

I_132_1565-5

132nd General Assembly
Regular Session
2017-2018

Sub. H. B. No. 469

A BILL

To amend sections 107.036, 5725.98, and 5729.98 and 1
to enact sections 122.09, 5725.35, and 5729.18 2
of the Revised Code to authorize a nonrefundable 3
insurance company tax credit for contributions 4
of capital to transformational mixed use 5
development projects. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 107.036, 5725.98, and 5729.98 be 7
amended and sections 122.09, 5725.35, and 5729.18 of the Revised 8
Code be enacted to read as follows: 9

Sec. 107.036. (A) For each business incentive tax credit, 10
the main operating appropriations act shall contain a detailed 11
estimate of the total amount of credits that may be authorized 12
in each year, an estimate of the amount of credits expected to 13
be claimed in each year, and an estimate of the amount of 14
credits expected to remain outstanding at the end of the 15
biennium. The governor shall include such estimates in the state 16
budget submitted to the general assembly pursuant to section 17
107.03 of the Revised Code. 18



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(B) As used in this section, "business incentive tax credit" means all of the following:	19 20
(1) The job creation tax credit under section 122.17 of the Revised Code;	21 22
(2) The job retention tax credit under section 122.171 of the Revised Code;	23 24
(3) The historic preservation tax credit under section 149.311 of the Revised Code;	25 26
(4) The motion picture tax credit under section 122.85 of the Revised Code;	27 28
(5) The new markets tax credit under section 5725.33 of the Revised Code;	29 30
(6) The research and development credit under section 166.21 of the Revised Code;	31 32
(7) The small business investment credit under section 122.86 of the Revised Code;	33 34
(8) The rural growth investment credit under section 122.152 of the Revised Code;	35 36
<u>(9) The transformational mixed use development credit under section 122.09 of the Revised Code.</u>	37 38
<u>Sec. 122.09.</u> (A) As used in this section:	39
<u>(1) "Development costs" means expenditures paid or incurred by the property owner in completing a certified transformational mixed use development project, including architectural or engineering fees paid or incurred in connection with the project and expenses incurred before the date the project is certified by the director of development services</u>	40 41 42 43 44 45

under division (C) of this section. 46

(2) "Owner" means a person holding a fee simple or 47
leasehold interest in real property, including interests in real 48
property acquired through a capital lease arrangement. "Owner" 49
does not include the state or a state agency, or any political 50
subdivision as defined in section 9.23 of the Revised Code. For 51
the purpose of this division, "fee simple interest," "leasehold 52
interest," and "capital lease" shall be construed in accordance 53
with generally accepted accounting principles. 54

(3) "Project area" means all territory located within a 55
radius of not less than one-fourth of one mile and not more than 56
one mile centered on the site of a transformational mixed use 57
development. 58

(4) "Transformational mixed use development" means a 59
project that: 60

(a) Will have a transformational economic impact within 61
the project area approved by the director of development 62
services under division (C) of this section; 63

(b) Is a mixed use development that integrates some 64
combination of retail, office, residential, recreation, 65
structured parking, and other similar uses; and 66

(c) Includes at least one building that is fifteen or more 67
stories in height. 68

(5) "Estimated increased tax collections" means the 69
difference, if positive, of the amount of state and local taxes 70
estimated to be derived from economic activity occurring within 71
the area encompassing the proposed transformational mixed use 72
development and the project area designated under division (B) 73
(4) or (C) of this section, as applicable, during the estimated 74

completion period, minus the amount of such taxes estimated to 75
be derived from such economic activity in that area during that 76
period if the transformational mixed use project were not 77
completed. 78

(6) "Estimated completion period" means the time period 79
beginning on the day after the estimated completion of a 80
transformational mixed use development and ending on the fifth 81
anniversary of that day. 82

(B) The owner of one or more parcels of land in this state 83
within which a transformational mixed use development is planned 84
may apply to the director for a tax credit certificate if the 85
estimated development costs to complete the project exceed fifty 86
million dollars. Each application shall be filed in the form and 87
manner prescribed by the director and shall, at minimum, include 88
a development plan comprised of all of the following 89
information: 90

(1) A detailed description of the proposed 91
transformational mixed use development including site plans, 92
construction drawings, architectural renderings, or other means 93
sufficient to convey the appearance, size, purposes, capacity, 94
and scope of the project; 95

(2) A viable financial plan that estimates the development 96
costs to be incurred in the completion of the project and that 97
designates a source of financing or a strategy for obtaining 98
financing; 99

(3) An estimated schedule for the progression and 100
completion of the project; 101

(4) An assessment of the projected economic impact of the 102
project on the development site and a project area designated by 103

the owner; 104

(5) Evidence that estimated increased tax collections for 105
the designated project area will exceed ten per cent of the 106
estimated development costs reported under division (B) (2) of 107
this section. 108

