

I_133_0488-7

133rd General Assembly
Regular Session
2019-2020

Sub. S. B. No. 39

A BILL

To amend sections 107.036, 149.311, 5725.34, 1
5725.98, 5726.52, 5729.17, 5729.98, and 5747.76 2
and to enact sections 122.09, 5725.35, and 3
5729.18 of the Revised Code to authorize an 4
insurance premiums tax credit for capital 5
contributions to transformational mixed use 6
development projects and to increase the amount 7
of the historic rehabilitation tax credit for 8
rural areas. 9

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

Section 1. That sections 107.036, 149.311, 5725.34, 10
5725.98, 5726.52, 5729.17, 5729.98, and 5747.76 be amended and 11
sections 122.09, 5725.35, and 5729.18 of the Revised Code be 12
enacted to read as follows: 13

Sec. 107.036. (A) For each business incentive tax credit, 14
the main operating appropriations act shall contain a detailed 15
estimate of the total amount of credits that may be authorized 16
in each year, an estimate of the amount of credits expected to 17
be claimed in each year, and an estimate of the amount of 18



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credits expected to remain outstanding at the end of the 19
biennium. The governor shall include such estimates in the state 20
budget submitted to the general assembly pursuant to section 21
107.03 of the Revised Code. 22

(B) As used in this section, "business incentive tax 23
credit" means all of the following: 24

(1) The job creation tax credit under section 122.17 of 25
the Revised Code; 26

(2) The job retention tax credit under section 122.171 of 27
the Revised Code; 28

(3) The historic preservation tax credit under section 29
149.311 of the Revised Code; 30

(4) The motion picture and Broadway theatrical production 31
tax credit under section 122.85 of the Revised Code; 32

(5) The new markets tax credit under section 5725.33 of 33
the Revised Code; 34

(6) The research and development credit under section 35
166.21 of the Revised Code; 36

(7) The small business investment credit under section 37
122.86 of the Revised Code; 38

(8) The rural growth investment credit under section 39
122.152 of the Revised Code; 40

(9) The opportunity zone investment credit under section 41
122.84 of the Revised Code; 42

(10) The transformational mixed use development credit 43
under section 122.09 of the Revised Code. 44

Sec. 122.09. (A) As used in this section: 45

(1) "Development costs" means expenditures paid or 46
incurred by the property owner in completing a certified 47
transformational mixed use development project, including 48
architectural or engineering fees paid or incurred in connection 49
with the project and expenses incurred before the date the 50
project is certified by the director of development services 51
under division (C) of this section. In the case of a certified 52
transformational mixed use development project that is part of a 53
larger contiguous project that is planned to be completed in 54
phases, "development costs" include only expenditures associated 55
with the portion of the project that is certified by the 56
director and do not include expenditures incurred for other 57
phases of the project. 58

(2) "Owner" means a person or persons holding a fee simple 59
or leasehold interest in real property, including interests in 60
real property acquired through a capital lease arrangement. 61
"Owner" does not include the state or a state agency, or any 62
political subdivision as defined in section 9.23 of the Revised 63
Code. For the purpose of this division, "fee simple interest," 64
"leasehold interest," and "capital lease" shall be construed in 65
accordance with generally accepted accounting principles. 66

(3) "Transformational mixed use development" means a 67
project that consists of new construction or the redevelopment, 68
rehabilitation, expansion, or other improvement of vacant 69
buildings or structures, or a combination of the foregoing, and 70
that: 71

(a) Will have a transformational economic impact on the 72
development site and the surrounding area; 73

(b) Integrates some combination of retail, office, 74
residential, recreation, structured parking, and other similar 75

uses into one mixed use development; and 76

(c) Includes at least one new or previously vacant 77
building that is fifteen or more stories in height or has a 78
floor area of at least three hundred fifty thousand square feet 79
or two or more new buildings that are connected to each other, 80
are located on the same parcel or on contiguous parcels, and 81
that collectively have a floor area of at least three hundred 82
fifty thousand square feet. 83

"Transformational mixed use development" may include a 84
portion of a larger contiguous project that is planned to be 85
completed in phases as long as the phases collectively meet the 86
criteria described in division (A)(3) of this section. 87

(4) "Increase in tax collections" means the difference, if 88
positive, of the amount of state and local taxes derived from 89
economic activity occurring within the development site and the 90
surrounding area during a period of time minus the amount of 91
such taxes that are estimated to be derived from such economic 92
activity in that site and surrounding area during the same 93
period if the transformational mixed use project were not 94
completed. 95

(5) "Completion period" means the time period beginning on 96
the day after a transformational mixed use development is 97
certified by the director of development services and ending on 98
the fifth anniversary of the day the project is completed. 99

(6) "Insurance company" means a person subject to the tax 100
imposed under section 5725.18 or 5729.03 of the Revised Code. 101

(7) "Contribute capital" means to invest, loan, or donate 102
cash in exchange for an equity interest in an asset, a debt 103
instrument, or no consideration. 104

(B) The owner of one or more parcels of land in this state 105
within which a transformational mixed use development is planned 106
or an insurance company that contributes capital to be used in 107
the planning or construction of such a development may apply to 108
the director of development services for a tax credit 109
certificate if the estimated development costs to complete the 110
project plus, if applicable, the estimated expenditures that 111
have been or will be incurred to complete all other contiguous 112
phases of the project, exceed fifty million dollars. Each 113
application shall be filed in the form and manner prescribed by 114
the director and shall, at minimum, include a development plan 115
comprised of all of the following information: 116

(1) A detailed description of the proposed 117
transformational mixed use development including site plans, 118
construction drawings, architectural renderings, or other means 119
sufficient to convey the appearance, size, purposes, capacity, 120
and scope of the project and, if applicable, previously 121
completed and future phases of the project; 122

