
HOUSE BILL No. 1318

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4-9.7-6; IC 6-3.1-16.

Synopsis: Tax credits. Transfers administration of the historic rehabilitation tax credit from the division of historic preservation and archeology of the department of natural resources to the office of community and rural affairs (office). Provides that the credit applies to the preservation or rehabilitation of historic properties that have been vacant for at least one year. Establishes four new methodologies for determining the amount of the tax credit. Provides that a property's adjusted basis is not reduced by the amount of the credit if a person is entitled to a federal low income housing tax credit. Changes numerous spending floors and caps relating to the tax credit. Phases in increases to the annual statewide cap on the tax credit until the cap is \$10,000,000. Specifies that the office may adopt emergency rules. Voids a rule providing that the maximum amount of tax credits for a particular project is \$100,000. Prohibits the office from reallocating available tax credits from year to year.

Effective: July 1, 2013.

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January 17, 2013, read first time and referred to Committee on Ways and Means.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1318



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 4-4-9.7-6, AS AMENDED BY P.L.144-2006,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 6. The office shall do the following:

- 4 (1) Administer the rural economic development fund under
- 5 section 9 of this chapter.
- 6 (2) Administer the Indiana main street program under IC 4-4-16.
- 7 (3) Administer the community development block grant program.
- 8 **(4) Make certifications required under IC 6-3.1-16 with**
- 9 **respect to the historic rehabilitation tax credit.**

10 SECTION 2. IC 6-3.1-16-0.1 IS ADDED TO THE INDIANA
11 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2013]: **Sec. 0.1. (a) An amendment to this**
13 **chapter enacted in 2013 applies to tax credits awarded after June**
14 **30, 2013.**

15 **(b) A tax credit awarded under this chapter for a taxable year**
16 **ending before January 1, 2013, is subject to:**

- 17 **(1) this chapter (as in effect on January 1, 2013);**



1 **(2) the rules of the natural resources commission (as in effect**
 2 **on January 1, 2013); and**

3 **(3) any terms and conditions imposed upon the tax credit by**
 4 **the department of state revenue or the department of natural**
 5 **resources, including a requirement that the tax credit must be**
 6 **claimed in a taxable year beginning after December 31, 2013.**

7 SECTION 3. IC 6-3.1-16-1.5 IS ADDED TO THE INDIANA
 8 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 9 [EFFECTIVE JULY 1, 2013]: **Sec. 1.5. As used in this chapter,**
 10 **"difficult development area" has the meaning set forth in Section**
 11 **42(d)(5)(B)(iii) of the Internal Revenue Code.**

12 SECTION 4. IC 6-3.1-16-2.5 IS ADDED TO THE INDIANA
 13 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 14 [EFFECTIVE JULY 1, 2013]: **Sec. 2.5. As used in this chapter,**
 15 **"office" refers to the office of community and rural affairs**
 16 **established by IC 4-4-9.7-4.**

17 SECTION 5. IC 6-3.1-16-2.8 IS ADDED TO THE INDIANA
 18 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 19 [EFFECTIVE JULY 1, 2013]: **Sec. 2.8. As used in this chapter,**
 20 **"person" means:**

- 21 **(1) an individual;**
 22 **(2) a corporation;**
 23 **(3) an S corporation;**
 24 **(4) a partnership;**
 25 **(5) a limited liability company;**
 26 **(6) a limited liability partnership;**
 27 **(7) a nonprofit organization; or**
 28 **(8) a joint venture.**

29 SECTION 6. IC 6-3.1-16-3.5 IS ADDED TO THE INDIANA
 30 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 31 [EFFECTIVE JULY 1, 2013]: **Sec. 3.5. As used in this chapter,**
 32 **"qualified census tract" has the meaning set forth in Section**
 33 **42(d)(5)(B)(ii) of the Internal Revenue Code.**

34 SECTION 7. IC 6-3.1-16-5.5 IS ADDED TO THE INDIANA
 35 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 36 [EFFECTIVE JULY 1, 2013]: **Sec. 5.5. As used in this chapter,**
 37 **"rurality index" refers to a ranking of Indiana counties from the**
 38 **least to most rural as determined and updated from time to time by**
 39 **the office.**

40 SECTION 8. IC 6-3.1-16-6.1 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6.1. As used in this**
 42 **chapter, "taxpayer" means: ~~an individual, a corporation, an S~~**

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1 corporation; a partnership; a limited liability company; a limited
2 liability partnership; a nonprofit organization; or a joint venture.

