

**As Reported by the House Economic and Workforce Development  
Committee**

**133rd General Assembly**

**Regular Session  
2019-2020**

**Sub. S. B. No. 39**

**Senator Schuring**

**Cosponsors: Senators Terhar, Antonio, Craig, Dolan, Eklund, Fedor, Gavarone,  
Hackett, Hoagland, Huffman, S., Kunze, Lehner, Maharath, Manning, O'Brien,  
Williams, Wilson, Yuko Representatives Zeltwanger, Sobecki, Holmes, A., Ingram,  
Lang, McClain, Miranda, Riedel**

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**A BILL**

To amend sections 107.036, 1311.87, 1311.88, 1  
1311.90, 5725.98, and 5729.98 and to enact 2  
sections 122.09, 5725.35, and 5729.18 of the 3  
Revised Code to authorize an insurance premiums 4  
tax credit for capital contributions to 5  
transformational mixed use development projects 6  
and to modify the law governing commercial real 7  
estate broker liens. 8

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

**Section 1.** That sections 107.036, 1311.87, 1311.88, 9  
1311.90, 5725.98, and 5729.98 be amended and sections 122.09, 10  
5725.35, and 5729.18 of the Revised Code be enacted to read as 11  
follows: 12

**Sec. 107.036.** (A) For each business incentive tax credit, 13  
the main operating appropriations act shall contain a detailed 14  
estimate of the total amount of credits that may be authorized 15

in each year, an estimate of the amount of credits expected to 16  
be claimed in each year, and an estimate of the amount of 17  
credits expected to remain outstanding at the end of the 18  
biennium. The governor shall include such estimates in the state 19  
budget submitted to the general assembly pursuant to section 20  
107.03 of the Revised Code. 21

(B) As used in this section, "business incentive tax 22  
credit" means all of the following: 23

(1) The job creation tax credit under section 122.17 of 24  
the Revised Code; 25

(2) The job retention tax credit under section 122.171 of 26  
the Revised Code; 27

(3) The historic preservation tax credit under section 28  
149.311 of the Revised Code; 29

(4) The motion picture and Broadway theatrical production 30  
tax credit under section 122.85 of the Revised Code; 31

(5) The new markets tax credit under section 5725.33 of 32  
the Revised Code; 33

(6) The research and development credit under section 34  
166.21 of the Revised Code; 35

(7) The small business investment credit under section 36  
122.86 of the Revised Code; 37

(8) The rural growth investment credit under section 38  
122.152 of the Revised Code; 39

(9) The opportunity zone investment credit under section 40  
122.84 of the Revised Code; 41

(10) The transformational mixed use development credit 42

under section 122.09 of the Revised Code. 43

**Sec. 122.09.** (A) As used in this section: 44

(1) "Development costs" means expenditures paid or 45  
incurred by the property owner in completing a certified 46  
transformational mixed use development project, including 47  
architectural or engineering fees paid or incurred in connection 48  
with the project and expenses incurred before the date the 49  
project is certified by the tax credit authority under division 50  
(C) of this section. In the case of a certified transformational 51  
mixed use development project that is part of a larger 52  
contiguous project that is planned to be completed in phases, 53  
"development costs" include only expenditures associated with 54  
the portion of the project that is certified by the tax credit 55  
authority and do not include expenditures incurred for other 56  
phases of the project. 57

(2) "Owner" means a person or persons holding a fee simple 58  
or leasehold interest in real property, including interests in 59  
real property acquired through a capital lease arrangement. 60  
"Owner" does not include the state or a state agency, or any 61  
political subdivision as defined in section 9.23 of the Revised 62  
Code. For the purpose of this division, "fee simple interest," 63  
"leasehold interest," and "capital lease" shall be construed in 64  
accordance with generally accepted accounting principles. 65

(3) "Transformational mixed use development" means a 66  
project that consists of new construction or the redevelopment, 67  
rehabilitation, expansion, or other improvement of vacant 68  
buildings or structures, or a combination of the foregoing, and 69  
that: 70