(2) A viable financial plan that estimates the development 123
costs that have been or will be incurred in the completion of 124
the project and that designates a source of financing or a 125
strategy for obtaining financing; 126

(3) An estimated schedule for the progression and 127
completion of the project including, if applicable, previously 128
completed and future phases of the project; 129

(4) An assessment of the projected economic impact of the 130
project on the development site and the surrounding area; 131

(5) Evidence that the increase in tax collections during 132
the completion period will exceed ten per cent of the estimated 133

development costs reported under division (B) (2) of this 134
section; 135

(6) If the applicant is an insurance company that is not 136
the property owner, the amount of the insurance company's 137
capital contribution to the development and the date on which it 138
was or will be made; 139

(7) Evidence that the project will not be completed unless 140
the applicant receives the credit. 141

(C) (1) In determining whether to certify a project that is 142
the subject of an application submitted under division (B) of 143
this section, the director shall consider the potential impact 144
of the transformational mixed use development on the development 145
site and the surrounding area in terms of architecture, 146
accessibility to pedestrians, retail entertainment and dining 147
sales, job creation, property values, connectivity, and revenue 148
from sales, income, lodging, and property taxes. The director 149
shall not certify a project unless it satisfies all of the 150
following conditions: 151

(a) The project qualifies as a transformational mixed use 152
development and satisfies all other criteria prescribed by this 153
section or by rule of the director; 154

(b) The estimated increase in tax collections during the 155
completion period exceeds ten per cent of the estimated 156
development costs for the project reported under division (B) (2) 157
of this section; 158

(c) The project will not be completed unless the applicant 159
receives the credit. 160

(2) The director shall not certify more than four 161
transformational mixed use development projects each fiscal 162

year, but the director may reallocate unused certifications from 163
a prior fiscal year or certifications that are rescinded under 164
division (D) of this section for new applicants and the 165
reallocated certifications shall not apply toward the maximum 166
number of projects that otherwise may be certified under this 167
division. If the number of applications exceeds the number of 168
certifications authorized by this division, the director shall 169
first disqualify applications for projects that do not satisfy 170
all of the conditions specified in divisions (C) (1) (a), (b), and 171
(c) of this section. The director then shall rank the remaining 172
applications and certify the associated projects in order, 173
starting with the project that presents the best combination of 174
economic value and transformational impact. The director shall 175
consider the following factors in ranking the applications: 176

(a) The projected increase in tax collections during the 177
completion period as a percentage of the estimated development 178
costs; 179

(b) The economic impact of the project on the development 180
site and the surrounding area and the impact of the project in 181
terms of architecture, accessibility to pedestrians, retail 182
entertainment and dining sales, job creation, property values, 183
and connectivity; 184

(c) The expeditiousness of the schedule for completing the 185
project, realizing the increase in tax collections, and 186
attaining the economic and other impacts on the development site 187
and the surrounding area. 188

(3) If the director approves an application, the director 189
shall issue a statement certifying the associated 190
transformational mixed use development project and preliminarily 191
approving the requested tax credit. The statement shall specify 192

the estimated amount of the credit, which shall equal ten per 193
cent of the development costs if the applicant is the property 194
owner or, if the applicant is an insurance company that 195
contributed capital to the development, ten per cent of the 196
contribution. The statement shall stipulate that receipt of a 197
tax credit certificate is contingent upon completion of the 198
transformational mixed use development as described in the 199
development plan. The statement shall also specify that the 200
amount of the tax credit is dependent upon the actual 201
development costs attributed to the project and the increase in 202
tax collections during the completion period. 203

(4) If the director denies an application, the director 204
shall notify the applicant of the reason or reasons for such 205
determination. The director's determination is final, but an 206
applicant may revise and resubmit a previously denied 207
application. 208

(D) An applicant that is preliminarily approved for a tax 209
credit under this section shall, within twelve months of the 210
date the project is certified, provide the director with an 211
updated schedule for the progression and completion of the 212
project and documentation sufficient to demonstrate that 213
construction of the project has begun. If the applicant does not 214
provide the schedule and documentation or if construction of the 215
project has not begun within the time prescribed by this 216
division, the director shall rescind certification of the 217
project and send notice of the rescission to the applicant. An 218
applicant that receives notice of rescission may submit a new 219
application concerning the same project under division (B) of 220
this section. 221

(E) An applicant that is the property owner and is 222

preliminarily approved for a tax credit under this section may 223
sell or transfer the rights to that credit to one or more 224
persons for the purpose of raising capital for the certified 225
project. The applicant shall notify the director upon selling or 226
transferring the rights to the credit. The notice shall identify 227
the person or persons to which the credit was sold or 228
transferred and the credit amount sold or transferred to each 229
such person. Only an applicant that owns the property may sell 230
or transfer a credit under this division. A credit may be 231
divided among multiple purchasers through more than one 232
transaction but once a particular credit amount is acquired by a 233
person other than the applicant it may not be sold or 234
transferred again. 235

(F) The property owner shall notify the director upon 236
completion of a certified transformational mixed use development 237
project. The notification shall include a report prepared by a 238
third-party certified public accountant that contains a detailed 239
accounting of the actual development costs attributed to the 240
project. Upon receiving such a notice, the director shall 241
determine the increase in tax collections since the date the 242
project was certified by consulting with the tax commissioner 243
and with the tax administrator of any municipal corporation that 244
levies an income tax within the project site and the surrounding 245
area. The tax commissioner and the tax administrators that are 246
consulted pursuant to this division shall provide the director 247
with any information that is necessary to determine the increase 248
in tax collections. 249

Upon determining the increase in tax collections and 250
computing the value of the tax credit under division (G) of this 251
section, the director shall issue a tax credit certificate to 252
each applicant that is preliminarily approved for a credit 253

associated with the project or to the person or persons to which 254
such an applicant sold or transferred the rights to the credit 255
under division (E) of this section. 256

