



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB1860

Introduced 2/25/2005, by Sen. Kirk W. Dillard

SYNOPSIS AS INTRODUCED:

20 ILCS 3504/14.1 new
35 ILCS 5/216 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.

LRB094 11424 BDD 42334 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

1 AN ACT in relation to taxation.

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 3504/14.1 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 216 of the Illinois Income Tax Act.

11 Section 10. The Illinois Income Tax Act is amended by
12 adding Section 216 as follows:

13 (35 ILCS 5/216 new)

14 Sec. 216. Rehabilitation of historic resource tax credit.

15 (a) A qualified taxpayer with a rehabilitation plan
16 certified after December 31, 2005 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
22 the historic resource is issued, provided that the
23 certification of completed rehabilitation was issued not more
24 than 5 years after the rehabilitation plan was certified by the
25 Historic Preservation Agency.

26 (b) The credit allowed under this Section shall be 25% of
27 the qualified expenditures that are eligible for the credit
28 under Section 47(a)(2) of the Internal Revenue Code if the
29 taxpayer is eligible for the credit under Section 47(a)(2) of
30 the Internal Revenue Code or, if the taxpayer is not eligible

1 for the credit under Section 47(a)(2) of the Internal Revenue
2 Code, 25% of the qualified expenditures that would qualify
3 under Section 47(a)(2) of the Internal Revenue Code except that
4 the expenditures are made to a historic resource that is not
5 eligible for the credit under Section 47(a)(2) of the Internal
6 Revenue Code, subject to both of the following:

7 (1) A taxpayer with qualified expenditures that are
8 eligible for the credit under Section 47(a)(2) of the
9 Internal Revenue Code may not claim a credit under this
10 Section for those qualified expenditures unless the
11 taxpayer has claimed and received a credit for those
12 qualified expenditures under Section 47(a)(2) of the
13 Internal Revenue Code.

14 (2) A credit under this Section shall be reduced by the
15 amount of a credit received by the taxpayer for the same
16 qualified expenditures under Section 47(a)(2) of the
17 Internal Revenue Code.

18 (c) To be eligible for the credit under this Section, the
19 taxpayer shall apply to and receive from the Historic
20 Preservation Agency certification that the historic
21 significance, the rehabilitation plan, and the completed
22 rehabilitation of the historic resource meet the criteria under
23 subsection (f) and either of the following:

24 (1) All of the following criteria:

25 (A) The historic resource contributes to the
26 significance of the historic district in which it is
27 located.

28 (B) Both the rehabilitation plan and completed
29 rehabilitation of the historic resource meet the
30 federal Secretary of the Interior's standards for
31 rehabilitation and guidelines for rehabilitating
32 historic buildings, 36 C.F.R. part 67.

33 (C) All rehabilitation work has been done to or
34 within the walls, boundaries, or structures of the
35 historic resource or to historic resources located
36 within the property boundaries of the property.

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

6 (c-5) The Director of Historic Preservation may approve
7 county or municipal ordinances that qualify historic resources
8 for consideration under this Section. However, no ordinance
9 shall be approved unless it:

10 (1) is designed to preserve and rehabilitate buildings
11 of historic significance;

12 (2) contains criteria for the designation of landmarks
13 consistent with those established by the U.S. Department of
14 the Interior for the inclusion of places on the National
15 Register of Historic Places; and

16 (3) contains criteria for review of demolition and
17 major alterations.

18 (d) If a qualified taxpayer is eligible for the credit
19 allowed under Section 47(a)(2) of the Internal Revenue Code,
20 the qualified taxpayer shall file for certification with the
21 Historic Preservation Agency to qualify for the credit allowed
22 under Section 47(a)(2) of the Internal Revenue Code. If the
23 qualified taxpayer has previously filed for certification with
24 the center to qualify for the credit allowed under Section
25 47(a)(2) of the Internal Revenue Code, additional filing for
26 the credit allowed under this Section is not required.

