



Rep. Jehan Gordon-Booth

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LRB100 19223 HLH 43558 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 renumbering and changing Section 228, as added by Public Act
6 100-629, as follows:

7 (35 ILCS 5/228)

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

1 of income and distributive share of income under Sections 702
2 and 704 and Subchapter S of the Internal Revenue Code, provided
3 that credits granted to a partnership, a limited liability
4 company taxed as a partnership, or other multiple owners of
5 property shall be passed through to the partners, members, or
6 owners respectively on a pro rata basis or pursuant to an
7 executed agreement among the partners, members, or owners
8 documenting any alternate distribution method. If the amount of
9 any tax credit awarded under this Section exceeds the qualified
10 taxpayer's income tax liability for the year in which the
11 qualified rehabilitation plan was placed in service, the excess
12 amount may be carried forward as provided in the Historic
13 Preservation Tax Credit Act.

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

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

17 (35 ILCS 31/5)

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

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

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

24 "Division" means the State Historic Preservation Office

1 within the Department of Natural Resources.

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

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

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

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

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

25 "Qualified taxpayer" means the owner of the ~~qualified~~
26 ~~historic~~ structure or any other person or entity who may

1 qualify for the federal rehabilitation credit allowed by
2 Section 47 of the federal Internal Revenue Code.

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

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

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

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

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

1 and intent of this Section.

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

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

8 (1) a transfer by reason of death;

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

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

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

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

25 ~~"Substantial rehabilitation" means that the qualified~~
26 ~~rehabilitation expenditures during the 24 month period~~

1 ~~selected by the taxpayer at the time and in the manner~~
2 ~~prescribed by rule and ending with or within the taxable year~~
3 ~~exceed the greater of (i) the adjusted basis of the building~~
4 ~~and its structural components or (ii) \$5,000. The adjusted~~
5 ~~basis of the building and its structural components shall be~~
6 ~~determined as of the beginning of the first day of such~~
7 ~~24 month period or as of the beginning of the first day of the~~
8 ~~holding period of the building, whichever is later. For~~
9 ~~purposes of determining the adjusted basis, the determination~~
10 ~~of the beginning of the holding period shall be made without~~
11 ~~regard to any reconstruction by the taxpayer in connection with~~
12 ~~the rehabilitation. In the case of any phased rehabilitation,~~
13 ~~with phases set forth in architectural plans and specifications~~
14 ~~completed before the rehabilitation begins, this definition~~
15 ~~shall be applied by substituting "60 month period" for~~
16 ~~"24 month period" wherever that term occurs in the definition.~~

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

18 (35 ILCS 31/10)

19 Sec. 10. Allowable credit.

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

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

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

1 the Interior.

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

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

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

1 agreement among the partners, members, or owners documenting
2 any alternate distribution method.

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

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

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

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

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

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

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

1 recapture percentage is 20%.

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

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

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

7 (35 ILCS 31/20)

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

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

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

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

1 (2) the ~~qualified historic~~ structure was previously
2 owned by a federal, state, or local governmental entity for
3 no less than 6 months;

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

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

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

21 (b) The annual aggregate authorization ~~program allocation~~
22 of \$15,000,000 set forth in subsection (a) shall be allocated
23 by the Division, in such proportion as determined by the
24 Director ~~Department, on a per calendar basis~~ twice in each
25 calendar year that the program is in effect, provided that: ~~(i)~~
26 the amount initially allocated by the Division for the first

1 ~~any one~~ calendar year application period shall not exceed 65%
2 of the total ~~allowable~~ amount available for allocation. Any
3 unallocated and ~~(ii) any portion of the allocated allowable~~
4 amount remaining ~~unused~~ as of the end of ~~any of~~ the second
5 ~~calendar~~ application period of a given calendar year shall be
6 rolled over into and added to the total authorized allocated
7 amount for the next available calendar year. The qualified
8 rehabilitation plan must meet a readiness test, as defined ~~in~~
9 ~~the rules created~~ by the Division, in order for the application
10 ~~Applicant~~ to qualify. In any given application period,
11 applications Applicants that qualify under this Act and are
12 prioritized as set forth in subsection (a) will be placed in a
13 queue based on the date and time the application is received
14 ~~until such time as the application period total allowable~~
15 ~~amount is reached~~. Applications that qualify but do not receive
16 an allocation Applicants must reapply to be considered in
17 subsequent for each application periods period.

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

1 completed in that year and in previous years. Baseline data of
2 the metrics in the report shall be collected at the initiation
3 of a qualified rehabilitation plan ~~project~~. The overall
4 economic impact shall include at least:

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

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

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

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

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

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

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

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

25 (d) Any time prior to issuance of a tax credit certificate,
26 the Director of the Division, the State Historic Preservation

1 Officer, or staff of the Division may, upon reasonable notice
2 ~~to the project owner~~ of not less than 3 business days, conduct
3 a site visit to the project to inspect and evaluate the
4 project.

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

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

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

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

26 (3) all historic approvals, including all federal and

1 State rehabilitation documents required by the Division.

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

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

23 If the Applicant fails to document reviewable progress
24 within 24 ~~18~~ months of approval, the Director may notify the
25 Applicant that the allocation application is rescinded.
26 However, should financing and construction be imminent, the

1 Director may elect to grant the Applicant no more than 5 months
2 to close on financing and commence construction. If the
3 Applicant fails to meet these conditions in the required
4 timeframe, the Director shall notify the Applicant that the
5 allocation ~~application~~ is rescinded. Any such rescinded
6 allocation shall be added to the aggregate amount of credits
7 available for allocation for the year in which the forfeiture
8 occurred.

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

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

1 this Act, the Director may, after providing notice, require the
2 Applicant to resubmit corrected reports.

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

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