

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
5 amended 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 213 of the Illinois Income Tax Act.

11 Section 10. The Illinois Income Tax Act is amended by
12 adding Section 213 as follows:

13 (35 ILCS 5/213 new)

14 Sec. 213. Rehabilitation of historic resource tax credit.

15 (a) A qualified taxpayer with a rehabilitation plan
16 certified after December 31, 2003 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
19 (b) for the qualified expenditures for the rehabilitation of
20 a historic resource pursuant to the rehabilitation plan in
21 the year in which the certification of completed
22 rehabilitation of the historic resource is issued, provided
23 that the certification of completed rehabilitation was issued
24 not more than 5 years after the rehabilitation plan was
25 certified by the Historic Preservation Agency.

26 (b) The credit allowed under this Section shall be 25%
27 of the qualified expenditures that are eligible for the
28 credit under Section 47(a)(2) of the Internal Revenue Code if
29 the taxpayer is eligible for the credit under Section

1 47(a)(2) of the Internal Revenue Code or, if the taxpayer is
2 not eligible for the credit under Section 47(a)(2) of the
3 Internal Revenue Code, 25% of the qualified expenditures that
4 would qualify under Section 47(a)(2) of the Internal Revenue
5 Code except that the expenditures are made to a historic
6 resource that is not eligible for the credit under Section
7 47(a)(2) of the Internal Revenue Code, subject to both of the
8 following:

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

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

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

26 (1) All of the following criteria:

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

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

1 (C) All rehabilitation work has been done to
2 or within the walls, boundaries, or structures of
3 the historic resource or to historic resources
4 located within the property boundaries of the
5 property.

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

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

15 (1) is designed to preserve and rehabilitate
16 buildings of historic significance;

17 (2) contains criteria for the designation of
18 landmarks consistent with those established by the U.S.
19 Department of the Interior for the inclusion of places on
20 the National Register of Historic Places; and

21 (3) contains criteria for review of demolition and
22 major alterations.

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

33 (e) The Historic Preservation Agency may inspect a
34 historic resource at any time during the rehabilitation

1 process and may revoke certification of completed
2 rehabilitation if the rehabilitation was not undertaken as
3 represented in the rehabilitation plan or if unapproved
4 alterations to the completed rehabilitation are made during
5 the 5 years after the tax year in which the credit was
6 claimed. The Historic Preservation Agency shall promptly
7 notify the Department of a revocation.

8 (f) Qualified expenditures for the rehabilitation of a
9 historic resource may be used to calculate the credit under
10 this Section if the historic resource meets one of the
11 criteria listed in subdivision (f)(1) and one of the criteria
12 listed in subdivision (f)(2):

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

16 (A) Individually listed on the National
17 Register of Historic Places or the Illinois Register
18 of Historic Places.

19 (B) A contributing resource located within a
20 historic district listed on the National Register of
21 Historic Places or the Illinois Register of Historic
22 Places.

23 (C) A contributing resource located within a
24 historic district designated by a county or
25 municipal ordinance approved by the Historic
26 Preservation Agency under subsection (c-5).

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

30 (A) The historic resource is located in a
31 designated historic district in a county or
32 municipality with an existing ordinance approved by
33 the Historic Preservation Agency under subsection
34 (c-5).

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

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

8 (g) If a qualified taxpayer is a partnership, limited
9 liability company, or subchapter S corporation, the qualified
10 taxpayer may assign all or any portion of a credit allowed
11 under this Section to its partners, members, or shareholders,
12 based on the partner's, member's, or shareholder's
13 proportionate share of ownership or based on an alternative
14 method approved by the Department. A credit assignment under
15 this subsection is irrevocable and shall be made in the tax
16 year in which a certificate of completed rehabilitation is
17 issued. A qualified taxpayer may claim a portion of a credit
18 and assign the remaining credit amount. A partner, member, or
19 shareholder that is an assignee shall not subsequently assign
20 a credit or any portion of a credit assigned to the partner,
21 member, or shareholder under this subsection. A credit amount
22 assigned under this subsection may be claimed against the
23 partner's, member's, or shareholder's tax liability under
24 this Act. A credit assignment under this subsection shall be
25 made on a form prescribed by the Department. The qualified
26 taxpayer and assignees shall send a copy of the completed
27 assignment form to the Department in the tax year in which
28 the assignment is made and attach a copy of the completed
29 assignment form to the annual return required to be filed
30 under this Act for that tax year.