(G)(1) If only the property owner is preliminarily 257
approved for a tax credit associated with the completed 258
transformational mixed use development project, the aggregate 259
value of the certificates issued by the director shall equal the 260
lesser of (a) ten per cent of the actual development costs 261
attributed to the project or (b) five per cent of the actual 262
development costs plus any amount by which the increase in tax 263
collections since the date the project was certified exceeds 264
five per cent of the actual development costs. If the amount of 265
the credit is less than the credit amount estimated under 266
division (C) of this section and the property owner sold or 267
transferred the rights to the credit to more than one person, 268
the director shall reduce the amount of each tax credit 269
certificate on a pro rata basis unless the property owner 270
requests an alternative allocation of the credit. 271

(2) If all applicants that are preliminarily approved for 272
a tax credit are insurance companies that contributed capital to 273
the completed project, the value of each certificate shall equal 274
the lesser of (a) ten per cent of the insurance company's actual 275
capital contribution or (b) five per cent of such capital 276
contribution plus any amount by which the insurance company's 277
share of the increase in tax collections since the date the 278
project was certified exceeds five per cent of the insurance 279
company's capital contribution. An "insurance company's share" 280
of the increase in tax collections equals the product obtained 281
by multiplying the total increase in tax collections since the 282
date the project was certified by a fraction, the numerator of 283
which is the insurance company's capital contribution to the 284

project and the denominator of which is the actual development 285
costs of the project. 286

(3) If the property owner and one or more insurance 287
companies are preliminarily approved for a tax credit for the 288
same completed transformational mixed use development project, 289
the full amount of the tax credit for which the applicants are 290
eligible shall be divided proportionally. The value of the tax 291
credit certificate issued to each applicant that is an insurance 292
company shall be computed in the manner described in division 293
(G) (2) of this section. The value of the tax credit certificate 294
issued to the property owner or to the person or persons to whom 295
the property owner sold or transferred the rights to the credit 296
shall be computed in the manner described in division (G) (1) of 297
this section, except that the sum of the actual capital 298
contributions of the insurance companies to which tax credit 299
certificates were issued under this section shall be subtracted 300
from the actual development costs of the project before 301
performing the computations prescribed by that division. 302

(H) The property owner, on or before the thirtieth day 303
following the first, second, third, fourth, and fifth 304
anniversaries of the date the certified transformational mixed 305
use development project is completed, may request in writing 306
that the director of development services update the increase in 307
tax collections during the completion period. Upon receiving 308
such a request, the director shall update the increase in tax 309
collections in the same manner described by division (F) of this 310
section. If the director determines that the value of the tax 311
credit certificates issued under division (G) of this section 312
would be greater if computed based on the updated increase in 313
tax collections, the director shall issue an additional tax 314
credit certificate to each person that previously received a 315

certificate for the project under that division. The value of 316
each additional tax credit certificate shall equal the amount by 317
which the tax credit certificate issued under division (G) of 318
this section upon completion of the project would have been 319
greater had the value of such certificate been computed based on 320
the updated increase in tax collections, less the value of any 321
additional tax credit certificates previously issued under this 322
division to the same person respecting the same project. The 323
aggregate value of all tax credit certificates issued under this 324
division and division (G) of this section for the same 325
transformational mixed use development project shall not exceed 326
ten per cent of the actual development costs of that project. 327

(I) Issuance of a tax credit certificate under division 328
(G) or (H) of this section does not represent a verification or 329
certification by the director of the actual development costs of 330
the project or the capital contributions to the project by an 331
insurance company. Such amounts are subject to inspection and 332
examination by the superintendent of insurance. 333

(J) Upon the issuance of a tax credit certificate under 334
division (G) or (H) of this section, the director of development 335
services shall certify to the superintendent of insurance (1) 336
the name of each person that was issued a tax credit 337
certificate, (2) whether the person is the property owner, an 338
insurance company that contributed capital to the development, 339
or a person that acquired the rights to the tax credit 340
certificate from the property owner, (3) the credit amount shown 341
on each tax credit certificate, and (4) any other information 342
required by the rules adopted under this section. A person that 343
holds the rights to a tax credit certificate issued under this 344
section and that is an insurance company may claim a tax credit 345
under section 5725.35 or 5729.18 of the Revised Code. 346

(K) The director shall publish information about each 347
transformational mixed use development on the web site of the 348
development services agency not later than the first day of 349
August following certification of the project. The director 350
shall update the published information annually until the 351
project is complete and the credit or credits are fully claimed. 352
The published information shall include all of the following: 353

(1) The location of the transformational mixed use 354
development and the name by which it is known; 355

(2) The estimated schedule for progression and completion 356
of the project included in the development plan pursuant to 357
division (B) (3) of this section; 358

(3) The assessment of the projected economic impact of the 359
project included in the development plan pursuant to division 360
(B) (4) of this section; 361

(4) The evidence supporting the estimated increase in tax 362
collections included in the development plan pursuant to 363
division (B) (5) of this section, except that the director may 364
omit any proprietary or sensitive information included in such 365
evidence; 366

(5) The estimated development costs that have been or will 367
be incurred in completion of the project and, if applicable, the 368
amount of the insurance company's capital contribution to the 369
development and the date on which it was made, as reported in 370
the development plan pursuant to divisions (B) (2) and (6) of 371
this section; 372

(6) A copy of each report submitted to the director by the 373
applicant under division (D) of this section. 374

(L) The director, in accordance with Chapter 119. of the 375

Revised Code, shall adopt rules that establish all of the 376
following: 377

(1) Forms and procedures by which applicants may apply for 378
a transformational investment tax credit, and any deadlines for 379
applying; 380

