

CHAPTER 156

SENATE Substitute for HOUSE BILL No. 2405

AN ACT concerning historic preservation; providing for income tax credits; authority for development of historic partnership sites; amending K.S.A. 2006 Supp. 79-32,211 and repealing the existing section.

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

New Section 1. (a) For taxable years commencing after December 31, 2006, subject to the provisions of subsection (d), any taxpayer which contributes, gifts or donates to a state-owned historic site or an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, which such organization owns and operates an historic site, to be used for the purpose of restoration, preservation or operation of such state-owned historic site or historic site or the establishment or maintenance of an endowment to provide for the future stability of such state-owned historic site or historic site shall be allowed a credit against the tax imposed by the Kansas income tax act, the premiums tax upon insurance companies imposed pursuant to K.S.A. 40-252, and amendments thereto, and the privilege tax imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated in an amount equal to 50% of such contribution, gift or donation, if the total amount of such contribution, gift or donation is at least \$1,000. The amount of the credit shall not exceed \$2,500 for any one taxpayer in any one taxable year. In no event shall the total amount of credits allowed under this section exceed \$200,000 in any one fiscal year.

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

(c) If the amount of the credit allowed by this section exceeds the taxpayer's income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer.

(d) The partnership historic site committee created pursuant to section 2, and amendments thereto, shall develop a prioritized list of historic sites other than state-owned historic sites to which contributions, gifts or donations to organizations which own and operate an historic site qualify for the tax credit provided in this section. As used in this section: (1) "Contributions, gifts or donations" includes monetary contributions, gifts or donations and in kind contributions, gifts or donations that have an established market value;

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

(3) "state-owned historic site" means an historic site under the jurisdiction and control of the state historical society.

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

(f) The provisions of this section shall expire on June 30, 2012.

New Sec. 2. (a) Subject to the provisions of appropriation acts, the state historical society is hereby authorized to develop a program of competitive grants to be awarded to partnership historic sites as provided in this section. To be eligible to receive a grant pursuant to this section, such partnership historic site shall: (1) Be listed on the national register of historic places or the register of historic Kansas places, be owned or operated by a public entity or an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, develop and submit a business plan to be reviewed by the partnership historic site committee, not receive any state funding for operations, be open to the public or have the potential to be open to

the public for a minimum of at least 500 hours a year and be owned and operated for the purpose of educating the public about a specific aspect of Kansas and United States history; (2) provide a 50% match of funds which are not state or federal moneys; and (3) abide by all federal, state and local laws. Such grants shall be used by a partnership historic site to develop a historic preservation plan that meets the secretary of the interior's standards in cooperation with the Kansas state historical society or to cover basic operations costs, or both.

(b) Partnership historic sites to be awarded grants pursuant to this section shall be selected by the state historical society upon recommendation of the partnership historic site committee, which is hereby created. Such committee shall be composed of seven members as follows: One member to be appointed by the president of the senate, one member to be appointed by the minority leader of the senate, one member to be appointed by the speaker of the house of representatives, one member to be appointed by the minority leader of the house of representatives, two members to be appointed by the governor and one member to be appointed by the chairperson of the historic sites board of review. The member appointed by the chairperson of the historic sites board of review shall serve as chairperson of such committee. Each member of the committee shall be appointed for a term of two years. Each member shall continue in such appointment until a successor is appointed. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term in the same manner as the original appointment. The executive director of the Kansas state historical society shall develop the application procedure and grant periods in cooperation with such committee.

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

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

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

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

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

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

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

Sec. 3. K.S.A. 2006 Supp. 79-32,211 is hereby amended to read as follows: 79-32,211. (a) For all taxable years commencing after December 31, ~~2001~~ 2006, there shall be allowed a tax credit against the income, privilege or premium tax liability imposed upon a taxpayer pursuant to the Kansas income tax act, the privilege tax imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, or the premiums tax and privilege fees imposed upon an insurance company pursuant to K.S.A. 40-252, and amendments thereto, in an amount equal to 25% of qualified expenditures incurred in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan by a qualified taxpayer if the total amount of such expenditures equal \$5,000 or more; *or in an amount equal to 30% of qualified expenditures incurred in the restoration and preservation of*

a qualified historic structure which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code and which is not income producing pursuant to a qualified rehabilitation plan by a qualified taxpayer if the total amount of such expenditures equals \$5,000 or more. If the amount of such tax credit exceeds the qualified taxpayer's income, privilege or premium tax liability for the year in which the qualified rehabilitation plan was placed in service, as defined by section 47(b)(1) of the federal internal revenue code and federal regulation section 1.48-12(f)(2), such excess amount may be carried over for deduction from such taxpayer's income, privilege or premium tax liability in the next succeeding year or years until the total amount of the credit has been deducted from tax liability, except that no such credit shall be carried over for deduction after the 10th taxable year succeeding the taxable year in which the qualified rehabilitation plan was placed in service.

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

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

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

(3) "qualified rehabilitation plan" means a project which is approved by the cultural resources division of the state historical society, or by a local government certified by the division to so approve, as being consistent with the standards for rehabilitation and guidelines for rehabilitation of historic buildings as adopted by the federal secretary of interior and in effect on the effective date of this act. The society shall adopt rules and regulations providing application and approval procedures necessary to effectively and efficiently provide compliance with this act, and may collect fees in order to defray its approval costs in accordance with rules and regulations adopted therefor; and

(4) "qualified taxpayer" means the owner of the qualified historic structure or any other person who may qualify for the federal rehabilitation credit allowed by section 47 of the federal internal revenue code.

If the taxpayer is a corporation having an election in effect under subchapter S of the federal internal revenue code, a partnership or a limited liability company, the credit provided by this section shall be claimed by the shareholders of such corporation, the partners of such partnership or the members of such limited liability company in the same manner as such shareholders, partners or members account for their proportionate shares of the income or loss of the corporation, partnership or limited liability company, or as the corporation, partnership or limited liability company mutually agree as provided in the bylaws or other executed agreement. Credits granted to a partnership, a limited liability company taxed as a partnership or other multiple owners of property shall be passed through to the partners, members or owners respectively pro rata or pursuant to an executed agreement among the partners, members or owners documenting any alternate distribution method.

(c) Any person, hereinafter designated the assignor, may sell, assign, convey or otherwise transfer tax credits allowed and earned pursuant to subsection (a). The taxpayer acquiring credits, hereinafter designated the assignee, may use the amount of the acquired credits to offset up to 100% of its income, privilege or premiums tax liability for either the taxable year in which the qualified rehabilitation plan was first placed into service or the taxable year in which such acquisition was made. Unused credit amounts claimed by the assignee may be carried forward for up to five years, except that all such amounts shall be claimed within 10 years following the tax year in which the qualified rehabilitation plan was first placed into service. The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect such transfer by notifying the cultural resources division of the state historical society in writing within 90 calendar days following the effective date of the transfer and shall provide any information as may be required by such division to administer and carry out the provisions

of this section. The amount received by the assignor of such tax credit shall be taxable as income of the assignor, and the excess of the value of such credit over the amount paid by the assignee for such credit shall be taxable as income of the assignee.

Sec. 4. K.S.A. 2006 Supp. 79-32,211 is hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 19, 2007.
