SB2559

LRB09617088HLH32410b

96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2559

Introduced 1/13/2010, by Sen. David Koehler

SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 5/219 new

Creates the Historic Preservation Tax Credit Act. Provides for an income tax credit in an amount equal to 25% of qualified expenditures incurred by a qualified taxpayer for the restoration and preservation of a qualified historic structure. Provides that the credit may be carried forward for up to 10 years. Provides that the credit may be sold, assigned, conveyed, or transferred. Provides that the cumulative amount of credits awarded under the Act may not exceed $25,000,000 per year per county. Amends the Illinois Income Tax Act to make conforming changes. Effective immediately.

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A BILL FOR

AN ACT concerning revenue.

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

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

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

(a) "Qualified expenditures" means all the costs and expenses of exterior and interior rehabilitation and construction, including all costs relating to adaptive reuse and parking structures, incurred by a qualified taxpayer in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan.

(b) "Qualified historic structure" means any building, regardless of whether the building is income producing, is a condominium building, or is of any other ownership structure, that is (i) defined as a certified historic structure under Section 47 (c)(3) of the federal Internal Revenue Code, (ii) is individually listed on the Illinois Register of Historic Places, (iii) is located and contributes to a district listed on the Illinois Register of Historic Places, (iv) is located and contributes to a district listed on the register of Illinois Main Street places, or (v) is located and contributes to a district listed on a local register of historic places within a home rule county or home rule municipality.

(c) "Qualified rehabilitation plan" means a project that is approved by the Illinois Historic Preservation Agency, by a local historic preservation commission certified by the Illinois Historic Preservation Agency according to rules adopted by the Agency, or by a local historic preservation commission of a home rule county or home rule municipality, as being consistent with the standards for rehabilitation and guidelines for rehabilitation of historic buildings as adopted by the federal Secretary of the Interior and in effect on the effective date of this Act.

(d) "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 by this subsection 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.

Section 10. Allowable credit. For all taxable years commencing after December 31, 2009, 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 in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan if the total amount of such expenditures equals $5,000 or more. 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.

Section 15. 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. 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 Illinois Historic Preservation Agency in writing within 90 calendar days after the effective date of the transfer and shall provide any information as may be required by the Agency to administer and carry out the provisions of this Section. The amount received by the assignor of such tax credit shall be taxable as capital gains income of the assignor, and the excess of the value of such credit over the amount paid by the assignee for such credit shall be taxable as capital gains income of the assignee.

Section 20. Annual county limit. The cumulative amount allowable for credits awarded under this Act shall be limited to a maximum of $25,000,000 per year per county. Notwithstanding the 10-year carry forward period for credits awarded under this Act, if a credit is disallowed because it exceeds the annual $25,000,000 cumulative limit per county, the credit shall be allowed in the next year if, within the limit, the claim period for the credit is extended by one additional year for each year disallowed as a result of this Section. Except in cases of bad faith or fraud, no penalty or interest shall be due as a result of any credit disallowed by this Section.

Section 25. Biennial report. The Department of Commerce and Economic Opportunity shall determine, on a biennial basis beginning at the end of the second fiscal year after the date this Act takes effect, the overall economic impact to the State from the rehabilitation of eligible property.

Section 50. The Illinois Income Tax Act is amended by adding Section 219 as follows:

(35 ILCS 5/219 new)

<u>Sec. 219. Historic preservation credit. For tax years commencing after December 31, 2009, a Taxpayer who qualifies for a credit under the Historic Preservation Tax Credit Act is</u>

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. This Section is exempt from the provisions of Section 250 of this Act.

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