27 (e) The Historic Preservation Agency may inspect a historic
28 resource at any time during the rehabilitation process and may
29 revoke certification of completed rehabilitation if the
30 rehabilitation was not undertaken as represented in the
31 rehabilitation plan or if unapproved alterations to the
32 completed rehabilitation are made during the 5 years after the
33 tax year in which the credit was claimed. The Historic
34 Preservation Agency shall promptly notify the Department of a
35 revocation.

36 (f) Qualified expenditures for the rehabilitation of a

1 historic resource may be used to calculate the credit under
2 this Section if the historic resource meets one of the criteria
3 listed in subdivision (f)(1) and one of the criteria listed in
4 subdivision (f)(2):

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

8 (A) Individually listed on the National Register
9 of Historic Places or the Illinois Register of Historic
10 Places.

11 (B) A contributing resource located within a
12 historic district listed on the National Register of
13 Historic Places or the Illinois Register of Historic
14 Places.

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

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

22 (A) The historic resource is located in a
23 designated historic district in a county or
24 municipality with an existing ordinance approved by
25 the Historic Preservation Agency under subsection
26 (c-5).

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

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

33 (g) If a qualified taxpayer is a partnership, limited
34 liability company, or subchapter S corporation, the qualified
35 taxpayer may assign all or any portion of a credit allowed
36 under this Section to its partners, members, or shareholders,

1 based on the partner's, member's, or shareholder's
2 proportionate share of ownership or based on an alternative
3 method approved by the Department. A credit assignment under
4 this subsection is irrevocable and shall be made in the tax
5 year in which a certificate of completed rehabilitation is
6 issued. A qualified taxpayer may claim a portion of a credit
7 and assign the remaining credit amount. A partner, member, or
8 shareholder that is an assignee shall not subsequently assign a
9 credit or any portion of a credit assigned to the partner,
10 member, or shareholder under this subsection. A credit amount
11 assigned under this subsection may be claimed against the
12 partner's, member's, or shareholder's tax liability under this
13 Act. A credit assignment under this subsection shall be made on
14 a form prescribed by the Department. The qualified taxpayer and
15 assignees shall send a copy of the completed assignment form to
16 the Department in the tax year in which the assignment is made
17 and attach a copy of the completed assignment form to the
18 annual return required to be filed under this Act for that tax
19 year.

20 (h) If the credit allowed under this Section for the tax
21 year and any unused carryforward of the credit allowed by this
22 Section exceed the taxpayer's tax liability for the tax year,
23 that portion that exceeds the tax liability for the tax year
24 shall not be refunded but may be carried forward to offset tax
25 liability in subsequent tax years for 10 years or until used
26 up, whichever occurs first.

27 (i) If the taxpayer sells a historic resource for which a
28 credit under this Section was claimed less than 5 years after
29 the year in which the credit was claimed, the following
30 percentage of the credit amount previously claimed relative to
31 that historic resource shall be added back to the tax liability
32 of the taxpayer in the year of the sale:

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

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

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

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

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

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

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

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

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

21 (3) If the revocation is at least 2 years but less than
22 3 years after the year in which the credit was claimed,
23 60%.

24 (4) If the revocation is at least 3 years but less than
25 4 years after the year in which the credit was claimed,
26 40%.

27 (5) If the revocation is at least 4 years but less than
28 5 years after the year in which the credit was claimed,
29 20%.

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

33 (k) The Historic Preservation Agency may impose a fee to
34 cover the administrative cost of implementing the program under
35 this Section.

36 (l) The qualified taxpayer shall attach all of the

1 following to the qualified taxpayer's annual return required
2 under this Act, on which the credit is claimed:

3 (1) Certification of completed rehabilitation.

4 (2) Certification of historic significance related to
5 the historic resource and the qualified expenditures used
6 to claim a credit under this Section.

7 (3) A completed assignment form if the qualified
8 taxpayer has assigned any portion of a credit allowed under
9 this Section to a partner, member, or shareholder, or if
10 the taxpayer is an assignee of any portion of a credit
11 allowed under this Section.

