

HOUSE BILL No. 1221

DIGEST OF INTRODUCED BILL

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

Synopsis: Grants and tax credits for historic preservation. Authorizes the office of community and rural affairs (office) to administer a grant program for the preservation of historic properties. Provides that the income tax credit for the preservation of historic properties 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. Allows the tax credit to be assigned. 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, 2015; January 1, 2016.

Clere, Negele, Soliday, Dvorak

January 13, 2015, read first time and referred to Committee on Ways and Means.



First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1221

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, 2015]: 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) Administer the historic preservation grant program under**
9 **IC 4-4-37.**
10 **(5) Make certifications required under IC 6-3.1-16 with**
11 **respect to the historic rehabilitation tax credit.**
12 SECTION 2. IC 4-4-37 IS ADDED TO THE INDIANA CODE AS
13 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2015]:
15 **Chapter 37. Historic Preservation Grant Program**



1 **Sec. 1. This chapter applies to a state fiscal year beginning after**
 2 **June 30, 2015.**

3 **Sec. 2. As used in this chapter, "division" means the division of**
 4 **historic preservation and archaeology of the department of natural**
 5 **resources.**

6 **Sec. 3. (a) As used in this chapter, "preservation" means the**
 7 **application of measures to sustain the form, integrity, and material**
 8 **of:**

9 **(1) a building or structure; or**

10 **(2) the form and vegetative cover of property.**

11 **(b) The term includes stabilization work and the maintenance**
 12 **of historic building materials.**

13 **Sec. 4. As used in this chapter, "office" refers to the office of**
 14 **community and rural affairs established by IC 4-4-9.7-4.**

15 **Sec. 5. (a) As used in this chapter, "qualified expenditures"**
 16 **means expenditures for preservation or rehabilitation that are**
 17 **chargeable to a capital account.**

18 **(b) The term does not include costs that are incurred to do the**
 19 **following:**

20 **(1) Acquire a property or an interest in a property.**

21 **(2) Pay taxes due on a property.**

22 **(3) Enlarge an existing structure.**

23 **(4) Pay realtor's fees associated with a structure or property.**

24 **(5) Pay paving costs.**

25 **(6) Pay sales and marketing costs.**

26 **Sec. 6. As used in this chapter, "rehabilitation" means the**
 27 **process of returning a property to a state of utility through repair**
 28 **or alteration that makes possible an efficient contemporary use**
 29 **while preserving the parts or features of the property that are**
 30 **significant to the historical, architectural, or archeological values**
 31 **of the property.**

32 **Sec. 7. (a) The office may award a grant to a person in the year**
 33 **in which the person obtains the certifications required under**
 34 **section 8 of this chapter.**

35 **(b) The maximum amount of a grant awarded under this section**
 36 **is equal to twenty percent (20%) of the qualified expenditures that:**

37 **(1) the person makes for the preservation or rehabilitation of**
 38 **historic property; and**

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

40 **Sec. 8. The office may award a grant to a person if all of the**
 41 **following conditions are met:**

42 **(1) The historic property is:**



- 1 (A) located in Indiana;
- 2 (B) at least fifty (50) years old; and
- 3 (C) owned by the person.
- 4 (2) The office certifies that the historic property is listed in the
- 5 register of Indiana historic sites and historic structures.
- 6 (3) The office certifies that the person submitted a proposed
- 7 preservation or rehabilitation plan to the division that
- 8 complies with the standards of the division.
- 9 (4) The office certifies that the preservation or rehabilitation
- 10 work that is the subject of the grant substantially complies
- 11 with the proposed plan referred to in subdivision (3).
- 12 (5) The preservation or rehabilitation work is completed in
- 13 not more than:
- 14 (A) two (2) years; or
- 15 (B) five (5) years if the preservation or rehabilitation plan
- 16 indicates that the preservation or rehabilitation is initially
- 17 planned for completion in phases.
- 18 The time in which work must be completed begins when the
- 19 physical work of construction or destruction in preparation
- 20 for construction begins.
- 21 (6) The historic property is:
- 22 (A) actively used in a trade or business;
- 23 (B) held for the production of income; or
- 24 (C) held for the rental or other use in the ordinary course
- 25 of the person's trade or business.
- 26 (7) The qualified expenditures for preservation or
- 27 rehabilitation of the historic property exceed twenty-five
- 28 thousand dollars (\$25,000).
- 29 (8) The person applying for the grant has not been awarded
- 30 a tax credit under IC 6-3.1-16 for the person's preservation or
- 31 rehabilitation work on the historic property.

32 **Sec. 9.** The office may provide the certifications referred to in
 33 section 8(3) and 8(4) of this chapter if a person's proposed
 34 preservation or rehabilitation plan complies with the standards of
 35 the division and the person's preservation or rehabilitation work
 36 complies with the plan.

