

Substitute for SENATE BILL No. 331

By Committee on Assessment and Taxation

3-14

9 AN ACT concerning historic preservation; providing for income tax cred-
10 its; authority for development of historic partnership sites; mortgage
11 registration fee; amending K.S.A. 79-3102 and K.S.A. 2006 Supp. 79-
12 32,211 and repealing the existing sections.
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. (a) For taxable years commencing after December
16 31, 2006, subject to the provisions of subsection (d), any taxpayer which
17 contributes, gifts or donates to a state-owned historic site or an organi-
18 zation which is exempt from federal income taxation pursuant to section
19 501(c)(3) of the federal internal revenue code of 1986, which such or-
20 ganization owns and operates an historic site, to be used for the purpose
21 of restoration, preservation or operation of such state-owned historic site
22 or historic site or the establishment or maintenance of an endowment to
23 provide for the future stability of such state-owned historic site or historic
24 site shall be allowed a credit against the tax imposed by the Kansas income
25 tax act, the premiums tax upon insurance companies imposed pursuant
26 to K.S.A. 40-252, and amendments thereto, and the privilege tax imposed
27 upon any national banking association, state bank, trust company or sav-
28 ings and loan association pursuant to article 11 of chapter 79 of the Kansas
29 Statutes Annotated in an amount equal to 50% of such contribution, gift
30 or donation, if the total amount of such contribution, gift or donation is
31 at least \$1,000. The amount of the credit shall not exceed \$2,500 for any
32 one taxpayer in any one taxable year. In no event shall the total amount
33 of credits allowed under this section exceed \$100,000 in any one fiscal
34 year.

35 (b) The credit allowed by this section shall be deducted from the
36 taxpayer's income, premiums or privilege tax liability imposed for the
37 taxable year in which the contribution, gift or donation is made.

38 (c) The credit allowed by this section shall not exceed the amount of
39 income, premiums or privilege tax imposed pursuant to law reduced by
40 the sum of any other credits allowable pursuant to law. The taxpayer shall
41 not be allowed to carry over any amount of such credit exceeding the
42 taxpayer's tax liability.

43 (d) The partnership historic site committee created pursuant to sec-

1 tion 2, and amendments thereto, shall develop a prioritized list of historic
2 sites other than state-owned historic sites to which contributions, gifts or
3 donations to organizations which own and operate an historic site qualify
4 for the tax credit provided in this section. As used in this section: (1)
5 “Contributions, gifts or donations” includes monetary contributions, gifts
6 or donations and in kind contributions, gifts or donations that have an
7 established market value;

8 (2) “historic site” means any building or structure that is significant
9 in the history, architecture, archeology or culture of the state of Kansas
10 or Kansas communities or the nation. Such historic site must be listed on
11 the national register of historic places or the register of historic Kansas
12 places, be open to the public or have the potential to be open to the
13 public for at least 500 hours a year and be owned and operated for the
14 purpose of educating the public about a specific aspect of Kansas and
15 United States history; and

16 (3) “state-owned historic site” means an historic site under the juris-
17 diction and control of the state historical society.

18 (e) Any contribution, gift or donation that is the basis of the credit
19 provided in this section shall not qualify as a qualified expenditure for the
20 purpose of qualifying for the credit provided in K.S.A. 79-32,211, and
21 amendments thereto.

22 New Sec. 2. (a) The state historical society is hereby authorized to
23 develop a program of competitive grants to be awarded to partnership
24 historic sites as provided in this section. To be eligible to receive a grant
25 pursuant to this section, such partnership historic site shall: (1) Be listed
26 on the national register of historic places or the register of historic Kansas
27 places, be owned or operated by a public entity or an organization which
28 is exempt from federal income taxation pursuant to section 501(c)(3) of
29 the federal internal revenue code of 1986, develop and submit a business
30 plan to be reviewed by the partnership historic site committee, not receive
31 any state funding for operations, be open to the public or have the po-
32 tential to be open to the public for a minimum of at least 500 hours a
33 year and be owned and operated for the purpose of educating the public
34 about a specific aspect of Kansas and United States history; (2) provide a
35 50% match of funds which are not state or federal moneys; and (3) abide
36 by all federal, state and local laws. Such grants shall be used by a part-
37 nership historic site to develop a historic preservation plan that meets the
38 secretary of the interior’s standards in cooperation with the Kansas state
39 historical society or to cover basic operations costs, or both.

