

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 3

Senator Schuring

A BILL

To amend sections 107.036 and 5747.98 and to enact 1
section 122.97 of the Revised Code to create the 2
Ohio Community Revitalization Program, 3
authorizing nonrefundable income tax credits for 4
undertaking community projects. 5

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

Section 1. That sections 107.036 and 5747.98 be amended 6
and section 122.97 of the Revised Code be enacted to read as 7
follows: 8

Sec. 107.036. (A) For each business incentive tax credit, 9
the main operating appropriations act shall contain a detailed 10
estimate of the total amount of credits that may be authorized 11
in each year, an estimate of the amount of credits expected to 12
be claimed in each year, and an estimate of the amount of 13
credits expected to remain outstanding at the end of the 14
biennium. The governor shall include such estimates in the state 15
budget submitted to the general assembly pursuant to section 16
107.03 of the Revised Code. 17

(B) As used in this section, "business incentive tax 18
credit" means all of the following: 19

(1) The job creation tax credit under section 122.17 of the Revised Code;	20 21
(2) The job retention tax credit under section 122.171 of the Revised Code;	22 23
(3) The historic preservation tax credit under section 149.311 of the Revised Code;	24 25
(4) The motion picture and Broadway theatrical production tax credit under section 122.85 of the Revised Code;	26 27
(5) The new markets tax credit under section 5725.33 of the Revised Code;	28 29
(6) The research and development credit under section 166.21 of the Revised Code;	30 31
(7) The small business investment credit under section 122.86 of the Revised Code;	32 33
(8) The rural growth investment credit under section 122.152 of the Revised Code;	34 35
(9) The opportunity zone investment credit under section 122.84 of the Revised Code;	36 37
(10) The transformational mixed use development credit under section 122.09 of the Revised Code;	38 39
<u>(11) The community revitalization credit under section 122.97 of the Revised Code.</u>	40 41
<u>Sec. 122.97. (A) For purposes of this section:</u>	42
<u>(1) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.</u>	43 44 45

(2) "Economically disadvantaged community" means a low- 46
income community as defined in section 45D of the Internal 47
Revenue Code. 48

(3) "Taxpayer," "taxable year," and "Internal Revenue 49
Code" have the same meanings as in section 5747.01 of the 50
Revised Code. 51

(4) "Community revitalization project" and "project" mean 52
a community project designed to incentivize the revitalization 53
of the state's communities. This may include a complete project 54
or a distinct phase of a larger project. 55

(5) A project is located in a township only if it is 56
located in the unincorporated area of the township. 57

(B) There is hereby created the Ohio community 58
revitalization program. Under the program, a person undertaking 59
a community revitalization project may apply to the director of 60
development for the right to claim or transfer a nonrefundable 61
credit against the tax levied under section 5747.02 of the 62
Revised Code. 63

The application shall be made on forms prescribed by the 64
director. The director shall accept and review applications 65
submitted under this section during two periods in a fiscal 66
year, the first of which begins on the first day of July and 67
ends after the thirtieth day of September, and the second of 68
which begins on the first day of January and ends after the 69
thirty-first day of March. If any of those dates fall on a day 70
that is not a business day, then the application period begins 71
on or ends after the next business day, as applicable. 72

The person shall include the following information with 73
the person's application: 74