12 (m) The Historic Preservation Agency shall adopt rules to
13 implement this Section pursuant to the Illinois Administrative
14 Procedure Act.

15 (n) The total of the credits claimed under this Section for
16 a rehabilitation project shall not exceed 25% of the total
17 qualified expenditures eligible for the credit under this
18 Section for that rehabilitation project.

19 (o) The Historic Preservation Agency shall report all of
20 the following to the General Assembly annually for the
21 immediately preceding State fiscal year:

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

24 (2) A description of each rehabilitation project
25 certified.

26 (3) The location of each new and ongoing rehabilitation
27 project.

28 (p) As used in this Section:

29 (1) "Contributing resource" means a historic resource
30 that contributes to the significance of the historic
31 district in which it is located.

32 (2) "Historic district" means an area or group of areas
33 not necessarily having contiguous boundaries that contains
34 one resource or a group of resources that are related by
35 history, architecture, archaeology, engineering, or
36 culture.

1 (3) "Historic resource" means a publicly or privately
2 owned historic building, structure, site, object, feature,
3 or open space located within a historic district designated
4 by the National Register of Historic Places, the Illinois
5 Register of Historic Places, or a county or municipal
6 ordinance approved by the Historic Preservation Agency
7 under subsection (c-5); or that is individually listed on
8 the Illinois Register of Historic Places or National
9 Register of Historic Places and includes all of the
10 following:

11 (A) An owner-occupied personal residence or a
12 historic resource located within the property
13 boundaries of that personal residence.

14 (B) An income-producing commercial, industrial, or
15 residential resource or a historic resource located
16 within the property boundaries of that resource.

17 (C) A resource owned by a governmental body,
18 nonprofit organization, or tax-exempt entity that is
19 used primarily by a taxpayer lessee in a trade or
20 business unrelated to the governmental body, nonprofit
21 organization, or tax-exempt entity and that is subject
22 to tax under this Act.

23 (D) A resource that is occupied or used by a
24 governmental body, nonprofit organization, or
25 tax-exempt entity pursuant to a long-term lease or
26 lease with option to buy agreement.

27 (E) Any other resource that could benefit from
28 rehabilitation.

29 (4) "Long-term lease" means a lease term of at least
30 27.5 years for a residential resource or at least 31.5
31 years for a nonresidential resource.

32 (5) "Historic Preservation Agency" means the Illinois
33 Historic Preservation Agency.

34 (6) "Open space" means undeveloped land, a naturally
35 landscaped area, or a formal or man-made landscaped area
36 that provides a connective link or a buffer between other

1 resources.

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

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

25 (9) "Qualified taxpayer" means a person that is an
26 assignee under subsection (g) or either owns the resource
27 to be rehabilitated or has a long-term lease agreement with
28 the owner of the historic resource and that has qualified
29 expenditures for the rehabilitation of the historic
30 resource equal to or greater than 10% of the equalized
31 assessed valuation of the property. If the historic
32 resource to be rehabilitated is a portion of a historic or
33 nonhistoric resource, the equalized assessed valuation of
34 only that portion of the property shall be used for
35 purposes of this subdivision. If the chief county
36 assessment officer for the county in which the historic

1 resource is located determines the equalized assessed
2 valuation of that portion, that chief county assessment
3 officer's determination shall be used for purposes of this
4 subdivision. If the chief county assessment officer does
5 not determine the equalized assessed valuation of that
6 portion, "qualified expenditures", for purposes of this
7 subdivision, shall be equal to or greater than 5% of the
8 appraised value as determined by a certified appraiser. If
9 the historic resource to be rehabilitated does not have an
10 equalized assessed valuation, qualified expenditures for
11 purposes of this subdivision shall be equal to or greater
12 than 5% of the appraised value of the resource as
13 determined by a certified appraiser.

14 (10) "Rehabilitation plan" means a plan for the
15 rehabilitation of a historic resource that meets the
16 federal Secretary of the Interior's standards for
17 rehabilitation and guidelines for rehabilitation of
18 historic buildings under 36 C.F.R. part 67.

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