37 **Sec. 10.** The total amount of grants awarded under this chapter
 38 in a particular state fiscal year may not exceed the amount
 39 appropriated by the general assembly to the office for making
 40 grants under this chapter in that state fiscal year.

41 SECTION 3. IC 6-3.1-16-1.5 IS ADDED TO THE INDIANA
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS



1 [EFFECTIVE JANUARY 1, 2016]: **Sec. 1.5. As used in this chapter,**
 2 **"difficult development area" has the meaning set forth in Section**
 3 **42(d)(5)(B)(iii) of the Internal Revenue Code.**

4 SECTION 4. IC 6-3.1-16-2.8 IS ADDED TO THE INDIANA
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE JANUARY 1, 2016]: **Sec. 2.8. As used in this chapter,**
 7 **"person" means:**

- 8 (1) **an individual;**
 9 (2) **a corporation;**
 10 (3) **an S corporation;**
 11 (4) **a partnership;**
 12 (5) **a limited liability company;**
 13 (6) **a limited liability partnership;**
 14 (7) **a nonprofit organization; or**
 15 (8) **a joint venture.**

16 SECTION 5. IC 6-3.1-16-3.5 IS ADDED TO THE INDIANA
 17 CODE AS A NEW SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JANUARY 1, 2016]: **Sec. 3.5. As used in this chapter,**
 19 **"qualified census tract" has the meaning set forth in Section**
 20 **42(d)(5)(B)(ii) of the Internal Revenue Code.**

21 SECTION 6. IC 6-3.1-16-5.5 IS ADDED TO THE INDIANA
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE JANUARY 1, 2016]: **Sec. 5.5. As used in this chapter,**
 24 **"rurality index" refers to a ranking of Indiana counties from the**
 25 **least to most rural as determined and updated periodically by the**
 26 **office.**

27 SECTION 7. IC 6-3.1-16-5.8 IS ADDED TO THE INDIANA
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE JANUARY 1, 2016]: **Sec. 5.8. As used in this chapter,**
 30 **"significant use" refers to the use of a historic property:**

- 31 (1) **as a residence; or**
 32 (2) **in a trade or business for a purpose other than storage or**
 33 **warehousing.**

34 SECTION 8. IC 6-3.1-16-6.1 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JANUARY 1, 2016]: **Sec. 6.1. As used in**
 36 **this chapter, "taxpayer" means: ~~an individual, a corporation, an S~~**
 37 **~~corporation, a partnership, a limited liability company, a limited~~**
 38 **~~liability partnership, a nonprofit organization, or a joint venture.~~**

- 39 (1) **a person that:**
 40 (A) **is the holder of a credit that is awarded under this**
 41 **chapter; and**
 42 (B) **has a state tax liability against which any part of the**



- 1 **credit may be applied; or**
 2 **(2) a shareholder, partner, or member of a pass through**
 3 **entity that:**
 4 **(A) is the holder of a credit that is awarded under this**
 5 **chapter; and**
 6 **(B) does not have any state tax liability against which any**
 7 **part of the credit may be applied.**
- 8 SECTION 9. IC 6-3.1-16-6.6 IS ADDED TO THE INDIANA
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
 10 [EFFECTIVE JANUARY 1, 2016]: **Sec. 6.6. As used in this chapter,**
 11 **"vacant" means, with respect to a historic property, that at least**
 12 **fifty percent (50%) of the usable interior floor space of the historic**
 13 **property is not occupied and used for a significant use.**
- 14 SECTION 10. IC 6-3.1-16-7, AS AMENDED BY P.L.166-2014,
 15 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JANUARY 1, 2016]: Sec. 7. (a) Subject to section 14 of this chapter,
 17 a taxpayer is entitled to a credit against the taxpayer's state tax liability
 18 in the taxable year in which the taxpayer completes the preservation or
 19 rehabilitation of historic property and obtains the certifications required
 20 under section 8 of this chapter.
- 21 (b) ~~The amount of the credit is equal to twenty percent (20%) of~~
 22 **credit applies to** the qualified expenditures that:
 23 (1) the taxpayer makes for the preservation or rehabilitation of
 24 historic property; and
 25 (2) are approved by the office.
- 26 **(c) The amount of the credit must be determined under one (1)**
 27 **of the following methods:**
 28 **(1) If the total amount of the taxpayer's qualified expenditures**
 29 **is less than two million dollars (\$2,000,000), the amount of the**
 30 **credit is equal to forty percent (40%) of the following**
 31 **amount:**
 32 **(A) The total amount of the qualified expenditures made**
 33 **by the taxpayer, except as provided in clause (B).**
 34 **(B) The product of:**
 35 **(i) the total amount of the qualified expenditures made**
 36 **by the taxpayer; multiplied by**
 37 **(ii) one and three-tenths (1.3);**
 38 **in the case of a person that applies for a credit for the**
 39 **preservation or rehabilitation of historic property located**
 40 **in a difficult development area or a qualified census tract.**
 41 **(2) If the property preserved or rehabilitated is subject to a**
 42 **grant received under the Indiana main street program**



1 established under IC 4-4-16-1, the amount of the credit is
2 equal to forty percent (40%) of the following amount:

3 (A) The total amount of the qualified expenditures made
4 by the taxpayer, except as provided in clause (B).