3 **(1) a person that:**

4 **(A) is the holder of a credit that is awarded under this**
5 **chapter; and**

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

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

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

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

14 SECTION 9. IC 6-3.1-16-6.5 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2013]: **Sec. 6.5. As used in this chapter,**
17 **"significant use" refers to the use of an historic property:**

18 **(1) as a residence; or**

19 **(2) in a trade or business for a purpose other than storage or**
20 **warehousing.**

21 SECTION 10. IC 6-3.1-16-6.6 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2013]: **Sec. 6.6. As used in this chapter,**
24 **"vacant" means, with respect to a historic property, that at least**
25 **fifty percent (50%) of the useable interior floor space of the**
26 **historic property is not occupied and used for a significant use.**

27 SECTION 11. IC 6-3.1-16-7 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 7. (a) Subject to section**
29 **14 of this chapter, a taxpayer is entitled to a credit against the**
30 **taxpayer's state tax liability in the taxable year in which the taxpayer**
31 **completes the preservation or rehabilitation of historic property and**
32 **obtains the certifications required under section 8 of this chapter.**

33 **(b) The amount of the credit is equal to twenty percent (20%) of the**
34 **qualified expenditures that:**

35 **(1) the taxpayer makes for the preservation or rehabilitation of**
36 **historic property; and**

37 **(2) are approved by the division.**

38 **(b) The credit applies to qualified expenditures that:**

39 **(1) the taxpayer makes for the preservation or rehabilitation**
40 **of historic property; and**

41 **(2) are approved by the office.**

42 **(c) The amount of the credit must be determined under one (1)**

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of the following methods:

(1) If the total amount of the taxpayer's qualified expenditures is less than two million dollars (\$2,000,000), the amount of the credit is equal to forty percent (40%) of either of the following amounts:

(A) The total amount of the qualified expenditures made by the taxpayer.

(B) The product of:

(i) the total amount of the qualified expenditures made by the taxpayer; multiplied by

(ii) one and three-tenths (1.3);

in the case of a person that applies for a credit for the preservation or rehabilitation of historic property located in a difficult development area or a qualified census tract.

(2) If the property preserved or rehabilitated is a school, is a hospital, or is subject to a grant received under the Indiana main street program established under IC 4-4-16-1, the amount of the credit is equal to forty percent (40%) of either of the following amounts:

(A) The total amount of the qualified expenditures made by the taxpayer.

(B) The product of:

(i) the total amount of the qualified expenditures made by the taxpayer; multiplied by

(ii) one and three-tenths (1.3);

in the case of a person that applies for a credit for the preservation or rehabilitation of historic property located in a difficult development area or a qualified census tract.

(3) If the property preserved or rehabilitated obtains a qualifying score under section 7.7 of this chapter, the amount of the credit is equal to forty percent (40%) of either of the following amounts:

(A) The total amount of the qualified expenditures made by the taxpayer.

(B) The product of:

(i) the total amount of the qualified expenditures made by the taxpayer; multiplied by

(ii) one and three-tenths (1.3);

in the case of a person that applies for a credit for the preservation or rehabilitation of historic property located in a difficult development area or a qualified census tract.

(4) If the property preserved or rehabilitated is not described

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1 by subdivisions (1) through (3), the amount of the credit is
 2 equal to twenty percent (20%) of the appropriate amount as
 3 follows:

4 (A) The total amount of the qualified expenditures made
 5 by the taxpayer.

6 (B) The product of:

7 (i) the total amount of the qualified expenditures made
 8 by the taxpayer; multiplied by

9 (ii) one and three-tenths (1.3);

10 in the case of a person that applies for a credit for the
 11 preservation or rehabilitation of historic property located
 12 in a difficult development area or a qualified census tract.

13 (e) (d) In the case of a husband and wife who:

14 (1) own and rehabilitate a historic property jointly; and

15 (2) file separate tax returns;

16 the husband and wife may take the credit in equal shares or one (1)
 17 spouse may take the whole credit.

18 SECTION 12. IC 6-3.1-16-7.7 IS ADDED TO THE INDIANA
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2013]: **Sec. 7.7. (a) The office shall develop**
 21 **a scoring system to evaluate preservation or rehabilitation projects**
 22 **for purposes of qualifying for an enhanced credit under section**
 23 **7(c)(3) of this chapter.**

24 (b) A project scoring at least fifty (50) points in a system
 25 developed under this section is entitled to receive the enhanced
 26 credit under section 7(c)(3) of this chapter.

