

2022 -- S 2604 SUBSTITUTE A

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LC005144/SUB A/2
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO TAXATION -- HISTORIC PRESERVATION TAX CREDITS 2013

Introduced By: Senators Euer, DiPalma, and Felag

Date Introduced: March 10, 2022

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-33.6-3 and 44-33.6-11 of the General Laws in Chapter 44-33.6
2 entitled "Historic Preservation Tax Credits 2013" are hereby amended to read as follows:

3 **44-33.6-3. Tax credit.**

4 (a) Subject to the maximum credit provisions set forth in subsections (c) and (d) below,
5 any person, firm, partnership, trust, estate, limited liability company, corporation (whether for
6 profit or nonprofit) or other business entity that incurs qualified rehabilitation expenditures for the
7 substantial rehabilitation of a certified historic structure, provided the rehabilitation meets standards
8 consistent with the standards of the Secretary of the United States Department of the Interior for
9 rehabilitation as certified by the commission and said person, firm, partnership, trust, estate, limited
10 liability company, corporation or other business entity is not a social club as defined in § 44-33.6-
11 2(15) of this chapter, shall be entitled to a credit against the taxes imposed on such person or entity
12 pursuant to chapter 11, 12, 13, 14, 17 or 30 of this title in an amount equal to the following:

13 (1) Twenty percent (20%) of the qualified rehabilitation expenditures; or

14 (2) Twenty-five percent (25%) of the qualified rehabilitation expenditures provided that
15 either:

16 (i) At least twenty-five percent (25%) of the total rentable area of the certified historic
17 structure will be made available for a trade or business; or

18 (ii) The entire rentable area located on the first floor of the certified historic structure will
19 be made available for a trade or business.

1 (b) Tax credits allowed pursuant to this chapter shall be allowed for the taxable year in
2 which such certified historic structure or an identifiable portion of the structure is placed in service
3 provided that the substantial rehabilitation test is met for such year.

4 (c) Maximum project credit. (1) For projects approved and completed in any tax year prior
5 to January 1, 2022, The the credit allowed pursuant to this chapter shall not exceed five million
6 dollars (\$5,000,000) for any certified rehabilitation project under this chapter. No building to be
7 completed in phases or in multiple projects shall exceed the maximum project credit of five million
8 dollars (\$5,000,000) for all phases or projects involved in the rehabilitation of such building-;

9 (2) For any tax year beginning on or after January 1, 2022, there shall be no maximum
10 project credit for any project, whether in phases or not, which is still under development as of
11 January 1, 2022 or thereafter. Further, any project approved or begun before January 1, 2022, shall
12 be given the same priority for credits as existed prior to January 1, 2022, except that there shall be
13 no maximum project credit for said projects.

14 (d) Maximum aggregate credits. The aggregate credits authorized to be reserved pursuant
15 to this chapter shall not exceed sums estimated to be available in the historic preservation tax credit
16 trust fund pursuant to this chapter.

17 (e) Subject to the exception provided in subsection (g) of this section, if the amount of the
18 tax credit exceeds the taxpayer's total tax liability for the year in which the substantially
19 rehabilitated property is placed in service, the amount that exceeds the taxpayer's tax liability may
20 be carried forward for credit against the taxes imposed for the succeeding ten (10) years, or until
21 the full credit is used, whichever occurs first for the tax credits. Credits allowed to a partnership, a
22 limited liability company taxed as a partnership or multiple owners of property shall be passed
23 through to the persons designated as partners, members or owners respectively pro rata or pursuant
24 to an executed agreement among such persons designated as partners, members or owners
25 documenting an alternate distribution method without regard to their sharing of other tax or
26 economic attributes of such entity. Credits may be allocated to partners, members or owners that
27 are exempt from taxation under section 501(c)(3), section (c)(4) or section 501(c)(6) of the U.S.
28 Code and these partners, members or owners must be treated as taxpayers for purposes of this
29 section.