40 (b) Partnership historic sites to be awarded grants pursuant to this
41 section shall be selected by the state historical society upon recommen-
42 dation of the partnership historic site committee, which is hereby created.
43 Such committee shall be composed of seven members as follows: One

1 member to be appointed by the president of the senate, one member to
2 be appointed by the minority leader of the senate, one member to be
3 appointed by the speaker of the house of representatives, one member
4 to be appointed by the minority leader of the house of representatives,
5 two members to be appointed by the governor and one member to be
6 appointed by the chairperson of the historic sites board of review. The
7 member appointed by the chairperson of the historic sites board of review
8 shall serve as chairperson of such committee. Each member of the com-
9 mittee shall be appointed for a term of two years. Each member shall
10 continue in such appointment until a successor is appointed. Members
11 shall be eligible for reappointment, and appointment may be made to fill
12 an unexpired term in the same manner as the original appointment. The
13 executive director of the Kansas state historical society shall develop the
14 application procedure and grant periods in cooperation with such
15 committee.

16 (c) Each partnership historic site which is awarded a grant pursuant
17 to this section shall be required to submit a report of its operations and
18 use of any grant moneys awarded and any other information required
19 related to the grant to the Kansas state historical society at the end of the
20 grant period in a form and manner prescribed by the Kansas state his-
21 torical society.

22 (d) The executive director shall adopt rules and regulations regarding
23 the application procedure, grant periods, grant evaluation criteria, the
24 filing of forms that support the application for grant awards pursuant to
25 this section, and any other matter necessary to carry out the provisions
26 of this section.

27 (e) (1) There is hereby established in the state treasury the partner-
28 ship historic sites grant fund. All moneys deposited in the partnership
29 historic sites grant fund shall be used for the purpose of awarding grants
30 pursuant to this section. No more than 12% of the moneys deposited in
31 the fund shall be used for administration of the fund.

32 (2) On or before the 10th of each month, the director of accounts
33 and reports shall transfer from the state general fund to the partnership
34 historic sites grant fund interest earnings based on:

35 (A) The average daily balance of moneys in the partnership historic
36 sites grant fund for the preceding month; and

37 (B) the net earnings rate for the pooled money investment portfolio
38 for the preceding month.

39 (3) All expenditures from the partnership historic sites grant fund
40 shall be made in accordance with appropriation acts upon warrants of the
41 director of accounts and reports issued pursuant to vouchers approved
42 by the executive director of the state historical society or the executive
43 director's designee.

1 New Sec. 3. (a) Except as provided in subsection (b), the county
2 treasurer shall pay quarterly to the state treasurer, commencing on Oc-
3 tober 1, 2007, \$.01 of each \$.27 paid to the county treasurer during the
4 preceding calendar quarter from mortgage registration fees under K.S.A.
5 79-3101 et seq., and amendments thereto, and credited to the county
6 general fund under K.S.A. 79-3104, and amendments thereto. All such
7 moneys paid to the state treasurer shall be deposited in the state treasury
8 and credited to the partnership historic sites grant fund.

9 (b) No payments under subsection (a) shall be made by the county
10 treasurer to the state treasurer during any calendar year in excess of a
11 total of \$100,000. All moneys collected in excess of this amount which
12 under subsection (a) would be paid to the state treasurer shall be credited
13 to the county general fund.

14 Sec. 4. K.S.A. 79-3102 is hereby amended to read as follows: 79-
15 3102. (a) Before any mortgage of real property, or renewal or extension
16 of such a mortgage, is received and filed for record, there shall be paid
17 to the register of deeds of the county in which such property or any part
18 thereof is situated a registration fee of ~~.26%~~ .27% of the principal debt
19 or obligation which is secured by such mortgage. In the event the mort-
20 gage states that an amount less than the entire principal debt or obligation
21 will be secured thereby, the registration fee shall be paid on such lesser
22 amount.