(2) Criteria and procedures for reviewing, evaluating, 381
ranking, and approving applications within the limitations 382
prescribed by this section, including rules prescribing the 383
timing and frequency by which the director must rank 384
applications and preliminarily approve tax credits under 385
division (C) of this section; 386

(3) Eligibility requirements for obtaining a tax credit 387
certificate under this section; 388

(4) The form of the tax credit certificate; 389

(5) Reporting requirements and monitoring procedures; 390

(6) Procedures for computing the increase in tax 391
collections within the project site and the surrounding area; 392

(7) Any other rules necessary to implement and administer 393
this section. 394

Sec. 149.311. (A) As used in this section: 395

(1) "Historic building" means a building, including its 396
structural components, that is located in this state and that is 397
either individually listed on the national register of historic 398
places under 16 U.S.C. 470a, located in a registered historic 399
district, and certified by the state historic preservation 400
officer as being of historic significance to the district, or is 401
individually listed as an historic landmark designated by a 402
local government certified under 16 U.S.C. 470a(c). 403

(2) "Qualified rehabilitation expenditures" means 404
expenditures paid or incurred during the rehabilitation period, 405
and before and after that period as determined under 26 U.S.C. 406
47, by an owner or qualified lessee of an historic building to 407
rehabilitate the building. "Qualified rehabilitation 408
expenditures" includes architectural or engineering fees paid or 409
incurred in connection with the rehabilitation, and expenses 410
incurred in the preparation of nomination forms for listing on 411
the national register of historic places. "Qualified 412
rehabilitation expenditures" does not include any of the 413
following: 414

(a) The cost of acquiring, expanding, or enlarging an 415
historic building; 416

(b) Expenditures attributable to work done to facilities 417
related to the building, such as parking lots, sidewalks, and 418
landscaping; 419

(c) New building construction costs. 420

(3) "Owner" of an historic building means a person holding 421
the fee simple interest in the building. "Owner" does not 422
include the state or a state agency, or any political 423
subdivision as defined in section 9.23 of the Revised Code. 424

(4) "Qualified lessee" means a person subject to a lease 425
agreement for an historic building and eligible for the federal 426
rehabilitation tax credit under 26 U.S.C. 47. "Qualified lessee" 427
does not include the state or a state agency or political 428
subdivision as defined in section 9.23 of the Revised Code. 429

(5) "Certificate owner" means the owner or qualified 430
lessee of an historic building to which a rehabilitation tax 431
credit certificate was issued under this section. 432

(6) "Registered historic district" means an historic 433
district listed in the national register of historic places 434
under 16 U.S.C. 470a, an historic district designated by a local 435
government certified under 16 U.S.C. 470a(c), or a local 436
historic district certified under 36 C.F.R. 67.8 and 67.9. 437

(7) "Rehabilitation" means the process of repairing or 438
altering an historic building or buildings, making possible an 439
efficient use while preserving those portions and features of 440
the building and its site and environment that are significant 441
to its historic, architectural, and cultural values. 442

(8) "Rehabilitation period" means one of the following: 443

(a) If the rehabilitation initially was not planned to be 444
completed in stages, a period chosen by the owner or qualified 445
lessee not to exceed twenty-four months during which 446
rehabilitation occurs; 447

(b) If the rehabilitation initially was planned to be 448
completed in stages, a period chosen by the owner or qualified 449
lessee not to exceed sixty months during which rehabilitation 450
occurs. Each stage shall be reviewed as a phase of a 451
rehabilitation as determined under 26 C.F.R. 1.48-12 or a 452
successor to that section. 453

(9) "State historic preservation officer" or "officer" 454
means the state historic preservation officer appointed by the 455
governor under 16 U.S.C. 470a. 456

(10) "Catalytic project" means the rehabilitation of an 457
historic building, the rehabilitation of which will foster 458
economic development within two thousand five hundred feet of 459
the historic building. 460

(11) "Rural area" has the same meaning as in section 461

122.15 of the Revised Code. 462

(B) The owner or qualified lessee of an historic building 463
may apply to the director of development services for a 464
rehabilitation tax credit certificate for qualified 465
rehabilitation expenditures paid or incurred by such owner or 466
qualified lessee after April 4, 2007, for rehabilitation of an 467
historic building. If the owner of an historic building enters a 468
pass-through agreement with a qualified lessee for the purposes 469
of the federal rehabilitation tax credit under 26 U.S.C. 47, the 470
qualified rehabilitation expenditures paid or incurred by the 471
owner after April 4, 2007, may be attributed to the qualified 472
lessee. 473

The form and manner of filing such applications shall be 474
prescribed by rule of the director. Each application shall state 475
the location of the historic building and the amount of 476
qualified rehabilitation expenditures the applicant estimates 477
will be paid or incurred. The director may require applicants to 478
furnish documentation of such estimates. 479

The director, after consultation with the tax commissioner 480
and in accordance with Chapter 119. of the Revised Code, shall 481
adopt rules that establish all of the following: 482

(1) Forms and procedures by which applicants may apply for 483
rehabilitation tax credit certificates; 484

(2) Criteria for reviewing, evaluating, and approving 485
applications for certificates within the limitations under 486
division (D) of this section, criteria for assuring that the 487
certificates issued encompass a mixture of high and low 488
qualified rehabilitation expenditures, and criteria for issuing 489
certificates under division (C) (3) (b) of this section; 490