(1) A description of the proposed community revitalization project and project site, and whether the application is made on the basis of a distinct phase of a larger project; 75
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(2) Documentation demonstrating the availability of the proposed project site; 78
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(3) The applicant's construction and development cost estimates for the project, bearing certification from a person qualified to provide such assessments, such as an architect or engineer. Such estimates may include all the costs listed in division (D) (1) (a) of this section, but shall not include estimates of costs incurred or expected to be incurred before the applicant receives a credit allocation under division (C) (2) of this section. 80
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(4) Financial statements with estimates demonstrating the project's financial solvency, which may be demonstrated, in part, by assuming the receipt of a credit allocation under division (C) of this section; 88
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(5) Project renderings or images demonstrating the final outcome of the project through a visual depiction thereof. 92
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The application shall be accompanied by a five hundred dollar application fee and an ordinance or resolution expressing support for the project adopted by the legislative authority of the municipal corporation or board of trustees of the township in which the proposed project will be located. The application fee shall be credited to the tax incentives operating fund created under section 122.174 of the Revised Code. 94
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(C) (1) The director shall evaluate and rank each complete application timely submitted under division (B) of this section based on the following factors: 101
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(a) Project feasibility, such as by demonstrating an amount of financing secured or committed, existing end user agreements, and cost estimates from architects, engineers, and contractors; 104
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(b) Economic impact of the project with a preference towards projects in low-income or high-unemployment areas; 108
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(c) Social impact the project will have on the surrounding community such as by bringing assets to the community that are otherwise lacking, including critical infrastructure such as health or food access points; 110
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(d) Physical scope of the project with a preference for larger projects that will maximize the economic stimulus effect on a community by creating more construction jobs and providing a larger area of physical improvement. Physical scope may include rehabilitated historic buildings, with or without the tax credit authorized by section 149.311 of the Revised Code, and other buildings, building additions, and new construction that is part of the project scope identified in the application. 114
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(e) Alignment with state priorities, which may include the creation of low-income and middle-income housing, the purchase and revitalization of existing structures for mixed-use commercial and residential development, and the development of job-creating commercial or industrial facilities. 122
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(2) The director shall review applications under division (C) (2) of this section and issue credit allocations for approved projects, in accordance with the director's ranking and subject to the limitations in division (C) (3) of this section, not later than the thirty-first day of December for applications submitted during the first funding period and not later than the thirtieth 127
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day of June for applications submitted during the second funding 133
period in each fiscal year. If either of those dates fall on a 134
day that is not a business day, then the director must review 135
and rank applications and issue credit allocations not later 136
than the next business day. A project's credit allocation shall 137
equal the lesser of five million dollars or either fifteen per 138
cent of the amount of the applicant's estimated costs reported 139
under division (B) (3) of this section or twenty per cent of such 140
costs if the project is located in an economically disadvantaged 141
community. The director may award a credit allocation for each 142
distinct phase of a larger community revitalization project, and 143
the five-million-dollar limitation described in division (C) (2) 144
of this section applies to each phase of such a project. 145

The director shall notify an applicant, in writing, 146
whether or not the applicant's project has been awarded a credit 147
allocation under division (C) (2) of this section and, if 148
approved, the amount of the allocation and the date by which a 149
project must be completed, which shall be two years after the 150
date the notification is sent. An applicant whose application is 151
denied may file an application under division (B) of this 152
section for a subsequent funding period. 153

(3) The director shall not approve credit allocations in a 154
fiscal year in a total amount that exceeds one hundred million 155
dollars. 156

(D) (1) Subject to division (D) (2) of this section, within 157
fourteen days after completion of a community revitalization 158
project that has received a credit allocation under division (C) 159
of this section, the applicant for that allocation shall submit 160
an application to the director of development for a tax credit 161
certificate authorizing the applicant to claim a credit under 162

division (E) or transfer a credit under division (F) of this 163
section. The applicant shall include the following information 164
with this application: 165

(a) An itemized cost breakdown of the project with third- 166
party verification of all costs incurred. Only expenses incurred 167
by the applicant following receipt of the credit allocation 168
shall be included, including those costs for site acquisition; 169
architectural, design, planning, and engineering costs; local, 170
state, and federal tax and legal compliance consulting fees; 171
legal fees associated with project formation; and costs of 172
establishing connections to public utilities and infrastructure. 173

(b) Proof that the project is complete and of the date of 174
its completion, including visual proof of the completed project. 175

The application shall be accompanied by an ordinance or 176
resolution of support for the completed project adopted by the 177
legislative authority of the municipal corporation or board of 178
trustees of the township in which the completed project is 179
located. The ordinance or resolution shall not be the same 180
ordinance or resolution submitted under division (B) of this 181
section. 182