27 (c) The system must contain the following components:

28 (1) A score that is equal to the quotient of:

29 (A) the rurality index rank of the county in which the
 30 preservation or rehabilitation project is located; divided by

31 (B) two (2).

32 (2) A score that is equal to the quotient of:

33 (A) the median household income rank of the county in
 34 which the preservation or rehabilitation project is located
 35 as determined by the United States Census Bureau; divided
 36 by

37 (B) four (4).

38 However, the score determined under this subdivision is zero
 39 (0) if the county's median household income is equal to or
 40 greater than the Indiana median household income.

41 (3) A score for the quality of the building being preserved or
 42 rehabilitated by the taxpayer as follows:

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1 (A) Fifteen (15) points for a building rated outstanding in
 2 the most recent interim report published by the division
 3 for the county in which the property is located.

4 (B) Ten (10) points for a building rated notable in the most
 5 recent interim report published by the division for the
 6 county in which the property is located.

7 (C) Zero (0) points for a building that is neither
 8 outstanding nor notable.

9 SECTION 13. IC 6-3.1-16-8 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. A taxpayer qualifies
 11 for a credit under section 7 of this chapter if all of the following
 12 conditions are met:

13 (1) The historic property: ~~is:~~

14 (A) ~~is~~ located in Indiana;

15 (B) ~~is~~ at least fifty (50) years old; ~~and~~

16 (C) ~~has been vacant for at least one (1) year as of the date~~
 17 ~~the taxpayer submitted a proposed preservation or~~
 18 ~~rehabilitation plan to the division; and~~

19 ~~(D)~~ (D) except as provided in section ~~7(e)~~ 7(d) of this chapter,
 20 is owned by the taxpayer.

21 (2) ~~The division office~~ certifies that the historic property is listed
 22 in the register of Indiana historic sites and historic structures.

23 (3) ~~The division office~~ certifies that the taxpayer submitted a
 24 proposed preservation or rehabilitation plan to the ~~division office~~
 25 that complies with the standards of the division.

26 (4) ~~The division office~~ certifies that the preservation or
 27 rehabilitation work that is the subject of the credit substantially
 28 complies with the proposed plan referred to in subdivision (3).

29 (5) The preservation or rehabilitation work is completed in not
 30 more than:

31 (A) two (2) years; or

32 (B) five (5) years if the preservation or rehabilitation plan
 33 indicates that the preservation or rehabilitation is initially
 34 planned for completion in phases.

35 The time in which work must be completed begins when the
 36 physical work of construction or destruction in preparation for
 37 construction begins.

38 (6) The historic property is:

39 (A) actively used in a trade or business;

40 (B) held for the production of income; or

41 (C) held for ~~the~~ rental or other use in the ordinary course of the
 42 taxpayer's trade or business.

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1 (7) The qualified expenditures for preservation or rehabilitation
 2 of the historic property exceed ~~ten~~ **twenty-five** thousand dollars
 3 ~~(\$10,000):~~ **(\$25,000).**

4 SECTION 14. IC 6-3.1-16-9 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) The ~~division~~
 6 **office** shall provide the certifications referred to in section 8(3) and
 7 8(4) of this chapter if a taxpayer's proposed preservation or
 8 rehabilitation plan complies with the standards of the ~~division~~ **office**
 9 and the taxpayer's preservation or rehabilitation work complies with the
 10 plan.

11 (b) The taxpayer may appeal a decision by the ~~division~~ **office** under
 12 this chapter to the review board.

13 SECTION 15. IC 6-3.1-16-10 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. To obtain a credit
 15 under this chapter, a taxpayer must claim the credit on the taxpayer's
 16 annual state tax return or returns in the manner prescribed by the
 17 department of state revenue. The taxpayer shall submit to the
 18 department of state revenue the certifications by the ~~division~~ **office**
 19 required under section 8 of this chapter and all information that the
 20 department of state revenue determines is necessary for the calculation
 21 of the credit provided by this chapter.

