

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1558

03/14/2013 Authored by Hoppe, Mariani, Zellers and Marquart
The bill was read for the first time and referred to the Committee on Taxes

A bill for an act

relating to taxation; income and corporate franchise; modifying the historic structure rehabilitation credit for the purposes of income, corporate franchise, and insurance taxes; amending Minnesota Statutes 2012, section 290.0681, subdivisions 1, 3, 4, 5, 10; Laws 2010, chapter 216, section 11.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2012, section 290.0681, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Account" means the historic credit administration account in the special revenue fund.

(c) "Office" means the State Historic Preservation Office of the Minnesota Historical Society.

(d) "Project" means rehabilitation of a certified historic structure, as defined in section 47(c)(3)(A) of the Internal Revenue Code, that is located in Minnesota and is allowed a federal credit ~~under section 47(a)(2) of the Internal Revenue Code.~~

(e) "Society" means the Minnesota Historical Society.

(f) "Federal credit" means the credit allowed under section 47(a)(2) of the Internal Revenue Code.

(g) "Placed in service" has the meaning used in section 47 of the Internal Revenue Code.

(h) "Qualified rehabilitation expenditures" has the meaning given in section 47 of the Internal Revenue Code.

EFFECTIVE DATE. This section is effective the day following final enactment.

2.1 Sec. 2. Minnesota Statutes 2012, section 290.0681, subdivision 3, is amended to read:

2.2 Subd. 3. **Applications; allocations.** (a) To qualify for a credit or grant under this
2.3 section, the developer of a project must apply to the office before the rehabilitation begins.
2.4 The application must contain the information and be in the form prescribed by the office.
2.5 The office may collect a fee for application of up to \$5,000, based on estimated qualified
2.6 rehabilitation ~~expenses~~ expenditures, to offset costs associated with personnel and
2.7 administrative expenses related to administering the credit and preparing the economic
2.8 impact report in subdivision 9. Application fees are deposited in the account. The
2.9 application must indicate if the application is for a credit or a grant in lieu of the credit
2.10 or a combination of the two and designate the taxpayer qualifying for the credit or the
2.11 recipient of the grant.

2.12 (b) Upon approving an application for credit, the office shall issue allocation
2.13 certificates that:

2.14 (1) verify eligibility for the credit or grant;

2.15 (2) state the amount of credit or grant anticipated with the project, with the credit
2.16 amount equal to 100 percent and the grant amount equal to 90 percent of the federal
2.17 credit anticipated in the application;

2.18 (3) state that the credit or grant allowed may increase or decrease if the federal
2.19 credit the project receives at the time it is placed in service is different than the amount
2.20 anticipated at the time the allocation certificate is issued; and

2.21 (4) state the fiscal year in which the credit or grant is allocated, and that the taxpayer
2.22 or grant recipient is entitled to receive the credit or grant at the time the project is placed
2.23 in service, provided that date is within three calendar years following the issuance of
2.24 the allocation certificate.

2.25 (c) The office, in consultation with the commissioner ~~of revenue~~, shall determine
2.26 if the project is eligible for a credit or a grant under this section and must notify the
2.27 developer in writing of its determination. Eligibility for the credit is subject to review
2.28 and audit by the commissioner ~~of revenue~~.

2.29 (d) The federal credit recapture and repayment requirements under section 50 of the
2.30 Internal Revenue Code do not apply to the credit allowed under this section.

2.31 (e) Any decision of the office under paragraph (c) may be challenged as a contested
2.32 case under chapter 14. The contested case proceeding must be initiated within 45 days of
2.33 the date of written notification by the office.

2.34 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.35 Sec. 3. Minnesota Statutes 2012, section 290.0681, subdivision 4, is amended to read:

Subd. 4. **Credit certificates; grants.** (a)(1) The developer of a project for which the office has issued an allocation certificate must notify the office when the project is placed in service. Upon verifying that the project has been placed in service, and was allowed a federal credit, the office must issue a credit certificate to the taxpayer designated in the application or must issue a grant to the recipient designated in the application. The credit certificate must state the amount of the credit.

(2) The credit amount equals the federal credit allowed for the project.

(3) The grant amount equals 90 percent of the federal credit allowed for the project.

(b) The recipient of a credit certificate may assign the certificate to another taxpayer, which is then allowed the credit under this section or section 297I.20, subdivision 3. An assignment is not valid unless the assignee notifies the commissioner within 30 days of the date that the assignment is made. The commissioner shall prescribe the forms necessary for notifying the commissioner of the assignment of a credit certificate and for claiming a credit by assignment.

(c) Credits passed through pursuant to subdivision 5 are not an assignment of a credit certificate under this subdivision.

(d) A grant agreement between the office and the recipient of a grant may allow the grant to be issued to another individual or entity.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2012, section 290.0681, subdivision 5, is amended to read:

Subd. 5. **Partnerships; multiple owners.** Credits granted to a partnership, a limited liability company taxed as a partnership, S corporation, or multiple owners of property are passed through to the partners, members, shareholders, or owners, respectively, pro rata to each partner, member, shareholder, or owner based on their share of the entity's assets or as specially allocated in their organizational documents or any other executed agreement, as of the last day of the taxable year.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 5. Minnesota Statutes 2012, section 290.0681, subdivision 10, is amended to read:

Subd. 10. **Sunset.** This section expires after fiscal year ~~2015~~ 2021, except that the office's authority to issue credit certificates under subdivision 4 based on allocation certificates that were issued before fiscal year ~~2016~~ 2022 remains in effect through ~~2018~~ 2024, and the reporting requirements in subdivision 9 remain in effect through the year

4.1 following the year in which all allocation certificates have either been canceled or resulted
4.2 in issuance of credit certificates, or ~~2019~~ 2025, whichever is earlier.

4.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.4 Sec. 6. Laws 2010, chapter 216, section 11, the effective date, is amended to read:

4.5 **EFFECTIVE DATE.** This section is effective for taxable years beginning
4.6 after December 31, 2009, for certified historic structures for which qualified costs of
4.7 rehabilitation are first paid under construction contracts entered into after May 1, 2010
4.8 rehabilitation expenditures are paid by the developer or taxpayer after May 1, 2010, under
4.9 construction contracts entered into by the developer or taxpayer as a party thereto (without
4.10 regard to when such contracts were entered into), provided that the application under
4.11 subdivision 3 is submitted before the project is placed in service.

4.12 **EFFECTIVE DATE.** This section is effective the day following final enactment
4.13 and applies retroactively for taxable years beginning after December 31, 2009, and for
4.14 certified historic structures placed in service after May 1, 2010, but the office may not
4.15 issue certificates allowed under the change to this section until July 1, 2013.