



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0119

Introduced 1/24/2023, by Sen. Steve Stadelman

SYNOPSIS AS INTRODUCED:

35 ILCS 5/228
35 ILCS 31/10
35 ILCS 31/20

Amends the Historic Preservation Tax Credit Act. Extends the sunset of the credit to December 31, 2028 (currently, December 31, 2023). Provides that, in each calendar year beginning on or after January 1, 2024 and ending on or before December 31, 2028, the State Historic Preservation Office in the Department of Natural Resources is authorized to allocate \$75,000,000 (currently, \$15,000,000) in tax credits under the Act. Amends the Illinois Income Tax Act to make conforming changes. Effective immediately.

LRB103 06051 HLH 51081 b

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 5. The Illinois Income Tax Act is amended by
5 changing Section 228 as follows:

6 (35 ILCS 5/228)

7 Sec. 228. Historic preservation credit. For tax years
8 beginning on or after January 1, 2019 and ending on or before
9 December 31, 2028 ~~December 31, 2023~~, a taxpayer who qualifies
10 for a credit under the Historic Preservation Tax Credit Act is
11 entitled to a credit against the taxes imposed under
12 subsections (a) and (b) of Section 201 of this Act as provided
13 in that Act. If the taxpayer is a partnership, Subchapter S
14 corporation, or a limited liability company the credit shall
15 be allowed to the partners, shareholders, or members in
16 accordance with the determination of income and distributive
17 share of income under Sections 702 and 704 and Subchapter S of
18 the Internal Revenue Code provided that credits granted to a
19 partnership, a limited liability company taxed as a
20 partnership, or other multiple owners of property shall be
21 passed through to the partners, members, or owners
22 respectively on a pro rata basis or pursuant to an executed
23 agreement among the partners, members, or owners documenting

1 any alternate distribution method. If the amount of any tax
2 credit awarded under this Section exceeds the qualified
3 taxpayer's income tax liability for the year in which the
4 qualified rehabilitation plan was placed in service, the
5 excess amount may be carried forward as provided in the
6 Historic Preservation Tax Credit Act.

7 (Source: P.A. 101-81, eff. 7-12-19; 102-741, eff. 5-6-22.)

8 Section 10. The Historic Preservation Tax Credit Act is
9 amended by changing Sections 10 and 20 as follows:

10 (35 ILCS 31/10)

11 Sec. 10. Allowable credit.

12 (a) To the extent authorized by this Act, for taxable
13 years beginning on or after January 1, 2019 and ending on or
14 before December 31, 2028 ~~December 31, 2023~~, there shall be
15 allowed a tax credit to the qualified taxpayer against the tax
16 imposed by subsections (a) and (b) of Section 201 of the
17 Illinois Income Tax Act in an aggregate amount equal to 25% of
18 qualified expenditures, but not to exceed \$3,000,000, incurred
19 undertaking a qualified rehabilitation plan, provided that the
20 total amount of such expenditures must (i) equal \$5,000 or
21 more and (ii) exceed the adjusted basis of the structure on the
22 first day the qualified rehabilitation plan commenced. If the
23 qualified rehabilitation plan spans multiple years, the
24 aggregate credit for the entire project shall be allowed in

1 the last taxable year.

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

19 (c) If the amount of any tax credit awarded under this Act
20 exceeds the qualified taxpayer's income tax liability for the
21 year in which the qualified rehabilitation plan was placed in
22 service, the excess amount may be carried forward for
23 deduction from the taxpayer's income tax liability in the next
24 succeeding year or years until the total amount of the credit
25 has been used, except that a credit may not be carried forward
26 for deduction after the tenth taxable year after the taxable

1 year in which the qualified rehabilitation plan was placed in
2 service. Upon completion of the project and approval of the
3 complete application, the Division shall issue a single
4 certificate in the amount of the eligible credits equal to 25%
5 of the qualified expenditures incurred during the eligible
6 taxable years, not to exceed the lesser of the allocated
7 amount or \$3,000,000 per single qualified rehabilitation plan.
8 Prior to the issuance of the tax credit certificate, the
9 qualified taxpayer must provide to the Division verification
10 that the rehabilitated structure is a qualified historic
11 structure. At the time the certificate is issued, an issuance
12 fee up to the maximum amount of 2% of the amount of the credits
13 issued by the certificate may be collected from the qualified
14 taxpayer to administer the Act. If collected, this issuance
15 fee shall be directed to the Division Historic Property
16 Administrative Fund or other such fund as appropriate for use
17 of the Division in the administration of the Historic
18 Preservation Tax Credit Program. The taxpayer must attach the
19 certificate or legal documentation of her or his proportional
20 share of the certificate to the tax return on which the credits
21 are to be claimed. The tax credit under this Section may not
22 reduce the taxpayer's liability to less than zero. If the
23 amount of the credit exceeds the tax liability for the year,
24 the excess credit may be carried forward and applied to the tax
25 liability of the 10 taxable years following the first excess
26 credit year. The taxpayer is not eligible to receive credits

1 under this Section and under Section 221 of the Illinois
2 Income Tax Act for the same qualified expenditures or
3 qualified rehabilitation plan.