5 (B) The product of:

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

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

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

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

16 (A) The total amount of the qualified expenditures made
17 by the taxpayer, except as provided in clause (B).

18 (B) The product of:

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

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

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

25 (4) If the property preserved or rehabilitated is not described
26 by subdivisions (1) through (3), the amount of the credit is
27 equal to twenty percent (20%) of the following amount:

28 (A) The total amount of the qualified expenditures made
29 by the taxpayer, except as provided in clause (B).

30 (B) The product of:

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

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

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

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

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

39 (2) file separate tax returns;

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

42 SECTION 11. IC 6-3.1-16-7.7 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JANUARY 1, 2016]: Sec. 7.7. (a) The office shall
 3 develop a scoring system to evaluate preservation or rehabilitation
 4 projects for purposes of qualifying for an enhanced credit under
 5 section 7(c)(3) of this chapter.

6 (b) A taxpayer that completes a project scoring at least fifty (50)
 7 points in a system developed under this section is entitled to receive
 8 the enhanced credit under section 7(c)(3) of this chapter.

9 (c) The system developed under this section must contain the
 10 following components:

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

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

14 (B) two (2).

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

16 (A) the median household income rank of the county in
 17 which the preservation or rehabilitation project is located
 18 as determined by the United States Census Bureau; divided
 19 by

20 (B) four (4).

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

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

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

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

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

34 SECTION 12. IC 6-3.1-16-8, AS AMENDED BY P.L.166-2014,
 35 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JANUARY 1, 2016]: Sec. (a) A taxpayer qualifies for a credit under
 37 section 7 of this chapter if all of the following conditions are met:

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

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

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

41 (C) ~~has been vacant for at least one (1) year as of the date~~
 42 ~~the taxpayer submitted a proposed preservation or~~



- 1 **rehabilitation plan to the office; and**
 2 ~~(C)~~ **(D)** except as provided in section ~~7(c)~~ **7(d)** of this chapter,
 3 **is owned by the taxpayer.**
 4 (2) The office certifies that the historic property is listed in the
 5 register of Indiana historic sites and historic structures.
 6 (3) The office certifies that the taxpayer submitted a proposed
 7 preservation or rehabilitation plan to the office that complies with
 8 the standards of the office.
 9 (4) The office certifies that the preservation or rehabilitation work
 10 that is the subject of the credit substantially complies with the
 11 proposed plan referred to in subdivision (3).
 12 (5) The preservation or rehabilitation work is completed in not
 13 more than:
 14 (A) two (2) years; or
 15 (B) five (5) years if the preservation or rehabilitation plan
 16 indicates that the preservation or rehabilitation is initially
 17 planned for completion in phases.
 18 The time in which work must be completed begins when the
 19 physical work of construction or destruction in preparation for
 20 construction begins.
 21 (6) The historic property is:
 22 (A) actively used in a trade or business;
 23 (B) held for the production of income; or
 24 (C) held for the rental or other use in the ordinary course of the
 25 taxpayer's trade or business.
 26 (7) The qualified expenditures for preservation or rehabilitation
 27 of the historic property exceed ~~ten~~ **twenty-five** thousand dollars
 28 ~~(\$10,000): (\$25,000).~~
 29 (b) The division of historic preservation and archaeology of the
 30 department of natural resources shall assist the office, as requested and
 31 at no expense to the office, in making the certifications under this
 32 section.
 33 SECTION 13. IC 6-3.1-16-11 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 11. **(a) This**
 35 **section does not apply to a person if the person is entitled to a**
 36 **credit under Section 42 of the Internal Revenue Code for the**
 37 **historic property.**
 38 **(b)** For purposes of IC 6-3, the adjusted basis of:
 39 (1) the structure, if the historic property is a structure; or
 40 (2) the entire property, if the historic property is not a structure;
 41 shall be reduced by the amount of a credit granted under this chapter.
 42 SECTION 14. IC 6-3.1-16-12, AS AMENDED BY P.L.166-2014,



1 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JANUARY 1, 2016]: Sec. 12. (a) **Except as provided in subsection**
3 **(b)**, A credit claimed under this chapter shall be recaptured from the
4 taxpayer **who obtained the certifications required under section 8**
5 **of this chapter** if:

- 6 (1) the property is transferred less than five (5) years after
7 completion of the certified preservation or rehabilitation work; or
8 (2) less than five (5) years after completion of the certified
9 preservation or rehabilitation, additional modifications to the
10 property are undertaken that do not meet the standards of the
11 office.