31 (h) If the credit allowed under this Section for the tax
32 year and any unused carryforward of the credit allowed by
33 this Section exceed the taxpayer's tax liability for the tax
34 year, that portion that exceeds the tax liability for the tax

1 year shall not be refunded but may be carried forward to
2 offset tax liability in subsequent tax years for 10 years or
3 until used up, whichever occurs first.

4 (i) If the taxpayer sells a historic resource for which
5 a credit under this Section was claimed less than 5 years
6 after the year in which the credit was claimed, the following
7 percentage of the credit amount previously claimed relative
8 to that historic resource shall be added back to the tax
9 liability of the taxpayer in the year of the sale:

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

12 (2) If the sale is at least one year but less than
13 2 years after the year in which the credit was claimed,
14 80%.

15 (3) If the sale is at least 2 years but less than 3
16 years after the year in which the credit was claimed,
17 60%.

18 (4) If the sale is at least 3 years but less than 4
19 years after the year in which the credit was claimed,
20 40%.

21 (5) If the sale is at least 4 years but less than 5
22 years after the year in which the credit was claimed,
23 20%.

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

27 (j) If a certification of completed rehabilitation is
28 revoked under subsection (e) less than 5 years after the year
29 in which a credit was claimed, the following percentage of
30 the credit amount previously claimed relative to that
31 historic resource shall be added back to the tax liability of
32 the taxpayer in the year of the revocation:

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

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

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

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

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

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

16 (k) The Historic Preservation Agency may impose a fee to
17 cover the administrative cost of implementing the program
18 under this Section.

19 (l) The qualified taxpayer shall attach all of the
20 following to the qualified taxpayer's annual return required
21 under this Act, on which the credit is claimed:

22 (1) Certification of completed rehabilitation.

23 (2) Certification of historic significance related
24 to the historic resource and the qualified expenditures
25 used to claim a credit under this Section.

26 (3) A completed assignment form if the qualified
27 taxpayer has assigned any portion of a credit allowed
28 under this Section to a partner, member, or shareholder,
29 or if the taxpayer is an assignee of any portion of a
30 credit allowed under this Section.

31 (m) The Historic Preservation Agency shall adopt rules
32 to implement this Section pursuant to the Illinois
33 Administrative Procedure Act.

34 (n) The total of the credits claimed under this Section

1 for a rehabilitation project shall not exceed 25% of the
2 total qualified expenditures eligible for the credit under
3 this Section for that rehabilitation project.

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

7 (1) The fee schedule used by the Historic
8 Preservation Agency and the total amount of fees
9 collected.

10 (2) A description of each rehabilitation project
11 certified.

12 (3) The location of each new and ongoing
13 rehabilitation project.

14 (p) As used in this Section:

15 (1) "Contributing resource" means a historic
16 resource that contributes to the significance of the
17 historic district in which it is located.

18 (2) "Historic district" means an area or group of
19 areas not necessarily having contiguous boundaries that
20 contains one resource or a group of resources that are
21 related by history, architecture, archaeology,
22 engineering, or culture.

23 (3) "Historic resource" means a publicly or
24 privately owned historic building, structure, site,
25 object, feature, or open space located within a historic
26 district designated by the National Register of Historic
27 Places, the Illinois Register of Historic Places, or a
28 county or municipal ordinance approved by the Historic
29 Preservation Agency under subsection (c-5); or that is
30 individually listed on the Illinois Register of Historic
31 Places or National Register of Historic Places and
32 includes all of the following:

33 (A) An owner-occupied personal residence or a
34 historic resource located within the property

1 boundaries of that personal residence.