If the director determines that the project that is the 183
subject of the application has been completed, the director 184
shall issue, within sixty days after receipt of a complete 185
application, a tax credit certificate to the applicant that 186
shall include a unique number and list the amount of the tax 187
credit the applicant may claim or transfer, which shall equal 188
the lesser of the amount of the credit allocation or either 189
fifteen per cent or, if the project is located in an 190
economically disadvantaged community, twenty per cent of the 191
amount of costs reported under division (D) (1) (a) of this 192

section. 193

(2) No tax credit certificate may be issued under division 194
(D)(1) of this section on the basis of a project that is not 195
completed within two years after the applicant is sent notice of 196
a credit allocation under division (C) of this section. 197

(E) There is hereby allowed a nonrefundable credit against 198
a taxpayer's aggregate tax liability under section 5747.02 of 199
the Revised Code for a taxpayer that holds a tax credit 200
certificate issued under division (D) of this section or that 201
has been transferred the right to claim such a credit pursuant 202
to division (F) of this section. The credit shall equal the 203
credit amount authorized on the certificate. The credit shall be 204
claimed for the taxable year in which the certificate is issued 205
and in the order required under section 5747.98 of the Revised 206
Code. Any unused amount may be carried forward for the following 207
five taxable years. 208

If the certificate is issued to a pass-through entity for 209
an investment by the entity, any taxpayer that is a direct or 210
indirect investor in the pass-through entity may claim the 211
taxpayer's proportionate or distributive share of the credit 212
against the taxpayer's aggregate amount of tax levied under 213
section 5747.02 of the Revised Code. A person that is not a 214
taxpayer shall not claim the credit, but if the person is the 215
applicant to which the certificate is issued, the person may 216
transfer the right to claim the credit under division (F) of 217
this section. 218

A taxpayer claiming a credit under this section shall 219
submit a copy of the certificate with the taxpayer's return or 220
report. 221

(F) A person that holds a tax credit certificate issued 222
under division (D) of this section, on or before the last day of 223
the person's taxable year or, if the person is not a taxpayer, 224
on or before the last day of the calendar year in which the 225
certificate is issued, may transfer the right to claim all or 226
part of the credit to any other person. To effectuate the 227
transfer, the transferor must notify the tax commissioner, in 228
writing, that the transferor is transferring the right to claim 229
all or part of the credit stated on the certificate. The 230
transferor shall identify in that notification the certificate's 231
number, the name and the tax identification number of the 232
transferee, the amount of credit transferred to the transferee, 233
and, if applicable, the amount of credit retained by the 234
transferor. The transferee may claim the amount of credit 235
received under this division pursuant to and in the manner 236
required under division (E) of this section, except that the 237
credit must be claimed for the transferee's taxable year in 238
which the transfer is made. A transferee may not transfer the 239
right to claim the credit to any other person. 240

(G) The director of development shall adopt rules in 241
accordance with Chapter 119. of the Revised Code as are 242
necessary for the administration of this section, including 243
rules describing the manner by which the director shall weigh 244
the factors described in division (C)(1) of this section and a 245
detailed description of such factors. Notwithstanding any 246
provision of section 121.95 of the Revised Code to the contrary, 247
a regulatory restriction contained in a rule adopted under this 248
section is not subject to sections 121.95 to 121.953 of the 249
Revised Code. 250

Sec. 5747.98. (A) To provide a uniform procedure for 251
calculating a taxpayer's aggregate tax liability under section 252

5747.02 of the Revised Code, a taxpayer shall claim any credits	253
to which the taxpayer is entitled in the following order:	254
Either the retirement income credit under division (B) of	255
section 5747.055 of the Revised Code or the lump sum retirement	256
income credits under divisions (C), (D), and (E) of that	257
section;	258
Either the senior citizen credit under division (F) of	259
section 5747.055 of the Revised Code or the lump sum	260
distribution credit under division (G) of that section;	261
The dependent care credit under section 5747.054 of the	262
Revised Code;	263
The credit for displaced workers who pay for job training	264
under section 5747.27 of the Revised Code;	265
The campaign contribution credit under section 5747.29 of	266
the Revised Code;	267
The twenty-dollar personal exemption credit under section	268
5747.022 of the Revised Code;	269
The joint filing credit under division (G) of section	270
5747.05 of the Revised Code;	271
The earned income credit under section 5747.71 of the	272
Revised Code;	273
The nonrefundable credit for education expenses under	274
section 5747.72 of the Revised Code;	275
The nonrefundable credit for donations to scholarship	276
granting organizations under section 5747.73 of the Revised	277
Code;	278
The nonrefundable credit for tuition paid to a	279

