



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB2629

Introduced 1/20/2010, by Sen. Dale E. Risinger

#### 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.

LRB096 17144 HLH 32474 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

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

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

14 (b) "Qualified historic structure" means any building,  
15 regardless of whether the building is income producing, is a  
16 condominium building, or is of any other ownership structure,  
17 that is (i) defined as a certified historic structure under  
18 Section 47 (c) (3) of the federal Internal Revenue Code, (ii) is  
19 individually listed on the Illinois Register of Historic  
20 Places, (iii) is located and contributes to a district listed  
21 on the Illinois Register of Historic Places, (iv) is located  
22 and contributes to a district listed on the register of  
23 Illinois Main Street places, or (v) is located and contributes

1 to a district listed on a local register of historic places  
2 within a home rule county or home rule municipality.

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

13 (d) "Qualified taxpayer" means the owner of the qualified  
14 historic structure or any other person who may qualify for the  
15 federal rehabilitation credit allowed by Section 47 of the  
16 federal Internal Revenue Code. If the taxpayer is (i) a  
17 corporation having an election in effect under subchapter S of  
18 the federal Internal Revenue Code, (ii) a partnership, or (iii)  
19 a limited liability company, the credit provided by this  
20 subsection may be claimed by the shareholders of the  
21 corporation, the partners of the partnership, or the members of  
22 the limited liability company in the same manner as those  
23 shareholders, partners, or members account for their  
24 proportionate shares of the income or losses of the  
25 corporation, partnership, or limited liability company, or as  
26 provided in the bylaws or other executed agreement of the

1 corporation, partnership, or limited liability company.  
2 Credits granted to a partnership, a limited liability company  
3 taxed as a partnership, or other multiple owners of property  
4 shall be passed through to the partners, members, or owners  
5 respectively on a pro rata basis or pursuant to an executed  
6 agreement among the partners, members, or owners documenting  
7 any alternate distribution method.

8 Section 10. Allowable credit. For all taxable years  
9 commencing after December 31, 2009, there shall be allowed a  
10 tax credit against the tax imposed by subsections (a) and (b)  
11 of Section 201 of the Illinois Income Tax Act in an amount  
12 equal to 25% of qualified expenditures incurred by a qualified  
13 taxpayer in the restoration and preservation of a qualified  
14 historic structure pursuant to a qualified rehabilitation plan  
15 if the total amount of such expenditures equals \$5,000 or more.  
16 If the amount of any tax credit awarded under this Act exceeds  
17 the qualified taxpayer's income tax liability for the year in  
18 which the qualified rehabilitation plan was placed in service,  
19 the excess amount may be carried forward for deduction from the  
20 taxpayer's income tax liability in the next succeeding year or  
21 years until the total amount of the credit has been used,  
22 except that a credit may not be carried forward for deduction  
23 after the tenth taxable year after the taxable year in which  
24 the qualified rehabilitation plan was placed in service.

1           Section 15. Transfer of credits. Any qualified taxpayer,  
2 referred to in this Section as the assignor, may sell, assign,  
3 convey, or otherwise transfer tax credits allowed and earned  
4 under this Act. The taxpayer acquiring the credits, referred to  
5 in this Section as the assignee, may use the amount of the  
6 acquired credits to offset up to 100% of its income tax  
7 liability for either the taxable year in which the qualified  
8 rehabilitation plan was first placed into service or the  
9 taxable year in which such acquisition was made. Unused credit  
10 amounts claimed by the assignee may be carried forward for up  
11 to 10 years or carried back for up to 3 years, except that all  
12 credits must be claimed within 10 years after the tax year in  
13 which the qualified rehabilitation plan was first placed into  
14 service. The assignor shall enter into a written agreement with  
15 the assignee establishing the terms and conditions of the  
16 agreement and shall perfect the transfer by notifying the  
17 Illinois Historic Preservation Agency in writing within 90  
18 calendar days after the effective date of the transfer and  
19 shall provide any information as may be required by the Agency  
20 to administer and carry out the provisions of this Section. The  
21 amount received by the assignor of such tax credit shall be  
22 taxable as capital gains income of the assignor, and the excess  
23 of the value of such credit over the amount paid by the  
24 assignee for such credit shall be taxable as capital gains  
25 income of the assignee.

1           Section 20. Annual county limit. The cumulative amount  
2 allowable for credits awarded under this Act shall be limited  
3 to a maximum of \$25,000,000 per year per county. Credits shall  
4 be applied to the county limit of the county in which the  
5 qualified historic structure is located. Notwithstanding the  
6 10-year carry forward period for credits awarded under this  
7 Act, if a credit is disallowed because it exceeds the annual  
8 \$25,000,000 cumulative limit per county, the credit shall be  
9 allowed in the next year if, within the limit, the claim period  
10 for the credit is extended by one additional year for each year  
11 disallowed as a result of this Section. Except in cases of bad  
12 faith or fraud, no penalty or interest shall be due as a result  
13 of any credit disallowed by this Section.

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

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

21           (35 ILCS 5/219 new)

22           Sec. 219. Historic preservation credit. For tax years  
23 commencing after December 31, 2009, a Taxpayer who qualifies

1 for a credit under the Historic Preservation Tax Credit Act is  
2 entitled to a credit against the taxes imposed under  
3 subsections (a) and (b) of Section 201 of this Act as provided  
4 in that Act. If the taxpayer is a partnership or Subchapter S  
5 corporation, the credit shall be allowed to the partners or  
6 shareholders in accordance with the determination of income and  
7 distributive share of income under Sections 702 and 704 and  
8 subchapter S of the Internal Revenue Code. This Section is  
9 exempt from the provisions of Section 250 of this Act.

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