2 (B) An income-producing commercial,
3 industrial, or residential resource or a historic
4 resource located within the property boundaries of
5 that resource.

6 (C) A resource owned by a governmental body,
7 nonprofit organization, or tax-exempt entity that is
8 used primarily by a taxpayer lessee in a trade or
9 business unrelated to the governmental body,
10 nonprofit organization, or tax-exempt entity and
11 that is subject to tax under this Act.

12 (D) A resource that is occupied or used by a
13 governmental body, nonprofit organization, or
14 tax-exempt entity pursuant to a long-term lease or
15 lease with option to buy agreement.

16 (E) Any other resource that could benefit from
17 rehabilitation.

18 (4) "Long-term lease" means a lease term of at
19 least 27.5 years for a residential resource or at least
20 31.5 years for a nonresidential resource.

21 (5) "Historic Preservation Agency" means the
22 Illinois Historic Preservation Agency.

23 (6) "Open space" means undeveloped land, a
24 naturally landscaped area, or a formal or man-made
25 landscaped area that provides a connective link or a
26 buffer between other resources.

27 (7) "Person" means an individual, partnership,
28 corporation, association, governmental entity, or other
29 legal entity.

30 (8) "Qualified expenditures" means capital
31 expenditures that qualify for a rehabilitation credit
32 under Section 47(a)(2) of the Internal Revenue Code if
33 the taxpayer is eligible for the credit under Section
34 47(a)(2) of the Internal Revenue Code or, if the taxpayer

1 is not eligible for the credit under Section 47(a)(2) of
2 the Internal Revenue Code, the qualified expenditures
3 that would qualify under Section 47(a)(2) of the Internal
4 Revenue Code except that the expenditures are made to a
5 historic resource that is not eligible for the credit
6 under Section 47(a)(2) of the Internal Revenue Code that
7 were paid not more than 5 years after the certification
8 of the rehabilitation plan that included those
9 expenditures was approved by the Historic Preservation
10 Agency, and that were paid after December 31, 2003 for
11 the rehabilitation of a historic resource. Qualified
12 expenditures do not include capital expenditures for
13 nonhistoric additions to a historic resource except an
14 addition that is required by State or federal regulations
15 that relate to historic preservation, safety, or
16 accessibility.

17 (9) "Qualified taxpayer" means a person that is an
18 assignee under subsection (g) or either owns the resource
19 to be rehabilitated or has a long-term lease agreement
20 with the owner of the historic resource and that has
21 qualified expenditures for the rehabilitation of the
22 historic resource equal to or greater than 10% of the
23 equalized assessed valuation of the property. If the
24 historic resource to be rehabilitated is a portion of a
25 historic or nonhistoric resource, the equalized assessed
26 valuation of only that portion of the property shall be
27 used for purposes of this subdivision. If the chief
28 county assessment officer for the county in which the
29 historic resource is located determines the equalized
30 assessed valuation of that portion, that chief county
31 assessment officer's determination shall be used for
32 purposes of this subdivision. If the chief county
33 assessment officer does not determine the equalized
34 assessed valuation of that portion, "qualified

1 expenditures", for purposes of this subdivision, shall be
2 equal to or greater than 5% of the appraised value as
3 determined by a certified appraiser. If the historic
4 resource to be rehabilitated does not have an equalized
5 assessed valuation, qualified expenditures for purposes
6 of this subdivision shall be equal to or greater than 5%
7 of the appraised value of the resource as determined by a
8 certified appraiser.

9 (10) "Rehabilitation plan" means a plan for the
10 rehabilitation of a historic resource that meets the
11 federal Secretary of the Interior's standards for
12 rehabilitation and guidelines for rehabilitation of
13 historic buildings under 36 C.F.R. part 67.

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