(C) If the director determines that the project described 109
in an application submitted under division (B) of this section 110
qualifies as a transformational mixed use development and 111
satisfies all other criteria prescribed by this section or by 112
rule of the director, the director may issue to the applicant a 113
written statement that certifies the project and preliminarily 114
approves a tax credit. The statement shall specify the estimated 115
amount of the credit, which shall equal ten per cent of the 116
development costs. The statement shall stipulate that receipt of 117
a tax credit certificate is contingent upon completion of the 118
transformational mixed use development as described in the 119
development plan submitted by the applicant under division (B) 120
of this section. 121

In determining whether or not to certify a project, the 122
director shall consider (1) whether estimated increased tax 123
collections for the designated project area will exceed ten per 124
cent of the estimated development costs reported under division 125
(B) (2) of this section and (2) the potential impact of the 126
transformational mixed use development on the project area in 127
terms of architecture, accessibility to pedestrians, retail 128
entertainment and dining sales, job creation, property values, 129
connectivity, and revenue from sales, income, lodging, and 130
property taxes. The director may require an applicant, as a 131
condition of certifying a project, to amend the application to 132
change the radius circumscribing the project area, subject to 133

the limits on the radius prescribed by division (A) (3) of this 134
section. 135

If the director denies an application, the director shall 136
notify the applicant of the reason or reasons for such 137
determination. The director's determination is final, but an 138
applicant may revise and resubmit a previously denied 139
application. 140

(D) An applicant who is preliminarily approved for a tax 141
credit under this section shall, within twelve months of the 142
date the applicant's project is certified, provide the director 143
with sufficient evidence of reviewable progress as it pertains 144
to the construction of the project and an updated schedule for 145
the progression and completion of the project. In addition, the 146
applicant shall provide the director with evidence that the 147
applicant has secured and closed on financing for the project 148
within eighteen months after such certification. If the 149
applicant does not comply with one or both of the reporting 150
requirements within the time prescribed by this division, the 151
director may rescind the approval of the application or extend 152
the applicable deadline. If the director extends a reporting 153
deadline, the director shall notify the applicant of the new 154
deadline. If the director rescinds approval of the application, 155
the director shall notify the applicant. An applicant whose 156
approval has been rescinded may submit a new application for a 157
tax credit under division (B) of this section. 158

(E) An applicant who is preliminarily approved for a tax 159
credit under this section may sell or transfer the rights to 160
that credit to one or more persons for the purpose of raising 161
capital for the certified project. The applicant shall notify 162
the director upon selling or transferring the rights to the 163

credit. The notice shall identify the person or persons to which 164
the credit was sold or transferred and the credit amount sold or 165
transferred to each such person. Only the applicant may sell or 166
transfer a credit under this division. A credit may be divided 167
among multiple purchasers through more than one transaction but 168
once a particular credit amount is acquired by a person other 169
than the applicant it may not be sold or transferred again. 170

(F) (1) The applicant shall notify the director upon 171
completion of a certified transformational mixed use development 172
project. The notification shall include a third-party cost 173
certification by a certified public accountant of the actual 174
development costs attributed to the project. Upon receiving such 175
a notice, the director shall issue a tax credit certificate to 176
the applicant or to the person or persons to which the applicant 177
sold or transferred the rights to the credit under division (E) 178
of this section. The aggregate value of the certificates issued 179
by the director shall equal ten per cent of the actual 180
development costs attributed to the project. If the amount of 181
the credit is less than the credit amount estimated under 182
division (C) of this section because the actual development 183
costs are less than the estimated development costs and the 184
applicant has sold or transferred the rights to the credit to 185
more than one person, the director shall reduce the amount of 186
each tax credit certificate on a pro rata basis unless the 187
applicant requests an alternative allocation of the credit. 188

(2) Issuance of a tax credit certificate does not 189
represent a verification or certification by the director of the 190
amount of development costs for which a tax credit may be 191
claimed. The amount of development costs for which a tax credit 192
may be claimed is subject to inspection and examination by the 193
superintendent of insurance. 194

(3) Upon the issuance of a tax credit certificate, the 195
director shall certify to the superintendent of insurance the 196
name of the applicant, the name of each person to which a tax 197
credit certificate was issued, the actual amount of development 198
costs attributed to the project, the credit amount shown on each 199
tax credit certificate, and any other information required by 200
the rules adopted under this section. 201

(4) The person holding the rights to a tax credit 202
certificate issued under this section may claim a tax credit 203
under section 5725.35 or 5729.18 of the Revised Code. 204

(G) The director, in accordance with Chapter 119. of the 205
Revised Code, shall adopt rules that establish all of the 206
following: 207

(1) Forms and procedures by which applicants may apply for 208
a transformational investment tax credit; 209

(2) Criteria for reviewing, evaluating, and approving 210
applications for certificates within the limitations prescribed 211
by this section; 212

