

SB1366



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1366

Introduced 2/10/2009, by Sen. Dan Kotowski

SYNOPSIS AS INTRODUCED:

New Act

Creates the Historic Rehabilitation Tax Credit Act. Authorizes tax credits against Illinois income taxes and insurance company privilege taxes for 25% of the costs of rehabilitating eligible historic property. Allows excess credits to be carried back and forward. Allows credits to be transferred, sold, or assigned. Administered by the Department of Commerce and Economic Opportunity. Sets forth application and award procedures. Effective July 1, 2009.

LRB096 10710 HLH 20888 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 Rehabilitation Tax Credit Act.

6 Section 5. Definitions.

7 As used in this Act, unless the context requires otherwise:

8 (1) "Certified historic structure" means a property
9 located in Illinois that is listed individually on the National
10 Register of Historic Places or is designated as a historic
11 structure by a unit of local government.

12 (2) "Eligible property" means property located in Illinois
13 that is offered or used for residential, non-profit, local
14 governmental, or business purposes.

15 (3) "Structure in a historic district" means a structure
16 located in Illinois that is certified by the United States
17 Department of the Interior as contributing to the historic
18 significance of a certified historic district listed on the
19 National Register of Historic Places, a local district that has
20 been certified by the United States Department of the Interior,
21 or a local district that has been designated by a local
22 government, either municipal or county.

1 Section 10. Rehabilitation of eligible property. Any
2 person, firm, partnership, trust, estate, corporation, or
3 association incurring costs and expenses for the
4 rehabilitation of eligible property, when that eligible
5 property is a certified historic structure or a structure in a
6 certified historic district, is entitled to a credit against
7 the taxes imposed under the Illinois Income Tax Act (35 ILCS
8 5/), except Article 7 of that Act, and under Section 409 of the
9 Illinois Insurance Code (215 ILCS 5/409) in an amount equal to
10 25% of the total costs and expenses of rehabilitation incurred
11 after July 1, 2009. Expenses of rehabilitation include, but are
12 not limited to, qualified rehabilitation expenditures as
13 defined under Section 47(c)(2)(A) of the Internal Revenue Code
14 of 1986, as amended, and the related regulations thereunder,
15 provided the rehabilitation costs associated with
16 rehabilitation and the expenses exceed 50% of the total basis
17 in the property and the rehabilitation meets standards
18 consistent with the standards of the Secretary of the United
19 States Department of the Interior for rehabilitation as
20 determined by the Department of Commerce and Economic
21 Opportunity in consultation with the State Historic
22 Preservation Officer.

23 Section 15. Use of tax credits, carried forward or carried
24 back, assignment.

25 (a) If the amount of the credit exceeds the total tax

1 liability for the year in which the rehabilitated property is
2 placed in service, the amount that exceeds the tax liability
3 may be carried back to any of the 3 preceding years and carried
4 forward for any of the succeeding 10 years as a credit against
5 the taxes imposed under the Illinois Income Tax Act (except
6 Article 7) and Section 409 of the Illinois Insurance Code, or
7 until the full credit is used, whichever occurs first.
8 Taxpayers eligible for the credits may transfer, sell, or
9 assign the credits. Not-for-profit entities are eligible to
10 receive, transfer, sell, or assign the credits. Credits granted
11 to a partnership, a limited liability company taxed as a
12 partnership, or multiple owners of property shall be passed
13 through to the partners, members, or owners respectively pro
14 rata or pursuant to an executed agreement among the partners,
15 members, or owners documenting an alternate distribution
16 method.

17 (b) The assignor of the credits may transfer, sell, or
18 assign any or all of the credits to the assignee who may use
19 the acquired credits to offset tax liabilities imposed under
20 the Illinois Income Tax Act (except Article 7) and Section 409
21 of the Illinois Insurance Code. The assignor must perfect the
22 transfer, sale, or assignment by notifying the Department of
23 Commerce and Economic Opportunity in writing within 30 calendar
24 days following the effective date of the transfer, sale, or
25 assignment, and must provide any information that is required
26 by the Department of Commerce and Economic Opportunity to

1 administer and carry out the provisions of this Section. The
2 credits may be transferred more than once.

3 (c) If credits that have been transferred are subsequently
4 reduced, adjusted, or recaptured by the Department of Commerce
5 and Economic Opportunity, Department of Revenue, or any other
6 applicable government agency, only the transferor originally
7 allowed the credits, and not any subsequent transferee of the
8 credits, shall be held liable to repay any amount of that
9 reduction, adjustment, or recapture of the credits.

10 Section 20. Application to claim tax credit; certificates
11 of eligible credits.

12 (a) To obtain the credit, an application must be made to
13 the Department of Commerce and Economic Opportunity. The
14 Department, in consultation with the Director of Historic Sites
15 and Preservation and the United States Department of the
16 Interior, shall determine the amount of eligible
17 rehabilitation costs and expenses and whether the
18 rehabilitation meets the standards of the Secretary of the
19 United States Department of the Interior for rehabilitation.
20 The Department of Commerce and Economic Opportunity shall issue
21 a certificate in the amount of the eligible credits. The
22 taxpayer must attach the certificate to the tax return on which
23 the credits are to be claimed.

24 (b) The Department of Commerce and Economic Opportunity
25 shall determine, on an annual basis, the overall economic

1 impact to the State from the rehabilitation of eligible
2 property.

3 (c) The Department of Commerce and Economic Opportunity is
4 granted and has all powers necessary or convenient to carry out
5 the provisions of this Act, including, but not limited to, the
6 power to adopt rules for the administration of this Act and the
7 power to establish application forms and other agreements.

8 Section 99. Effective date. This Act takes effect July 1,
9 2009.