nonchartered nonpublic school under section 5747.75 of the Revised Code;	280 281
The nonrefundable vocational job credit under section 5747.057 of the Revised Code;	282 283
The credit for adoption of a minor child under section 5747.37 of the Revised Code;	284 285
The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	286 287
The enterprise zone credit under section 5709.66 of the Revised Code;	288 289
The credit for beginning farmers who participate in a financial management program under division (B) of section 5747.77 of the Revised Code;	290 291 292
<u>The nonrefundable community revitalization credit under section 122.97 of the Revised Code;</u>	293 294
The credit for selling or renting agricultural assets to beginning farmers under division (A) of section 5747.77 of the Revised Code;	295 296 297
The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	298 299
The small business investment credit under section 5747.81 of the Revised Code;	300 301
The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	302 303
The opportunity zone investment credit under section 122.84 of the Revised Code;	304 305
The enterprise zone credits under section 5709.65 of the	306

Revised Code;	307
The research and development credit under section 5747.331	308
of the Revised Code;	309
The credit for rehabilitating a historic building under	310
section 5747.76 of the Revised Code;	311
The nonresident credit under division (A) of section	312
5747.05 of the Revised Code;	313
The credit for a resident's out-of-state income under	314
division (B) of section 5747.05 of the Revised Code;	315
The refundable motion picture and Broadway theatrical	316
production credit under section 5747.66 of the Revised Code;	317
The refundable jobs creation credit or job retention	318
credit under division (A) of section 5747.058 of the Revised	319
Code;	320
The refundable credit for taxes paid by a qualifying	321
entity granted under section 5747.059 of the Revised Code;	322
The refundable credits for taxes paid by a qualifying	323
pass-through entity granted under division (I) of section	324
5747.08 of the Revised Code;	325
The refundable credit under section 5747.80 of the Revised	326
Code for losses on loans made to the Ohio venture capital	327
program under sections 150.01 to 150.10 of the Revised Code;	328
The refundable credit for rehabilitating a historic	329
building under section 5747.76 of the Revised Code;	330
The refundable credit under section 5747.39 of the Revised	331
Code for taxes levied under section 5747.38 of the Revised Code	332
paid by an electing pass-through entity.	333

(B) For any credit, except the refundable credits 334
enumerated in this section and the credit granted under division 335
(H) of section 5747.08 of the Revised Code, the amount of the 336
credit for a taxable year shall not exceed the taxpayer's 337
aggregate amount of tax due under section 5747.02 of the Revised 338
Code, after allowing for any other credit that precedes it in 339
the order required under this section. Any excess amount of a 340
particular credit may be carried forward if authorized under the 341
section creating that credit. Nothing in this chapter shall be 342
construed to allow a taxpayer to claim, directly or indirectly, 343
a credit more than once for a taxable year. 344

Section 2. That existing sections 107.036 and 5747.98 of 345
the Revised Code are hereby repealed. 346

Section 3. The first application period as described in 347
division (B) of section 122.97 of the Revised Code, as enacted 348
by this act, shall be the first application period that begins 349
six months after the effective date of this section. 350

Section 4. Section 5747.98 of the Revised Code is 351
presented in this act as a composite of the section as amended 352
by H.B. 95, S.B. 166, and S.B. 246, all of the 134th General 353
Assembly. The General Assembly, applying the principle stated in 354
division (B) of section 1.52 of the Revised Code that amendments 355
are to be harmonized if reasonably capable of simultaneous 356
operation, finds that the composite is the resulting version of 357
the section in effect prior to the effective date of the section 358
as presented in this act. 359