23 (b) As used herein, "principal debt or obligation" shall not include
24 any finance charges or interest.

25 (c) In any case where interest has been precomputed, the register of
26 deeds may require the person filing the mortgage to state the amount of
27 the debt or obligation owed before computation of interest.

28 (d) No registration fee whatsoever shall be paid, collected or required
29 for or on: (1) Any mortgage or other instrument given solely for the pur-
30 pose of correcting or perfecting a previously recorded mortgage or other
31 instrument; (2) any mortgage or other instrument given for the purpose
32 of providing additional security for the same indebtedness, where the
33 registration fee herein provided for has been paid on the original mort-
34 gage or instrument; (3) any mortgage or other instrument upon that por-
35 tion of the consideration stated in the mortgage tendered for filing which
36 is verified by affidavit to be principal indebtedness covered or included
37 in a previously recorded mortgage or other instrument with the same
38 lender or their assigns upon which the registration fee herein provided
39 for has been paid; (4) any lien, indenture, mortgage, bond or other in-
40 strument or encumbrance nor for the note or other promise to pay
41 thereby secured, all as may be assigned, continued, transferred, reissued
42 or otherwise changed by reason of, incident to or having to do with the
43 migration to this state of any corporation, by merger or consolidation with

1 a domestic corporation as survivor, or by other means, where the original
2 secured transaction, for which the registration fee has once been paid, is
3 thereby continued or otherwise acknowledged or validated; (5) any mort-
4 gage or other instrument given in the form of an affidavit of equitable
5 interest solely for the purpose of providing notification by the purchaser
6 of real property of the purchaser's interest therein; (6) any mortgage in
7 which a certified development corporation certified by the United States
8 small business administration participates pursuant to its community ec-
9 onomic development program; (7) any mortgage or other instrument
10 given for the sole purpose of changing the trustee; or (8) any mortgage
11 for which the registration fee is otherwise not required by law.

12 (e) The register of deeds shall receive no additional fees or salary by
13 reason of the receipt of fees as herein provided. After the payment of the
14 registration fees as aforesaid the mortgage and the note thereby secured
15 shall not otherwise be taxable.

16 Sec. 5. K.S.A. 79-32,211 is hereby amended to read as follows: 79-
17 32,211. (a) For all taxable years commencing after December 31, ~~2001~~
18 2006, there shall be allowed a tax credit against the income, privilege or
19 premium tax liability imposed upon a taxpayer pursuant to the Kansas
20 income tax act, the privilege tax imposed upon any national banking as-
21 sociation, state bank, trust company or savings and loan association pur-
22 suant to article 11 of chapter 79 of the Kansas Statutes Annotated, or the
23 premiums tax and privilege fees imposed upon an insurance company
24 pursuant to K.S.A. 40-252, and amendments thereto, in an amount equal
25 to 25% of qualified expenditures incurred in the restoration and preser-
26 vation of a qualified historic structure pursuant to a qualified rehabilita-
27 tion plan by a qualified taxpayer if the total amount of such expenditures
28 equal \$5,000 or more; *or in an amount equal to 35% of qualified expend-*
29 *itures incurred in the restoration and preservation of a qualified historic*
30 *structure which is exempt from federal income taxation pursuant to sec-*
31 *tion 501(c)(3) of the federal internal revenue code and which is not income*
32 *producing pursuant to a qualified rehabilitation plan by a qualified tax-*
33 *payer if the total amount of such expenditures equals \$5,000 or more.* If
34 the amount of such tax credit exceeds the qualified taxpayer's income,
35 privilege or premium tax liability for the year in which the qualified re-
36 habilitation plan was placed in service, as defined by section 47(b)(1) of
37 the federal internal revenue code and federal regulation section 1.48-
38 12(f)(2), such excess amount may be carried over for deduction from such
39 taxpayer's income, privilege or premium tax liability in the next succeed-
40 ing year or years until the total amount of the credit has been deducted
41 from tax liability, except that no such credit shall be carried over for
42 deduction after the 10th taxable year succeeding the taxable year in which
43 the qualified rehabilitation plan was placed in service.