(3) Eligibility requirements for obtaining a certificate	491
under this section;	492
(4) The form of rehabilitation tax credit certificates;	493
(5) Reporting requirements and monitoring procedures;	494
(6) Procedures and criteria for conducting cost-benefit	495
analyses of historic buildings that are the subjects of	496
applications filed under this section. The purpose of a cost-	497
benefit analysis shall be to determine whether rehabilitation of	498
the historic building will result in a net revenue gain in state	499
and local taxes once the building is used.	500
(7) Any other rules necessary to implement and administer	501
this section.	502
(C) The director of development services shall review the	503
applications with the assistance of the state historic	504
preservation officer and determine whether all of the following	505
criteria are met:	506
(1) That the building that is the subject of the	507
application is an historic building and the applicant is the	508
owner or qualified lessee of the building;	509
(2) That the rehabilitation will satisfy standards	510
prescribed by the United States secretary of the interior under	511
16 U.S.C. 470, et seq., as amended, and 36 C.F.R. 67.7 or a	512
successor to that section;	513
(3) That receiving a rehabilitation tax credit certificate	514
under this section is a major factor in:	515
(a) The applicant's decision to rehabilitate the historic	516
building; or	517

(b) To increase the level of investment in such 518
rehabilitation. 519

An applicant shall demonstrate to the satisfaction of the 520
state historic preservation officer and director of development 521
services that the rehabilitation will satisfy the standards 522
described in division (C) (2) of this section before the 523
applicant begins the physical rehabilitation of the historic 524
building. 525

(D) (1) If the director of development services determines 526
that an application meets the criteria in divisions (C) (1), (2), 527
and (3) of this section, the director shall conduct a cost- 528
benefit analysis for the historic building that is the subject 529
of the application to determine whether rehabilitation of the 530
historic building will result in a net revenue gain in state and 531
local taxes once the building is used. The director shall 532
consider the results of the cost-benefit analysis in determining 533
whether to approve the application. The director shall also 534
consider the potential economic impact and the regional 535
distributive balance of the credits throughout the state. The 536
director may approve an application only after completion of the 537
cost-benefit analysis. 538

(2) A rehabilitation tax credit certificate shall not be 539
issued for an amount greater than the estimated amount furnished 540
by the applicant on the application for such certificate and 541
approved by the director. The director shall not approve more 542
than a total of sixty million dollars of rehabilitation tax 543
credits per fiscal year but the director may reallocate unused 544
tax credits from a prior fiscal year for new applicants and such 545
reallocated credits shall not apply toward the dollar limit of 546
this division. 547

(3) For rehabilitations with a rehabilitation period not exceeding twenty-four months as provided in division (A) (8) (a) of this section, a rehabilitation tax credit certificate shall not be issued before the rehabilitation of the historic building is completed.

(4) For rehabilitations with a rehabilitation period not exceeding sixty months as provided in division (A) (8) (b) of this section, a rehabilitation tax credit certificate shall not be issued before a stage of rehabilitation is completed. After all stages of rehabilitation are completed, if the director cannot determine that the criteria in division (C) of this section are satisfied for all stages of rehabilitations, the director shall certify this finding to the tax commissioner, and any rehabilitation tax credits received by the applicant shall be repaid by the applicant and may be collected by assessment as unpaid tax by the commissioner.

(5) The director of development services shall require the applicant to provide a third-party cost certification by a certified public accountant of the actual costs attributed to the rehabilitation of the historic building when qualified rehabilitation expenditures exceed two hundred thousand dollars.

If an applicant whose application is approved for receipt of a rehabilitation tax credit certificate fails to provide to the director sufficient evidence of reviewable progress, including a viable financial plan, copies of final construction drawings, and evidence that the applicant has obtained all historic approvals within twelve months after the date the applicant received notification of approval, and if the applicant fails to provide evidence to the director that the applicant has secured and closed on financing for the

rehabilitation within eighteen months after receiving 578
notification of approval, the director may rescind the approval 579
of the application. The director shall notify the applicant if 580
the approval has been rescinded. Credits that would have been 581
available to an applicant whose approval was rescinded shall be 582
available for other qualified applicants. Nothing in this 583
division prohibits an applicant whose approval has been 584
rescinded from submitting a new application for a rehabilitation 585
tax credit certificate. 586

(6) The director of development services may approve the 587
application of, and issue a rehabilitation tax credit 588
certificate to, the owner of a catalytic project, provided the 589
application otherwise meets the criteria described in divisions 590
(C) and (D) of this section. The director may not approve more 591
than one application for a rehabilitation tax credit certificate 592
under division (D)(6) of this section during each state fiscal 593
biennium. The director shall not approve an application for a 594
rehabilitation tax credit certificate under division (D)(6) of 595
this section during the state fiscal biennium beginning July 1, 596
2017, or during any state fiscal biennium thereafter. The 597
director shall consider the following criteria in determining 598
whether to approve an application for a certificate under 599
division (D)(6) of this section: 600

(a) Whether the historic building is a catalytic project; 601

(b) The effect issuance of the certificate would have on 602
the availability of credits for other applicants that qualify 603
for a credit certificate within the credit dollar limit 604
described in division (D)(2) of this section; 605

(c) The number of jobs, if any, the catalytic project will 606
create. 607

(7) (a) The owner or qualified lessee of a historic building may apply for a rehabilitation tax credit certificate under both divisions (B) and (D) (6) of this section. In such a case, the director of development services shall consider each application at the time the application is submitted.

(b) The director of development services shall not issue more than one certificate under this section with respect to the same qualified rehabilitation expenditures.

(E) Issuance of a certificate represents a finding by the director of development services of the matters described in divisions (C) (1), (2), and (3) of this section only; issuance of a certificate does not represent a verification or certification by the director of the amount of qualified rehabilitation expenditures for which a tax credit may be claimed under section 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, or 5747.76 of the Revised Code. The amount of qualified rehabilitation expenditures for which a tax credit may be claimed is subject to inspection and examination by the tax commissioner or employees of the commissioner under section 5703.19 of the Revised Code and any other applicable law. Upon the issuance of a certificate, the director shall certify to the tax commissioner, in the form and manner requested by the tax commissioner, the name of the applicant, the amount of qualified rehabilitation expenditures shown on the certificate, and any other information required by the rules adopted under this section.

