Rep. Jehan A. Gordon

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AMENDMENT TO SENATE BILL 2534

AMENDMENT NO. ______. Amend Senate Bill 2534, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Historic Preservation Tax Credit Pilot Program Act.

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

(a) "Agency" means the Historic Preservation Agency.

(b) "Department" means the Department of Commerce and Economic Opportunity.

(c) "Qualified expenditures" means all the costs and expenses defined as qualified rehabilitation expenditures under Section 47 of the federal Internal Revenue Code which were incurred in connection with a qualified historic structure.

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

(e) "Qualified rehabilitation plan" means a project that is approved by the Agency as being consistent with the standards in effect on the effective date of this Act for rehabilitation as adopted by the federal Secretary of the Interior.

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

Section 15. Allowable credit. To the extent authorized by Section 25 of this Act, for taxable years beginning on or after January 1, 2010 and ending on or before December 31, 2015, there shall be allowed a tax credit against the tax imposed by subsections (a) and (b) of Section 201 of the Illinois Income Tax Act in an amount equal to 25% of qualified expenditures incurred by a qualified taxpayer during the taxable year in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan, provided that the total amount of such expenditures (i) must equal $5,000 or more, and (ii) must exceed 50% of the purchase price of the property. 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. To obtain a tax credit pursuant to this Act, an application must be made to the Department no later than 6 months after the effective date of this Act. The Department, in consultation with the Agency, shall determine the amount of eligible rehabilitation costs and expenses. The Agency shall determine whether the rehabilitation is consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation. Upon completion and review of the project, the Department shall issue a certificate in the amount of the eligible credits. 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 applicant to administer the Act. If collected, this issuance fee shall be evenly divided between the Department and the Agency. The taxpayer must attach the certificate to the tax return on which the credits are to be claimed.

Section 20. Transfer of credits. Any qualified taxpayer, referred to in this Section as the assignor, may sell, assign, convey, or otherwise transfer tax credits allowed and earned under this Act. The taxpayer acquiring the credits, referred to in this Section as the assignee, may use the amount of the acquired credits to offset up to 100% of its income tax liability for either the taxable year in which the qualified rehabilitation plan was first placed into service or the taxable year in which such acquisition was made. Unused credit amounts claimed by the assignee may be carried forward for up to 10 years or carried back for up to 3 years, except that all credits must be claimed within 10 years after the tax year in which the qualified rehabilitation plan was first placed into service and may not be carried back to a tax year prior to the tax year in which the credit was issued. The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect the transfer by notifying the Department in writing within 90 calendar days after the effective date of the transfer and shall provide any information as may be required by the Department to administer and carry out the provisions of this Section. If credits that have been transferred are subsequently reduced, adjusted, or recaptured, in whole or in part, by the Department, the Department of Revenue, or any other applicable government agency, only the original qualified taxpayer that was awarded the credits, and not any subsequent assignee of the credits, shall be held liable to repay any amount of such reduction, adjustment, or recapture of the credits.

Section 25. Pilot program; report. The Department may award no more than an aggregate of $10,000,000 in total tax credits pursuant to one qualified rehabilitation plan for one qualified historic structure. On or before December 31, 2010 and on or before December 31 of each year thereafter through 2016, the Department must submit a report to the General Assembly evaluating the effectiveness of this Act in stimulating economic revitalization in the pilot program area.

Section 30. Powers. The Department and the Agency shall promulgate rules and regulations for the administration of this Act.

Section 35. The Illinois Income Tax Act is amended by adding Section 219 as follows:

(35 ILCS 5/219 new)

Sec. 219. Historic preservation credit. For tax years beginning on or after January 1, 2010 and ending on or before December 31, 2015, a taxpayer who qualifies for a credit under the Historic Preservation Tax Credit Pilot Program 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, the credit shall be allowed to the partners or shareholders 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.

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 or back as provided in the Historic Preservation Tax Credit Pilot Program

Act.

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