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# HOUSE BILL No. 1275

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-16.

**Synopsis:** Historic preservation tax credit. Provides that the historic rehabilitation income tax credit may be assigned. Specifies when the transfer of the property does not subject the credit to recapture. (Current law provides that the credit is recaptured if the property is transferred within five years of the completion of the rehabilitation or preservation.) Provides that the adjusted basis of the property is not reduced by the amount of credit if a person is entitled to a federal low income housing credit for the historic property.

**Effective:** July 1, 2012.

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January 11, 2012, read first time and referred to Committee on Ways and Means.

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Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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# HOUSE BILL No. 1275



A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-3.1-16-0.1 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2012]: **Sec. 0.1. (a) Except as provided by**  
4 **subsection (b), an amendment to this chapter enacted in 2012**  
5 **applies to tax credits awarded for taxable years beginning after**  
6 **December 31, 2012.**

7 **(b) Beginning July 1, 2012, a tax credit awarded under this**  
8 **chapter for any taxable year may be assigned in the manner**  
9 **permitted by section 13.5 of this chapter.**

10 SECTION 2. IC 6-3.1-16-2.8 IS ADDED TO THE INDIANA  
11 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2012]: **Sec. 2.8. As used in this chapter,**  
13 **"person" means:**

- 14 **(1) an individual;**
- 15 **(2) a corporation;**
- 16 **(3) an S corporation;**
- 17 **(4) a partnership;**



- 1           **(5) a limited liability company;**  
 2           **(6) a limited liability partnership;**  
 3           **(7) a nonprofit organization; or**  
 4           **(8) a joint venture.**

5           SECTION 3. IC 6-3.1-16-6.1 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6.1. As used in this  
 7 chapter, "taxpayer" means: ~~an individual; a corporation; an S~~  
 8 ~~corporation; a partnership; a limited liability company; a limited~~  
 9 ~~liability partnership; a nonprofit organization; or a joint venture.~~

10           **(1) a person that:**

11           **(A) is the holder of a credit that is awarded or assigned**  
 12 **under this chapter; and**

13           **(B) has a state tax liability against which any part of the**  
 14 **credit may be applied; or**

15           **(2) a shareholder, partner, or member of a pass through**  
 16 **entity that:**

17           **(A) is the holder of a credit that is awarded or assigned**  
 18 **under this chapter; and**

19           **(B) does not have any state tax liability against which any**  
 20 **part of the credit may be applied.**

21           SECTION 4. IC 6-3.1-16-9 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) The division shall  
 23 provide the certifications referred to in section 8(3) and 8(4) of this  
 24 chapter if a ~~taxpayer's~~ **person's** proposed preservation or rehabilitation  
 25 plan complies with the standards of the division and the ~~taxpayer's~~  
 26 **person's** preservation or rehabilitation work complies with the plan.

27           (b) The ~~taxpayer~~ **person** may appeal a decision by the division  
 28 under this chapter to the review board.

29           SECTION 5. IC 6-3.1-16-11 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. **(a) This section**  
 31 **does not apply to a person if the person is entitled to a credit under**  
 32 **Section 42 of the Internal Revenue Code.**

33           **(b) For purposes of IC 6-3, the adjusted basis of:**

34           (1) the structure, if the historic property is a structure; or

35           (2) the entire property, if the historic property is not a structure;  
 36 shall be reduced by the amount of a credit granted under this chapter.

37           SECTION 6. IC 6-3.1-16-12 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) **Except as**  
 39 **provided in subsection (b) or (c), a credit claimed under this chapter**  
 40 **shall be recaptured from the taxpayer who obtained the certifications**  
 41 **required under section 8 of this chapter if:**

42           (1) the property is transferred less than five (5) years after

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1 completion of the certified preservation or rehabilitation work; or  
 2 (2) less than five (5) years after completion of the certified  
 3 preservation or rehabilitation, additional modifications to the  
 4 property are undertaken that do not meet the standards of the  
 5 division.

6 **(b) Except as provided in subsection (a) or (c), a credit claimed**  
 7 **under this chapter shall be recaptured from the taxpayer to whom**  
 8 **the tax credit was assigned under section 13.5 of this chapter if:**

9 **(1) the taxpayer transfers the property less than five (5) years**  
 10 **after completion of the certified preservation or rehabilitation**  
 11 **work; or**

12 **(2) less than five (5) years after completion of the certified**  
 13 **preservation or rehabilitation, additional modifications to the**  
 14 **property are undertaken that do not meet the standards of the**  
 15 **division.**

16 **(c) A historic property subject to a tax credit awarded or**  
 17 **assigned under this chapter may be transferred without subjecting**  
 18 **the tax credit to recapture under subsection (a) or (b) if the historic**  
 19 **property is transferred:**

20 **(1) to an assignee who will own and use the property as**  
 21 **required by section 8(6) of this chapter; or**

22 **(2) as a condominium (as defined by IC 32-25-2-7).**

23 **(b) (d) If the recapture of a credit is required under this section, an**  
 24 **amount equal to the credit recaptured shall be added to the tax liability**  
 25 **of the taxpayer for the taxable year during which the credit is**  
 26 **recaptured.**

27 SECTION 7. IC 6-3.1-16-13.5 IS ADDED TO THE INDIANA  
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 29 [EFFECTIVE JULY 1, 2012]: **Sec. 13.5. (a) The holder of a credit**  
 30 **may assign any part of the credit to which the holder is entitled**  
 31 **under this chapter to another person if the holder complies with**  
 32 **this section.**

33 **(b) The assignor must provide the assignee with a copy of the**  
 34 **certifications by the division required under sections 8 and 9 of this**  
 35 **chapter.**

36 **(c) The assignor must provide written notification of the**  
 37 **assignment to the:**

38 **(1) division; and**

39 **(2) department;**

40 **not later than thirty (30) days after the assignment.**

41 **(d) The notification provided under subsection (c) must contain:**

42 **(1) the name of the assignor;**

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- 1           (2) the name of the assignee;  
2           (3) the date of assignment;  
3           (4) the terms of the assignment; and  
4           (5) any information requested by the division or the  
5           department.  
6           (e) The assignor may assign a credit under this chapter to an  
7           assignee other than a holder of a credit under Section 47 of the  
8           Internal Revenue Code for the same property.  
9           (f) If any part of a credit is assigned under this section, the  
10          assignor and the assignee shall report the assignment on their state  
11          tax returns for the year in which the assignment is made, in the  
12          manner prescribed by the department.  
13          SECTION 8. IC 6-3.1-16-13.7 IS ADDED TO THE INDIANA  
14          CODE AS A NEW SECTION TO READ AS FOLLOWS  
15          [EFFECTIVE JULY 1, 2012]: **Sec. 13.7. The holder of a credit that**  
16          **is assigned in conformity with this chapter is entitled to a credit**  
17          **against the holder's state tax liability to the same extent as if the**  
18          **holder were the person to which the credit was awarded.**

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