1 (b) As used in this section, unless the context clearly indicates
2 otherwise:

3 (1) “Qualified expenditures” means the costs and expenses incurred
4 by a qualified taxpayer in the restoration and preservation of a qualified
5 historic structure pursuant to a qualified rehabilitation plan which are
6 defined as a qualified rehabilitation expenditure by section 47 (c)(2) of
7 the federal internal revenue code;

8 (2) “qualified historic structure” means any building, whether or not
9 income producing, which is defined as a certified historic structure by
10 section 47 (c)(3) of the federal internal revenue code, is individually listed
11 on the register of Kansas historic places, or is located and contributes to
12 a district listed on the register of Kansas historic places;

13 (3) “qualified rehabilitation plan” means a project which is approved
14 by the cultural resources division of the state historical society, or by a
15 local government certified by the division to so approve, as being consis-
16 tent with the standards for rehabilitation and guidelines for rehabilitation
17 of historic buildings as adopted by the federal secretary of interior and in
18 effect on the effective date of this act. The society shall adopt rules and
19 regulations providing application and approval procedures necessary to
20 effectively and efficiently provide compliance with this act, and may col-
21 lect fees in order to defray its approval costs in accordance with rules and
22 regulations adopted therefor; and

23 (4) “qualified taxpayer” means the owner of the qualified historic
24 structure or any other person who may qualify for the federal rehabili-
25 tation credit allowed by section 47 of the federal internal revenue code.

26 If the taxpayer is a corporation having an election in effect under sub-
27 chapter S of the federal internal revenue code, a partnership or a limited
28 liability company, the credit provided by this section shall be claimed by
29 the shareholders of such corporation, the partners of such partnership or
30 the members of such limited liability company in the same manner as
31 such shareholders, partners or members account for their proportionate
32 shares of the income or loss of the corporation, partnership or limited
33 liability company, or as the corporation, partnership or limited liability
34 company mutually agree as provided in the bylaws or other executed
35 agreement. Credits granted to a partnership, a limited liability company
36 taxed as a partnership or other multiple owners of property shall be passed
37 through to the partners, members or owners respectively pro rata or pur-
38 suant to an executed agreement among the partners, members or owners
39 documenting any alternate distribution method.

40 (c) Any person, hereinafter designated the assignor, may sell, assign,
41 convey or otherwise transfer tax credits allowed and earned pursuant to
42 subsection (a). The taxpayer acquiring credits, hereinafter designated the
43 assignee, may use the amount of the acquired credits to offset up to 100%

1 of its income, privilege or premiums tax liability for either the taxable
2 year in which the qualified rehabilitation plan was first placed into service
3 or the taxable year in which such acquisition was made. Unused credit
4 amounts claimed by the assignee may be carried forward for up to five
5 years, except that all such amounts shall be claimed within 10 years fol-
6 lowing the tax year in which the qualified rehabilitation plan was first
7 placed into service. The assignor shall enter into a written agreement with
8 the assignee establishing the terms and conditions of the agreement and
9 shall perfect such transfer by notifying the cultural resources division of
10 the state historical society in writing within 90 calendar days following
11 the effective date of the transfer and shall provide any information as may
12 be required by such division to administer and carry out the provisions
13 of this section. The amount received by the assignor of such tax credit
14 shall be taxable as income of the assignor, and the excess of the value of
15 such credit over the amount paid by the assignee for such credit shall be
16 taxable as income of the assignee.

17 Sec. 6. K.S.A. 79-3102 and K.S.A. 2006 Supp. 79-32,211 are hereby
18 repealed.

19 Sec. 7. This act shall take effect and be in force from and after its
20 publication in the statute book.