22 SECTION 16. IC 6-3.1-16-10.5 IS ADDED TO THE INDIANA
 23 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2013]: **Sec. 10.5. The division shall provide**
 25 **the office with technical guidance and any assistance necessary to**
 26 **implement this chapter.**

27 SECTION 17. IC 6-3.1-16-11 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. (a) **This section**
 29 **does not apply to a person if the person is entitled to a credit under**
 30 **Section 42 of the Internal Revenue Code for the historic property.**

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

32 (1) the structure, if the historic property is a structure; or
 33 (2) the entire property, if the historic property is not a structure;
 34 shall be reduced by the amount of a credit granted under this chapter.

35 SECTION 18. IC 6-3.1-16-12 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) **Except as**
 37 **provided in subsection (b),** a credit claimed under this chapter shall
 38 be recaptured from the taxpayer **who obtained the certifications**
 39 **required under section 8 of this chapter** if:

40 (1) the property is transferred less than five (5) years after
 41 completion of the certified preservation or rehabilitation work; or
 42 (2) less than five (5) years after completion of the certified

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1 preservation or rehabilitation, additional modifications to the
 2 property are undertaken that do not meet the standards of the
 3 division.

4 **(b) A historic property subject to a tax credit awarded under**
 5 **this chapter may be transferred without subjecting the tax credit**
 6 **to recapture under subsection (a) if the historic property is**
 7 **transferred as a condominium (as defined by IC 32-25-2-7).**

8 ~~(b)~~ (c) If the recapture of a credit is required under this section, an
 9 amount equal to the credit recaptured shall be added to the tax liability
 10 of the taxpayer for the taxable year during which the credit is
 11 recaptured.

12 SECTION 19. IC 6-3.1-16-14 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14. (a) The amount of
 14 tax credits allowed under this chapter may not exceed **the following**
 15 **amounts:**

16 (1) seven hundred fifty thousand dollars (\$750,000) in the state
 17 fiscal year beginning July 1, 1997, and the state fiscal year
 18 beginning July 1, 1998; and

19 (2) (1) Four hundred fifty thousand dollars (\$450,000) in a state
 20 fiscal year that begins July 1, after June 30, 1999, or thereafter;
 21 and ends before July 1, 2013.

22 (2) Two million five hundred thousand dollars (\$2,500,000) in
 23 the state fiscal year beginning July 1, 2013.

24 (3) Five million dollars (\$5,000,000) in the state fiscal year
 25 beginning July 1, 2014.

26 (4) Seven million five hundred thousand dollars (\$7,500,000)
 27 in the state fiscal year beginning July 1, 2015.

28 (5) Ten million dollars (\$10,000,000) in a state fiscal year
 29 beginning after June 30, 2016.

30 (b) The amount of the tax credit allowed under this chapter for
 31 the preservation or rehabilitation of a particular property in a
 32 particular state fiscal year may not exceed the product of:

33 (1) the total amount of credits that may be allowed to all
 34 taxpayers in that state fiscal year; multiplied by

35 (2) twenty percent (20%).

36 (c) The office shall reserve twenty-five percent (25%) of the
 37 total amount of available tax credits in each state fiscal year for
 38 projects for which the qualified expenditures approved by the
 39 office do not exceed five hundred thousand dollars (\$500,000). If
 40 the amount reserved under this subsection exceeds the amount of
 41 tax credits actually allowed to taxpayers that are eligible to receive
 42 tax credits from the reserved amount, the office may allow the

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1 excess amount to be claimed by any taxpayer otherwise entitled to
2 a tax credit under this chapter.

3 (d) The office may not increase the amount of tax credits
4 allowed under subsection (a) in a particular state fiscal year by
5 reducing the amount specified by subsection (a) for any other state
6 fiscal year.

7 SECTION 20. IC 6-3.1-16-15 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 15. The following may
9 adopt rules under IC 4-22-2, **including emergency rules in the**
10 **manner provided under IC 4-22-2-37.1**, to carry out this chapter:

11 (1) The department of state revenue.

12 (2) The ~~division~~ office.

13 SECTION 21. IC 6-3.1-16-16 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2013]: Sec. 16. (a) 312 IAC 23-3-4(b) is void.

16 (b) The publisher of the Indiana Administrative Code and
17 Indiana Register shall remove 312 IAC 23-3-4(b) from the Indiana
18 Administrative Code.

19 SECTION 22. IC 6-3.1-16-17 IS ADDED TO THE INDIANA
20 CODE AS A NEW SECTION TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2013]: Sec. 17. The property, records, and
22 administrative rules maintained by the division to implement this
23 chapter are transferred to the office on July 1, 2013.

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