

SENATE BILL No. 378

By Committee on Ways and Means

1-14

9 AN ACT concerning income taxation; relating to credits; expenditures
10 for restoration and preservation of certain historic structures; amend-
11 ing K.S.A. 2009 Supp. 79-32,211 and repealing the existing section.
12

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

14 Section 1. K.S.A. 2009 Supp. 79-32,211 is hereby amended to read
15 as follows: 79-32,211. (a) For all taxable years commencing after Decem-
16 ber 31, 2006, there shall be allowed a tax credit against the income, priv-
17 ilege or premium tax liability imposed upon a taxpayer pursuant to the
18 Kansas income tax act, the privilege tax imposed upon any national bank-
19 ing association, state bank, trust company or savings and loan association
20 pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, or
21 the premiums tax and privilege fees imposed upon an insurance company
22 pursuant to K.S.A. 40-252, and amendments thereto, in an amount equal
23 to 25%, *or for projects commenced during the period commencing on the*
24 *effective date of this act, and ending on June 30, 2011, in an amount equal*
25 *to 22.5%*, of qualified expenditures incurred in the restoration and pres-
26 ervation of a qualified historic structure pursuant to a qualified rehabili-
27 tation plan by a qualified taxpayer if the total amount of such expenditures
28 equal \$5,000 or more; or in an amount equal to 30%, *or for projects*
29 *commenced during the period commencing on the effective date of this*
30 *act, and ending on June 30, 2011, in an amount equal to 27%*, of qualified
31 expenditures incurred in the restoration and preservation of a qualified
32 historic structure which is exempt from federal income taxation pursuant
33 to section 501(c)(3) of the federal internal revenue code and which is not
34 income producing pursuant to a qualified rehabilitation plan by a qualified
35 taxpayer if the total amount of such expenditures equals \$5,000 or more.
36 In no event shall the total amount of credits allowed under this section
37 exceed \$3,750,000 for fiscal ~~years year 2010 and 2011~~. If the amount of
38 such tax credit exceeds the qualified taxpayer's income, privilege or pre-
39 mium tax liability for the year in which the qualified rehabilitation plan
40 was placed in service, as defined by section 47(b)(1) of the federal internal
41 revenue code and federal regulation section 1.48-12(f)(2), such excess
42 amount may be carried over for deduction from such taxpayer's income,
43 privilege or premium tax liability in the next succeeding year or years

1 until the total amount of the credit has been deducted from tax liability,
2 except that no such credit shall be carried over for deduction after the
3 10th taxable year succeeding the taxable year in which the qualified re-
4 habilitation plan was placed in service.

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

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

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

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

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

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

1 (c) Any person, hereinafter designated the assignor, may sell, assign,
2 convey or otherwise transfer tax credits allowed and earned pursuant to
3 subsection (a). The taxpayer acquiring credits, hereinafter designated the
4 assignee, may use the amount of the acquired credits to offset up to 100%
5 of its income, privilege or premiums tax liability for either the taxable
6 year in which the qualified rehabilitation plan was first placed into service
7 or the taxable year in which such acquisition was made. Unused credit
8 amounts claimed by the assignee may be carried forward for up to five
9 years, except that all such amounts shall be claimed within 10 years fol-
10 lowing the tax year in which the qualified rehabilitation plan was first
11 placed into service. The assignor shall enter into a written agreement with
12 the assignee establishing the terms and conditions of the agreement and
13 shall perfect such transfer by notifying the cultural resources division of
14 the state historical society in writing within 90 calendar days following
15 the effective date of the transfer and shall provide any information as may
16 be required by such division to administer and carry out the provisions
17 of this section. The amount received by the assignor of such tax credit
18 shall be taxable as income of the assignor, and the excess of the value of
19 such credit over the amount paid by the assignee for such credit shall be
20 taxable as income of the assignee.

21 Sec. 2. K.S.A. 2009 Supp. 79-32,211 is hereby repealed.

22 Sec. 3. This act shall take effect and be in force from and after its
23 publication in the statute book.