(F) (1) On or before the first day of August each year, the director of development services and tax commissioner jointly shall submit to the president of the senate and the speaker of the house of representatives a report on the tax credit program established under this section and sections 5725.151, 5725.34,

5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code. The 638
report shall present an overview of the program and shall 639
include information on the number of rehabilitation tax credit 640
certificates issued under this section during the preceding 641
fiscal year, an update on the status of each historic building 642
for which an application was approved under this section, the 643
dollar amount of the tax credits granted under sections 644
5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the 645
Revised Code, and any other information the director and 646
commissioner consider relevant to the topics addressed in the 647
report. 648

(2) On or before December 1, 2015, the director of 649
development services and tax commissioner jointly shall submit 650
to the president of the senate and the speaker of the house of 651
representatives a comprehensive report that includes the 652
information required by division (F) (1) of this section and a 653
detailed analysis of the effectiveness of issuing tax credits 654
for rehabilitating historic buildings. The report shall be 655
prepared with the assistance of an economic research 656
organization jointly chosen by the director and commissioner. 657

(G) There is hereby created in the state treasury the 658
historic rehabilitation tax credit operating fund. The director 659
of development services is authorized to charge reasonable 660
application and other fees in connection with the administration 661
of tax credits authorized by this section and sections 5725.151, 662
5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised 663
Code. Any such fees collected shall be credited to the fund and 664
used to pay reasonable costs incurred by the department of 665
development services in administering this section and sections 666
5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the 667
Revised Code. 668

The Ohio historic preservation office is authorized to 669
charge reasonable fees in connection with its review and 670
approval of applications under this section. Any such fees 671
collected shall be credited to the fund and used to pay 672
administrative costs incurred by the Ohio historic preservation 673
office pursuant to this section. 674

(H) Notwithstanding sections 5725.151, 5725.34, 5726.52, 675
5729.17, 5733.47, and 5747.76 of the Revised Code, the 676
certificate owner of a tax credit certificate issued under 677
division (D) (6) of this section may claim a tax credit equal to 678
twenty-five per cent of the dollar amount indicated on the 679
certificate, or thirty-five per cent of that dollar amount if 680
the historic building for which the certificate was issued is 681
located in a rural area, for a total credit of not more than 682
twenty-five million dollars. The credit claimed by such a 683
certificate owner for any calendar year, tax year, or taxable 684
year under section 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, 685
or 5747.76 of the Revised Code shall not exceed five million 686
dollars. If the certificate owner is eligible for more than five 687
million dollars in total credits, the certificate owner may 688
carry forward the balance of the credit in excess of the amount 689
claimed for that year for not more than five ensuing calendar 690
years, tax years, or taxable years. If the credit claimed in any 691
calendar year, tax year, or taxable year exceeds the tax 692
otherwise due, the excess shall be refunded to the taxpayer. 693

(I) The director of development services, in consultation 694
with the director of budget and management, shall develop and 695
adopt a system of tracking any information necessary to 696
anticipate the impact of credits issued under this section on 697
tax revenues for current and future fiscal years. Such 698
information may include the number of applications approved, the 699

estimated rehabilitation expenditures and rehabilitation period 700
associated with such applications, the number and amount of tax 701
credit certificates issued, and any other information the 702
director of budget and management requires for the purposes of 703
this division. 704

Sec. 5725.34. (A) As used in this section, "certificate 705
owner," "historic building," and "rural area" ~~has~~have the same 706
~~meaning~~meanings as in section 149.311 of the Revised Code. 707

(B) There is allowed a credit against the tax imposed by 708
section 5725.18 of the Revised Code for an insurance company 709
subject to that tax that is a certificate owner of a 710
rehabilitation tax credit certificate issued under section 711
149.311 of the Revised Code. The credit shall equal twenty-five 712
per cent of the dollar amount indicated on the certificate, or 713
thirty-five per cent of that dollar amount if the historic 714
building for which the certificate was issued is located in a 715
rural area, but the amount of the credit allowed for any company 716
for any year shall not exceed five million dollars. The credit 717
shall be claimed in the calendar year specified in the 718
certificate and in the order required under section 5725.98 of 719
the Revised Code. If the credit exceeds the amount of tax 720
otherwise due in that year, the excess shall be refunded to the 721
company but, if any amount of the credit is refunded, the sum of 722
the amount refunded and the amount applied to reduce the tax 723
otherwise due in that year shall not exceed three million 724
dollars. The company may carry forward any balance of the credit 725
in excess of the amount claimed in that year for not more than 726
five ensuing years, and shall deduct any amount claimed in any 727
such year from the amount claimed in an ensuing year. 728

(C) An insurance company claiming a credit under this 729

section shall retain the rehabilitation tax credit certificate 730
for four years following the end of the year in which the credit 731
was claimed, and shall make the certificate available for 732
inspection by the tax commissioner upon the request of the tax 733
commissioner during that period. 734

Sec. 5725.35. There is allowed a credit against the tax 735
imposed by section 5725.18 of the Revised Code for an insurance 736
company subject to that tax that holds the rights to a tax 737
credit certificate issued under section 122.09 of the Revised 738
Code. The credit shall equal the dollar amount indicated on the 739
certificate. The credit shall be claimed in the calendar year 740
specified in the certificate and in the order required under 741
section 5725.98 of the Revised Code. If the credit exceeds the 742
amount of tax otherwise due in that year, the company may carry 743
forward the excess for not more than five ensuing years, but the 744
amount of the excess credit claimed against the tax for any year 745
shall be deducted from the balance carried forward to the next 746
year. 747