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

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

20 SECTION 15. IC 6-3.1-16-12.5 IS ADDED TO THE INDIANA
21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2015]: **Sec. 12.5. (a) A taxpayer may assign**
23 **any part of the credit to which the taxpayer is entitled under this**
24 **chapter to another person. A credit that is assigned under this**
25 **subsection remains subject to this chapter.**

26 **(b) An assignment under subsection (a) must be in writing and**
27 **both the taxpayer and the assignee must report the assignment on**
28 **their state tax return for the year in which the assignment is made,**
29 **in the manner prescribed by the department of state revenue. The**
30 **taxpayer may not receive value in connection with the assignment**
31 **under subsection (a) that exceeds the value of the part of the credit**
32 **assigned.**

33 SECTION 16. IC 6-3.1-16-14 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. **(a) The amount of**
35 **tax credits allowed under this chapter may not exceed the following**
36 **amounts:**

- 37 ~~(1)~~ seven hundred fifty thousand dollars (\$750,000) in the state
38 fiscal year beginning July 1, 1997, and the state fiscal year
39 beginning July 1, 1998; and
40 ~~(2)~~ **(1) Four hundred fifty thousand dollars (\$450,000) in a state**
41 **fiscal year that begins July 1, after June 30, 1999, or thereafter,**
42 **and ends before July 1, 2015.**



1 (2) Two million five hundred thousand dollars (\$2,500,000) in
2 the state fiscal year beginning July 1, 2015.

3 (3) Five million dollars (\$5,000,000) in the state fiscal year
4 beginning July 1, 2016.

5 (4) Seven million five hundred thousand dollars (\$7,500,000)
6 in the state fiscal year beginning July 1, 2017.

7 (5) Ten million dollars (\$10,000,000) in each state fiscal year
8 beginning after June 30, 2018.

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

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

14 (2) twenty percent (20%).

15 (c) The office shall reserve twenty-five percent (25%) of the
16 total amount of available tax credits in each state fiscal year for
17 projects for which the qualified expenditures approved by the
18 office do not exceed five hundred thousand dollars (\$500,000). If
19 the amount reserved under this subsection exceeds the amount of
20 tax credits actually allowed to taxpayers that are eligible to receive
21 tax credits from the reserved amount, the office may allow the
22 excess amount to be claimed by any taxpayer otherwise entitled to
23 a tax credit under this chapter.

24 (d) The office may not increase the amount of tax credits
25 allowed under subsection (a) in a particular state fiscal year by
26 reducing the amount specified by subsection (a) for any other state
27 fiscal year.

28 SECTION 17. IC 6-3.1-16-15, AS AMENDED BY P.L.166-2014,
29 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2015]: Sec. 15. (a) The following may adopt rules under
31 IC 4-22-2, **including emergency rules in the manner provided under**
32 **IC 4-22-2-37.1**, to carry out this chapter:

33 (1) The department of state revenue.

34 (2) The office.

35 (b) The rules in 312 IAC 23 are transferred to the office, and after
36 December 31, 2014, those rules are treated as if they had been adopted
37 by the office.

38 SECTION 18. IC 6-3.1-16-16 IS ADDED TO THE INDIANA
39 CODE AS A NEW SECTION TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2015]: Sec. 16. (a) **312 IAC 23-3-4(b) is void.**

41 (b) **The publisher of the Indiana Administrative Code and**
42 **Indiana Register shall remove 312 IAC 23-3-4(b) from the Indiana**



1 **Administrative Code.**
2 SECTION 19. [EFFECTIVE JANUARY 1, 2016] (a) **The following**
3 **statutes apply to qualified expenditures made in and tax credits**
4 **awarded under IC 6-3.1-16 for taxable years beginning after**
5 **December 31, 2015:**
6 (1) **The following statutes, all as amended by this act:**
7 (A) **IC 6-3.1-16-6.1.**
8 (B) **IC 6-3.1-16-7.**
9 (C) **IC 6-3.1-16-8.**
10 (D) **IC 6-3.1-16-11.**
11 (E) **IC 6-3.1-16-12.**
12 (2) **IC 6-3.1-16-7.7, as added by this act.**
13 (b) **IC 6-3.1-16-12.5, as added by this act, applies to any tax**
14 **credit awarded under IC 6-3.1-16 to the extent that any unused**
15 **part of the tax credit may be carried over to a succeeding taxable**
16 **year under IC 6-3.1-16-13.**
17 (c) **This SECTION expires January 1, 2019.**