30 (f) If the taxpayer has not claimed the tax credits in whole or part, taxpayers eligible for
31 the tax credits may assign, transfer or convey the credits, in whole or in part, by sale or otherwise
32 to any individual or entity, including, but not limited to, condominium owners in the event the
33 certified historic structure is converted into condominiums and assignees of the credits that have
34 not claimed the tax credits in whole or part may assign, transfer or convey the credits, in whole or

1 in part, by sale or otherwise to any individual or entity. The assignee of the tax credits may use
2 acquired credits to offset up to one hundred percent (100%) of the tax liabilities otherwise imposed
3 pursuant to chapter 11, 12, 13, (other than the tax imposed under § 44-13-13), 14, 17 or 30 of this
4 title. The assignee may apply the tax credit against taxes imposed on the assignee until the end of
5 the tenth calendar year after the year in which the substantially rehabilitated property is placed in
6 service or until the full credit assigned is used, whichever occurs first. Fiscal year assignees may
7 claim the credit until the expiration of the fiscal year that ends within the tenth year after the year
8 in which the substantially rehabilitated property is placed in service. The assignor shall perfect the
9 transfer by notifying the state of Rhode Island division of taxation, in writing, within thirty (30)
10 calendar days following the effective date of the transfer and shall provide any information as may
11 be required by the division of taxation to administer and carry out the provisions of this section.

12 For purposes of this chapter, any assignment or sales proceeds received by the taxpayer for
13 its assignment or sale of the tax credits allowed pursuant to this section shall be exempt from this
14 title. If a tax credit is subsequently recaptured under this chapter, revoked or adjusted, the seller's
15 tax calculation for the year of revocation, recapture, or adjustment shall be increased by the total
16 amount of the sales proceeds, without proration, as a modification under chapter 30 of this title. In
17 the event that the seller is not a natural person, the seller's tax calculation under chapters 11, 12, 13
18 (other than with respect to the tax imposed under § 44-13-13), 14, 17, or 30 of this title, as
19 applicable, for the year of revocation, recapture, or adjustment, shall be increased by including the
20 total amount of the sales proceeds without proration.

21 (g) Credits allowed to partners, members or owners that are exempt from taxation under
22 section 501(c)(3), section (c)(4) or section 501(c)(6) of the U.S. Code, and only said credits, shall
23 be fully refundable.

24 (h) Substantial rehabilitation of property that either:

25 (1) Is exempt from real property tax;

26 (2) Is a social club; or

27 (3) Consists of a single family home or a property that contains less than three (3)
28 residential apartments or condominiums shall be ineligible for the tax credits authorized under this
29 chapter; provided, however, a scattered site development with five (5) or more residential units in
30 the aggregate (which may include single family homes) shall be eligible for tax credit. In the event
31 a certified historic structure undergoes a substantial rehabilitation pursuant to this chapter and
32 within twenty-four (24) months after issuance of a certificate of completed work the property
33 becomes exempt from real property tax, the taxpayer's tax for the year shall be increased by the
34 total amount of credit actually used against the tax.

1 (i) In the case of a corporation, this credit is only allowed against the tax of a corporation
2 included in a consolidated return that qualifies for the credit and not against the tax of other
3 corporations that may join in the filing of a consolidated tax return.

4 **44-33.6-11. Sunset.**

5 No credits shall be authorized to be reserved pursuant to this chapter on or after ~~June 30,~~
6 ~~2022~~ [June 30, 2024](#), or upon the exhaustion of the maximum aggregate credits, whichever comes
7 first.

8 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TAXATION -- HISTORIC PRESERVATION TAX CREDITS 2013

1 This act would extend the expiration of the Historic Preservation Tax Credits program from
2 June 30, 2022 to June 30, 2024. This act would eliminate any limit on project credit for any certified
3 rehabilitation project under this chapter.

4 This act would take effect upon passage.

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