Sec. 5725.98. (A) To provide a uniform procedure for 748
calculating the amount of tax imposed by section 5725.18 of the 749
Revised Code that is due under this chapter, a taxpayer shall 750
claim any credits and offsets against tax liability to which it 751
is entitled in the following order: 752

(1) The credit for an insurance company or insurance 753
company group under section 5729.031 of the Revised Code; 754

(2) The credit for eligible employee training costs under 755
section 5725.31 of the Revised Code; 756

(3) The credit for purchasers of qualified low-income 757
community investments under section 5725.33 of the Revised Code; 758

(4) The nonrefundable job retention credit under division	759
(B) of section 122.171 of the Revised Code;	760
(5) The nonrefundable credit for investments in rural	761
business growth funds under section 122.152 of the Revised Code;	762
(6) <u>The nonrefundable credit for contributing capital to a</u>	763
<u>transformational mixed use development project under section</u>	764
<u>5725.35 of the Revised Code;</u>	765
<u>(7)</u> The offset of assessments by the Ohio life and health	766
insurance guaranty association permitted by section 3956.20 of	767
the Revised Code;	768
(7) <u>(8)</u> The refundable credit for rehabilitating a	769
historic building under section 5725.34 of the Revised Code;	770
(8) <u>(9)</u> The refundable credit for Ohio job retention under	771
former division (B) (2) or (3) of section 122.171 of the Revised	772
Code as those divisions existed before September 29, 2015, the	773
effective date of the amendment of this section by H.B. 64 of	774
the 131st general assembly;	775
(9) <u>(10)</u> The refundable credit for Ohio job creation under	776
section 5725.32 of the Revised Code;	777
(10) <u>(11)</u> The refundable credit under section 5725.19 of	778
the Revised Code for losses on loans made under the Ohio venture	779
capital program under sections 150.01 to 150.10 of the Revised	780
Code.	781
(B) For any credit except the refundable credits	782
enumerated in this section, the amount of the credit for a	783
taxable year shall not exceed the tax due after allowing for any	784
other credit that precedes it in the order required under this	785
section. Any excess amount of a particular credit may be carried	786

forward if authorized under the section creating that credit. 787
Nothing in this chapter shall be construed to allow a taxpayer 788
to claim, directly or indirectly, a credit more than once for a 789
taxable year. 790

Sec. 5726.52. (A) As used in this section, "certificate 791
owner," "historic building," and "rural area" ~~has~~ have the same 792
~~meaning~~ meanings as in section 149.311 of the Revised Code. 793

(B) A taxpayer may claim a refundable credit against the 794
tax imposed by this chapter for each person included in the 795
annual report of a taxpayer that is a certificate owner of a 796
rehabilitation tax credit certificate issued under section 797
149.311 of the Revised Code. The credit shall equal twenty-five 798
per cent of the dollar amount indicated on each certificate, or 799
thirty-five per cent of that dollar amount if the historic 800
building for which the certificate was issued is located in a 801
rural area, but the credit shall not exceed five million dollars 802
for each certificate. 803

The credit shall be claimed for the calendar year 804
specified in the certificate and in the order required under 805
section 5726.98 of the Revised Code. If the credit exceeds the 806
amount of tax otherwise due in that year, the excess shall be 807
refunded to the taxpayer, provided that, if any amount of the 808
credit is refunded, the sum of the amount refunded and the 809
amount applied to reduce the tax otherwise due in that year 810
shall not exceed three million dollars. The taxpayer may carry 811
forward any balance of the credit in excess of the amount 812
claimed in that year for not more than five ensuing years, and 813
shall deduct any amount claimed in any such year from the amount 814
claimed in an ensuing year. A taxpayer may claim against the tax 815
imposed by this chapter any unused portion of the credit 816

authorized under section 5725.151 of the Revised Code, but only 817
to the extent of the five-year carry forward period authorized 818
by that section. 819

(C) A taxpayer claiming a credit under this section shall 820
retain the rehabilitation tax credit certificate for four years 821
following the end of the year to which the credit was applied, 822
and shall make the certificate available for inspection by the 823
tax commissioner upon the request of the commissioner during 824
that period. 825

Sec. 5729.17. (A) As used in this section, "certificate 826
owner," "historic building," and "rural area" ~~has~~ have the same 827
~~meaning~~ meanings as in section 149.311 of the Revised Code. 828

(B) There is allowed a credit against the tax imposed by 829
section 5729.03 of the Revised Code for an insurance company 830
subject to that tax that is a certificate owner of a 831
rehabilitation tax credit certificate issued under section 832
149.311 of the Revised Code. The credit shall equal twenty-five 833
per cent of the dollar amount indicated on the certificate, or 834
thirty-five per cent of that dollar amount if the historic 835
building for which the certificate was issued is located in a 836
rural area, but the amount of the credit allowed for any company 837
for any year shall not exceed five million dollars. The credit 838
shall be claimed in the calendar year specified in the 839
certificate and in the order required under section 5729.98 of 840
the Revised Code. If the credit exceeds the amount of tax 841
otherwise due in that year, the excess shall be refunded to the 842
company but, if any amount of the credit is refunded, the sum of 843
the amount refunded and the amount applied to reduce the tax 844
otherwise due in that year shall not exceed three million 845
dollars. The company may carry forward any balance of the credit 846

in excess of the amount claimed in that year for not more than 847
five ensuing years, and shall deduct any amount claimed in any 848
such year from the amount claimed in an ensuing year. 849

(C) An insurance company claiming a credit under this 850
section shall retain the rehabilitation tax credit certificate 851
for four years following the end of the year in which the credit 852
was claimed, and shall make the certificate available for 853
inspection by the tax commissioner upon the request of the tax 854
commissioner during that period. 855