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

21 (e) If a recapture event occurs during the recapture
22 period with respect to a qualified historic structure, then
23 for any taxable year in which the credits are allowed as
24 specified in this Act, the tax under the applicable Section of
25 this Act shall be increased by applying the recapture
26 percentage set forth below to the tax decrease resulting from

1 the application of credits allowed under this Act to the
2 taxable year in question.

3 For the purposes of this subsection, the recapture
4 percentage shall be determined as follows:

5 (1) if the recapture event occurs within the first
6 year after commencement of the recapture period, then the
7 recapture percentage is 100%;

8 (2) if the recapture event occurs within the second
9 year after commencement of the recapture period, then the
10 recapture percentage is 80%;

11 (3) if the recapture event occurs within the third
12 year after commencement of the recapture period, then the
13 recapture percentage is 60%;

14 (4) if the recapture event occurs within the fourth
15 year after commencement of the recapture period, then the
16 recapture percentage is 40%; and

17 (5) if the recapture event occurs within the fifth
18 year after commencement of the recapture period, then the
19 recapture percentage is 20%.

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

22 (f) The Division may adopt rules to implement this Section
23 in addition to the rules expressly authorized herein.

24 (Source: P.A. 101-81, eff. 7-12-19; 102-741, eff. 5-6-22.)

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

2 (a) In each every calendar year beginning on or after
3 January 1, 2019 and ending on or before December 31, 2023 ~~that~~
4 ~~this program is in effect~~, the Division is authorized to
5 allocate \$15,000,000 in tax credits in addition to any
6 unallocated, returned, or rescinded allocations from previous
7 years, pursuant to qualified rehabilitation plans. In each
8 calendar year beginning on or after January 1, 2024 and ending
9 on or before December 31, 2028, the Division is authorized to
10 allocate \$75,000,000 in tax credits in addition to any
11 unallocated, returned, or rescinded allocations from previous
12 years, pursuant to qualified rehabilitation plans. The
13 Division shall not allocate or award more than \$3,000,000 in
14 tax credits with regard to a single qualified rehabilitation
15 plan. In allocating tax credits under this Act, the Division
16 must prioritize applications that meet one or more of the
17 following:

18 (1) the structure is located in a county that borders
19 a State with a historic income-producing property
20 rehabilitation credit;

21 (2) the structure was previously owned by a federal,
22 state, or local governmental entity for no less than 6
23 months;

24 (3) the structure is located in a census tract that
25 has a median family income at or below the State median
26 family income; data from the most recent 5-year estimate

1 from the American Community Survey (ACS), published by the
2 U.S. Census Bureau, shall be used to determine
3 eligibility;

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

9 (5) the structure is located in an area declared under
10 an Emergency Declaration or Major Disaster Declaration
11 under the federal Robert T. Stafford Disaster Relief and
12 Emergency Assistance Act. The declaration must be no older
13 than 3 years at the time of application.

14 (b) The annual aggregate authorization of \$15,000,000 set
15 forth in subsection (a) shall be allocated by the Division, in
16 such proportion as determined by the Director twice in each
17 calendar year that the program is in effect, provided that the
18 amount initially allocated by the Division for the first
19 calendar year application period shall not exceed 65% of the
20 total amount available for allocation. Any unallocated amount
21 remaining as of the end of the second application period of a
22 given calendar year shall be rolled over and added to the total
23 authorized amount for the next available calendar year. The
24 qualified rehabilitation plan must meet a readiness test, as
25 defined by the Division, in order for the application to
26 qualify. In any given application period, applications that

1 qualify under this Act will be prioritized as set forth in
2 subsection (a) and placed in a queue based on the date and time
3 the application is received. Applicants whose applications
4 qualify but do not receive an allocation must reapply to be
5 considered in subsequent application periods.