(3) Eligibility requirements for obtaining a tax credit 213
certificate under this section; 214

(4) The form of the tax credit certificate; 215

(5) Reporting requirements and monitoring procedures; 216

(6) Any other rules necessary to implement and administer 217
this section. 218

Sec. 5725.35. There is allowed a credit against the tax 219
imposed by section 5725.18 of the Revised Code for an insurance 220
company subject to that tax that holds the rights to a tax 221
credit certificate issued under section 122.09 of the Revised 222

Code. The credit shall equal the dollar amount indicated on the 223
certificate. The credit shall be claimed in the calendar year 224
specified in the certificate and in the order required under 225
section 5725.98 of the Revised Code. If the credit exceeds the 226
amount of tax otherwise due in that year, the company may carry 227
forward the excess for not more than five ensuing years, but the 228
amount of the excess credit claimed against the tax for any year 229
shall be deducted from the balance carried forward to the next 230
year. 231

Sec. 5725.98. (A) To provide a uniform procedure for 232
calculating the amount of tax imposed by section 5725.18 of the 233
Revised Code that is due under this chapter, a taxpayer shall 234
claim any credits and offsets against tax liability to which it 235
is entitled in the following order: 236

(1) The credit for an insurance company or insurance 237
company group under section 5729.031 of the Revised Code; 238

(2) The credit for eligible employee training costs under 239
section 5725.31 of the Revised Code; 240

(3) The credit for purchasers of qualified low-income 241
community investments under section 5725.33 of the Revised Code; 242

(4) The nonrefundable job retention credit under division 243
(B) of section 122.171 of the Revised Code; 244

(5) The nonrefundable credit for investments in rural 245
business growth funds under section 122.152 of the Revised Code; 246

(6) The nonrefundable credit for contributing capital to a 247
transformational mixed use development project under section 248
5725.35 of the Revised Code; 249

(7) The offset of assessments by the Ohio life and health 250

insurance guaranty association permitted by section 3956.20 of the Revised Code;	251 252
(7) <u>(8)</u> The refundable credit for rehabilitating a historic building under section 5725.34 of the Revised Code;	253 254
(8) <u>(9)</u> The refundable credit for Ohio job retention under former division (B) (2) or (3) of section 122.171 of the Revised Code as those divisions existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly;	255 256 257 258 259
(9) <u>(10)</u> The refundable credit for Ohio job creation under section 5725.32 of the Revised Code;	260 261
(10) <u>(11)</u> The refundable credit under section 5725.19 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.	262 263 264 265
(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.	266 267 268 269 270 271 272 273 274
<u>Sec. 5729.18. There is allowed a credit against the tax imposed by section 5729.03 of the Revised Code for an insurance company subject to that tax that holds the rights to a tax credit certificate issued under section 122.09 of the Revised Code. The credit shall equal the dollar amount indicated on the</u>	275 276 277 278 279

certificate. The credit shall be claimed in the calendar year 280
specified in the certificate and in the order required under 281
section 5729.98 of the Revised Code. If the credit exceeds the 282
amount of tax otherwise due in that year, the company may carry 283
forward the excess for not more than five ensuing years, but the 284
amount of the excess credit claimed against the tax for any year 285
shall be deducted from the balance carried forward to the next 286
year. 287

Sec. 5729.98. (A) To provide a uniform procedure for 288
calculating the amount of tax due under this chapter, a taxpayer 289
shall claim any credits and offsets against tax liability to 290
which it is entitled in the following order: 291

(1) The credit for an insurance company or insurance 292
company group under section 5729.031 of the Revised Code; 293

(2) The credit for eligible employee training costs under 294
section 5729.07 of the Revised Code; 295

(3) The credit for purchases of qualified low-income 296
community investments under section 5729.16 of the Revised Code; 297

(4) The nonrefundable job retention credit under division 298
(B) of section 122.171 of the Revised Code; 299

(5) The nonrefundable credit for investments in rural 300
business growth funds under section 122.152 of the Revised Code; 301

(6) The nonrefundable credit for contributing capital to a 302
transformational mixed use development project under section 303
5729.18 of the Revised Code; 304

(7) The offset of assessments by the Ohio life and health 305
insurance guaranty association against tax liability permitted 306
by section 3956.20 of the Revised Code; 307

~~(7)~~(8) The refundable credit for rehabilitating a historic building under section 5729.17 of the Revised Code; 308
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~~(8)~~(9) The refundable credit for Ohio job retention under former division (B) (2) or (3) of section 122.171 of the Revised Code as those divisions existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly; 310
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~~(9)~~(10) The refundable credit for Ohio job creation under section 5729.032 of the Revised Code; 315
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~~(10)~~(11) The refundable credit under section 5729.08 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code. 317
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(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year. 321
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Section 2. That existing sections 107.036, 5725.98, and 5729.98 of the Revised Code are hereby repealed. 330
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