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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3688

02/21/2022 Authored by Youakim, Davids, Her and Hertaus The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; individual income and corporate franchise taxes; modifying
1.3 the credit for rehabilitation of historic structures; amending Minnesota Statutes
1.4 2020, section 290.0681, subdivisions 2, 3, 4; Minnesota Statutes 2021 Supplement,
1.5 section 290.0681, subdivision 10.

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

1.7 Section 1. Minnesota Statutes 2020, section 290.0681, subdivision 2, is amended to read:

1.8 Subd. 2. Credit or grant allowed; certified historic structure. (a) A credit is allowed
1.9 against the tax imposed under this chapter equal to not more than 100 percent of the credit
1.10 allowed under section 47(a) of the Internal Revenue Code for a project. The credit is payable
1.11 in five equal yearly installments beginning with the year the project is placed in service.

1.12 Notwithstanding the provisions of section 47(a) of the Internal Revenue Code that require
1.13 the federal credit to be allocated ratably over a five-year period, the full amount of the credit
1.14 under this section is allowed in the taxable year in which the qualified rehabilitated building
1.15 is placed in service. To qualify for the credit:

1.16 (1) the project must receive Part 3 certification and be placed in service during the taxable
1.17 year; and

1.18 (2) the taxpayer must be allowed the federal credit and be issued a credit certificate for
1.19 the taxable year as provided in subdivision 4.

1.20 (b) The commissioner of administration may pay a grant in lieu of the credit. The grant
1.21 equals 90 percent of the credit that would be allowed for the project. The grant is payable
1.22 in five equal yearly installments beginning with the year the project is placed in service.

2.1 (c) In lieu of the credit under paragraph (a), an insurance company may claim a credit
2.2 against the insurance premiums tax imposed under chapter 297I.

2.3 **EFFECTIVE DATE.** This section is effective for property placed in service after June
2.4 30, 2022.

2.5 Sec. 2. Minnesota Statutes 2020, section 290.0681, subdivision 3, is amended to read:

2.6 Subd. 3. **Applications; allocations.** (a) To qualify for a credit or grant under this section,
2.7 the developer of a project must apply to the office before the rehabilitation begins. The
2.8 application must contain the information and be in the form prescribed by the office. The
2.9 office may collect a fee for application of up to 0.5 percent of qualified rehabilitation
2.10 expenditures, up to \$40,000, based on estimated qualified rehabilitation expenditures, to
2.11 offset costs associated with personnel and administrative expenses related to administering
2.12 the credit and preparing the economic impact report in subdivision 9. Application fees are
2.13 deposited in the account. The application must indicate if the application is for a credit or
2.14 a grant in lieu of the credit or a combination of the two and designate the taxpayer qualifying
2.15 for the credit or the recipient of the grant.

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

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

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

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

2.25 (4) state the fiscal year in which the credit or grant is allocated, and:

2.26 (i) for property placed in service before July 1, 2022, that the taxpayer or grant recipient
2.27 is entitled to receive one-fifth of the total amount of either the credit or the grant at the time
2.28 the project is placed in service, provided that date is within three calendar years following
2.29 the issuance of the allocation certificate; or

2.30 (ii) for property placed in service after June 30, 2022, that the taxpayer or grant recipient
2.31 is entitled to receive the full amount of the credit or the grant at the time the project is placed

3.1 in service, provided that date is within three calendar years following the issuance of the
3.2 allocation certificate.

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

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

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

3.12 **EFFECTIVE DATE.** This section is effective retroactively for allocation certificates
3.13 issued prior to the date of enactment for property placed in service after June 30, 2022.

3.14 Sec. 3. Minnesota Statutes 2020, section 290.0681, subdivision 4, is amended to read:

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

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

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

3.23 (b) The recipient of a credit certificate may assign the certificate to another taxpayer
3.24 before the ~~first one-fifth~~ payment is claimed, which is then allowed the credit under this
3.25 section or section 297I.20, subdivision 3. An assignment is not valid unless the assignee
3.26 notifies the commissioner within 30 days of the date that the assignment is made. The
3.27 commissioner shall prescribe the forms necessary for notifying the commissioner of the
3.28 assignment of a credit certificate and for claiming a credit by assignment.

3.29 (c) Credits passed through to partners, members, shareholders, or owners pursuant to
3.30 subdivision 5 are not an assignment of a credit certificate under this subdivision.

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

4.1 **EFFECTIVE DATE.** This section is effective for property placed in service after June
4.2 30, 2022.

4.3 Sec. 4. Minnesota Statutes 2021 Supplement, section 290.0681, subdivision 10, is amended
4.4 to read:

4.5 Subd. 10. **Sunset.** This section expires after fiscal year ~~2022~~ 2030, except that the office's
4.6 authority to issue credit certificates under subdivision 4 based on allocation certificates that
4.7 were issued before fiscal year ~~2023~~ 2031 remains in effect through ~~2025~~ 2033, and the
4.8 reporting requirements in subdivision 9 remain in effect through the year following the year
4.9 in which all allocation certificates have either been canceled or resulted in issuance of credit
4.10 certificates, or ~~2026~~ 2034, whichever is earlier.

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

4.12 Sec. 5. **STATEMENT OF INTENT; TAX EXPENDITURE PURPOSE STATEMENT.**

4.13 The purpose of the tax expenditure in sections 1 to 3, allowing the entirety of the credit
4.14 for historic structure rehabilitation to be taken in the year property is placed in service, and
4.15 the extension of the sunset date for the credit in section 4, is to encourage investment in
4.16 rehabilitating historic buildings. The standard against which effectiveness is to be measured
4.17 is the increase in the number of historic rehabilitation projects in the state.