6 (c) Subject to appropriation to the Division, moneys in
7 the Historic Property Administrative Fund shall be used, on a
8 biennial basis, beginning at the end of the second fiscal year
9 after the effective date of this Act, to hire a qualified third
10 party to prepare a biennial report to assess the overall
11 impact of this Act from the qualified rehabilitation plans
12 under this Act completed in that year and in previous years.
13 Baseline data of the metrics in the report shall be collected
14 at the initiation of a qualified rehabilitation plan. The
15 overall economic impact shall include at least:

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

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

20 (3) the status of ongoing projects and projected
21 qualifying expenditures for ongoing projects;

22 (4) for completed projects, the total amount of
23 qualifying rehabilitation expenditures and non-qualifying
24 expenditures, the number of housing units created and the
25 number of housing units that qualify as affordable, and
26 the total square footage rehabilitated and developed;

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

2 (6) temporary, permanent, and construction jobs
3 created; and

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

6 The report to the General Assembly shall be filed with the
7 Clerk of the House of Representatives and the Secretary of the
8 Senate in electronic form only, in the manner that the Clerk
9 and the Secretary shall direct.

10 (d) Any time prior to issuance of a tax credit
11 certificate, the Director of the Division, the State Historic
12 Preservation Officer, or staff of the Division may, upon
13 reasonable notice of not less than 3 business days, conduct a
14 site visit to the project to inspect and evaluate the project.

15 (e) Any time prior to the issuance of a tax credit
16 certificate, the Director may, upon reasonable notice of not
17 less than 30 calendar days, request a status report from the
18 Applicant consisting of information and updates relevant to
19 the status of the project. Status reports shall not be
20 requested more than twice yearly.

21 (f) In order to demonstrate sufficient evidence of
22 reviewable progress within 12 months after the date the
23 Applicant received notification of allocation from the
24 Division, the Director may require the Applicant to provide
25 all of the following:

26 (1) a viable financial plan which demonstrates by way

1 of an executed agreement that all financing has been
2 secured for the project; such financing shall include, but
3 not be limited to, equity investment as demonstrated by
4 letters of commitment from the owner of the property,
5 investment partners, and equity investors;

6 (2) (blank); and

7 (3) all historic approvals, including all federal and
8 State rehabilitation documents required by the Division.

9 The Director shall review the submitted evidence and may
10 request additional documentation from the Applicant if
11 necessary. The Applicant will have 30 calendar days to provide
12 the information requested, otherwise the allocation may be
13 rescinded at the discretion of the Director.

14 (g) In order to demonstrate sufficient evidence of
15 reviewable progress within 24 months after the date the
16 application received notification of approval from the
17 Division, the Director may require the Applicant to provide
18 detailed evidence that the Applicant has secured and closed on
19 financing for the complete scope of rehabilitation for the
20 project. To demonstrate evidence that the Applicant has
21 secured and closed on financing, the Applicant will need to
22 provide signed and processed loan agreements, bank financing
23 documents or other legal and contractual evidence to
24 demonstrate that adequate financing is available to complete
25 the project. The Director shall review the submitted evidence
26 and may request additional documentation from the Applicant if

1 necessary. The Applicant will have 30 calendar days to provide
2 the information requested, otherwise the allocation may be
3 rescinded at the discretion of the Director.

4 If the Applicant fails to document reviewable progress
5 within 24 months of approval, the Director may notify the
6 Applicant that the allocation is rescinded. However, should
7 financing and construction be imminent, the Director may elect
8 to grant the Applicant no more than 5 months to close on
9 financing and commence construction. If the Applicant fails to
10 meet these conditions in the required timeframe, the Director
11 shall notify the Applicant that the allocation is rescinded.
12 Any such rescinded allocation shall be added to the aggregate
13 amount of credits available for allocation for the year in
14 which the forfeiture occurred.

15 The amount of the qualified expenditures identified in the
16 qualified taxpayer's certification of completion and reflected
17 on the Historic Preservation Tax Credit certificate issued by
18 the Director is subject to inspection, examination, and audit
19 by the Department of Revenue.

20 The qualified taxpayer shall establish and maintain for a
21 period of 4 years following the effective date on a project tax
22 credit certificate such records as required by the Director.
23 Such records include, but are not limited to, records
24 documenting project expenditures and compliance with the U.S.
25 Secretary of the Interior's Standards. The qualified taxpayer
26 shall make such records available for review and verification

1 by the Director, the State Historic Preservation Officer, the
2 Department of Revenue, or appropriate staff, as well as other
3 appropriate State agencies. In the event the Director
4 determines an Applicant has submitted a status report
5 containing erroneous information or data not supported by
6 records established and maintained under this Act, the
7 Director may, after providing notice, require the Applicant to
8 resubmit corrected reports.

9 (Source: P.A. 102-741, eff. 5-6-22.)

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