revenue Code, provided that credits granted to a partnership, a
9 limited liability company taxed as a partnership, or other
10 multiple owners of property shall be passed through to the
11 partners, members, or owners respectively on a pro rata basis
12 or pursuant to an executed agreement among the partners,
13 members, or owners documenting any alternate distribution
14 method.

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

17 (1) failure to place in service the rehabilitated
18 portions of the qualified historic structure, or failure to
19 maintain the rehabilitated portions of the qualified
20 historic structure in service after they are placed in
21 service; provided that a recapture event under this
22 paragraph (1) shall not include a removal from service for
23 a reasonable period of time to conduct maintenance and
24 repairs that are reasonably necessary to protect the health
25 and safety of the public or to protect the structural
26 integrity of the qualified historic structure or a

1 neighboring structure;

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

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

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

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

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

20 (1) a transfer by reason of death;

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

22 (3) a sale by and leaseback to an entity that, when the
23 rehabilitated portions of the qualified historic structure
24 are placed in service, will be a lessee of the qualified
25 historic structure, but only for so long as the entity
26 continues to be a lessee; and

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

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

10 (Source: P.A. 99-914, eff. 12-20-16; 100-236, eff. 8-18-17.)".