Sec. 5729.18. There is allowed a credit against the tax 856
imposed by section 5729.03 of the Revised Code for an insurance 857
company subject to that tax that holds the rights to a tax 858
credit certificate issued under section 122.09 of the Revised 859
Code. The credit shall equal the dollar amount indicated on the 860
certificate. The credit shall be claimed in the calendar year 861
specified in the certificate and in the order required under 862
section 5729.98 of the Revised Code. If the credit exceeds the 863
amount of tax otherwise due in that year, the company may carry 864
forward the excess for not more than five ensuing years, but the 865
amount of the excess credit claimed against the tax for any year 866
shall be deducted from the balance carried forward to the next 867
year. 868

Sec. 5729.98. (A) To provide a uniform procedure for 869
calculating the amount of tax due under this chapter, a taxpayer 870
shall claim any credits and offsets against tax liability to 871
which it is entitled in the following order: 872

(1) The credit for an insurance company or insurance 873
company group under section 5729.031 of the Revised Code; 874

(2) The credit for eligible employee training costs under 875

section 5729.07 of the Revised Code;	876
(3) The credit for purchases of qualified low-income community investments under section 5729.16 of the Revised Code;	877 878
(4) The nonrefundable job retention credit under division (B) of section 122.171 of the Revised Code;	879 880
(5) The nonrefundable credit for investments in rural business growth funds under section 122.152 of the Revised Code;	881 882
(6) <u>The nonrefundable credit for contributing capital to a transformational mixed use development project under section 5729.18 of the Revised Code;</u>	883 884 885
<u>(7)</u> The offset of assessments by the Ohio life and health insurance guaranty association against tax liability permitted by section 3956.20 of the Revised Code;	886 887 888
(7) <u>(8)</u> The refundable credit for rehabilitating a historic building under section 5729.17 of the Revised Code;	889 890
(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;	891 892 893 894 895
(9) <u>(10)</u> The refundable credit for Ohio job creation under section 5729.032 of the Revised Code;	896 897
(10) <u>(11)</u> 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.	898 899 900 901
(B) For any credit except the refundable credits	902

enumerated in this section, the amount of the credit for a 903
taxable year shall not exceed the tax due after allowing for any 904
other credit that precedes it in the order required under this 905
section. Any excess amount of a particular credit may be carried 906
forward if authorized under the section creating that credit. 907
Nothing in this chapter shall be construed to allow a taxpayer 908
to claim, directly or indirectly, a credit more than once for a 909
taxable year. 910

Sec. 5747.76. (A) As used in this section, "certificate 911
owner," "historic building," and "rural area" ~~has~~ have the same 912
~~meaning~~ meanings as in section 149.311 of the Revised Code. 913

(B) There is allowed a credit against a taxpayer's 914
aggregate tax liability under section 5747.02 of the Revised 915
Code for a taxpayer that is the certificate owner of a 916
rehabilitation tax credit certificate issued under section 917
149.311 of the Revised Code. The credit shall equal twenty-five 918
per cent of the dollar amount indicated on the certificate, or 919
thirty-five per cent of that dollar amount if the historic 920
building for which the certificate was issued is located in a 921
rural area, but the amount of credit allowed for any taxpayer 922
shall not exceed five million dollars. The credit shall be 923
claimed for the taxable year specified in the certificate and in 924
the order required under section 5747.98 of the Revised Code. 925

(C) Nothing in this section limits or disallows pass- 926
through treatment of the credit if the certificate owner is a 927
pass-through entity. If the certificate owner is a pass-through 928
entity, the amount of the credit allowed for the pass-through 929
entity shall not exceed five million dollars. If the certificate 930
owner is a pass-through entity, the credit may be allocated 931
among the entity's equity owners in proportion to their 932

ownership interests or in such proportions or amounts as the 933
equity owners mutually agree. 934

(D) If the credit allowed for any taxable year exceeds the 935
aggregate amount of tax otherwise due under section 5747.02 of 936
the Revised Code, after allowing for any other credits preceding 937
the credit in the order prescribed by section 5747.98 of the 938
Revised Code, the excess shall be refunded to the taxpayer but, 939
if any amount of the credit is refunded, the sum of the amount 940
refunded and the amount applied to reduce the aggregate amount 941
of tax otherwise due for that year shall not exceed three 942
million dollars or, if the certificate owner is a pass-through 943
entity, shall not exceed the taxpayer's distributive or 944
proportionate share, as allocated under division (C) of this 945
section, of three million dollars. The taxpayer may carry 946
forward any balance of the credit in excess of the amount 947
claimed for that year for not more than five ensuing taxable 948
years, and shall deduct any amount claimed for any such year 949
from the amount claimed in an ensuing year. 950

(E) A taxpayer claiming a credit under this section shall 951
retain the rehabilitation tax credit certificate for four years 952
following the end of the taxable year to which the credit was 953
applied, and shall make the certificate available for inspection 954
by the tax commissioner upon the request of the tax commissioner 955
during that period. 956

Section 2. That existing sections 107.036, 149.311, 957
5725.34, 5725.98, 5726.52, 5729.17, 5729.98, and 5747.76 of the 958
Revised Code are hereby repealed. 959

Section 3. The amendment by this act of sections 149.311, 960
5725.34, 5726.52, 5729.17, and 5747.76 of the Revised Code 961
applies to rehabilitation tax credit certificates issued 962

pursuant to applications approved by the Director of Development 963
Services on or after July 1, 2020. 964

Section 4. Pursuant to division (G) of section 5703.95 of 965
the Revised Code, which states that any bill introduced in the 966
House of Representatives or the Senate that proposes to enact or 967
modify one or more tax expenditures should include a statement 968
explaining the objectives of the tax expenditure or its 969
modification and the sponsor's intent in proposing the tax 970
expenditure or its modification: 971

The purpose of this bill is to foster economic development 972
and increase tax collections for state and local governments. 973