(a) Will have a transformational economic impact on the 71

<u>development site and the surrounding area;</u>	72
<u>(b) Integrates some combination of retail, office,</u>	73
<u>residential, recreation, structured parking, and other similar</u>	74
<u>uses into one mixed use development; and</u>	75
<u>(c) Satisfies one of the following criteria:</u>	76
<u>(i) If the development site is located within ten miles of</u>	77
<u>a major city, the project includes at least one new or</u>	78
<u>previously vacant building that is fifteen or more stories in</u>	79
<u>height or has a floor area of at least three hundred fifty</u>	80
<u>thousand square feet, or after completion will be the site of</u>	81
<u>employment accounting for at least four million dollars in</u>	82
<u>annual payroll, or includes two or more buildings that are</u>	83
<u>connected to each other, are located on the same parcel or on</u>	84
<u>contiguous parcels, and that collectively have a floor area of</u>	85
<u>at least three hundred fifty thousand square feet;</u>	86
<u>(ii) If the development site is not located within ten</u>	87
<u>miles of a major city, the project includes at least one new or</u>	88
<u>previously vacant building that is two or more stories in height</u>	89
<u>or has a floor area of at least seventy-five thousand square</u>	90
<u>feet or two or more new buildings that are located on the same</u>	91
<u>parcel or on contiguous parcels and that collectively have a</u>	92
<u>floor area of at least seventy-five thousand square feet.</u>	93
<u>"Transformational mixed use development" may include a</u>	94
<u>portion of a larger contiguous project that is planned to be</u>	95
<u>completed in phases as long as the phases collectively meet the</u>	96
<u>criteria described in division (A) (3) of this section.</u>	97
<u>(4) "Increase in tax collections" means the difference, if</u>	98
<u>positive, of the amount of state and local taxes derived from</u>	99
<u>economic activity occurring within the development site and the</u>	100

surrounding area during a period of time minus the amount of 101  
such taxes that are estimated to be derived from such economic 102  
activity in that site and surrounding area during the same 103  
period if the transformational mixed use project were not 104  
completed. 105

(5) "Completion period" means the time period beginning on 106  
the day after a transformational mixed use development is 107  
certified by the tax credit authority and ending on the fifth 108  
anniversary of the day the project is completed. 109

(6) "Insurance company" means a person subject to the tax 110  
imposed under section 5725.18 or 5729.03 of the Revised Code. 111

(7) "Contribute capital" means to invest, loan, or donate 112  
cash in exchange for an equity interest in an asset, a debt 113  
instrument, or no consideration. 114

(8) "Major city" means a municipal corporation that has a 115  
population greater than one hundred thousand. 116

(9) "Tax credit authority" means the tax credit authority 117  
created under section 122.17 of the Revised Code. 118

(10) "Adjusted development costs" means the development 119  
costs attributed to a complete transformational mixed use 120  
development project minus the sum of the capital contributions 121  
of any insurance companies that are preliminarily approved for a 122  
tax credit in connection with the same project. 123

(11) A "property owner's share" of the increase in tax 124  
collections equals the product obtained by multiplying the total 125  
increase in tax collections since the date the transformational 126  
mixed use development project was certified by a fraction, the 127  
numerator of which is the adjusted development costs and the 128  
denominator of which is the actual development costs attributed 129

to the project. 130

(12) An "insurance company's share" of the increase in tax 131  
collections equals the product obtained by multiplying the total 132  
increase in tax collections since the date the transformational 133  
mixed use development project was certified by a fraction, the 134  
numerator of which is the insurance company's capital 135  
contribution to the project and the denominator of which is the 136  
actual development costs attributed to the project. 137

(B) The owner of one or more parcels of land in this state 138  
within which a transformational mixed use development is planned 139  
or an insurance company that contributes capital to be used in 140  
the planning or construction of such a development may apply to 141  
the tax credit authority for certification of the development 142  
and preliminary approval of a tax credit. Each application shall 143  
be filed in the form and manner prescribed by the director of 144  
development services and shall, at minimum, include a 145  
development plan comprised of all of the following information: 146

(1) The location of the development site and an indication 147  
of whether it is located within ten miles of a major city; 148

(2) A detailed description of the proposed 149  
transformational mixed use development including site plans, 150  
construction drawings, architectural renderings, or other means 151  
sufficient to convey the appearance, size, purposes, capacity, 152  
and scope of the project and, if applicable, previously 153  
completed and future phases of the project; 154

(3) A viable financial plan that estimates the development 155  
costs that have been or will be incurred in the completion of 156  
the project and that designates a source of financing or a 157  
strategy for obtaining financing; 158

(4) An estimated schedule for the progression and completion of the project including, if applicable, previously completed and future phases of the project; 159  
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(5) An assessment of the projected economic impact of the project on the development site and the surrounding area; 162  
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(6) Evidence that the increase in tax collections during the completion period will exceed ten per cent of the estimated development costs reported under division (B) (3) of this section; 164  
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(7) If the applicant is an insurance company that is not the property owner, the amount of the insurance company's capital contribution to the development and the date on which it was or will be made; 168  
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(8) Evidence that the project will not be completed unless the applicant receives the credit. 172  
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(C) (1) In determining whether to certify a project that is the subject of an application submitted under division (B) of this section, the tax credit authority shall consider the potential impact of the transformational mixed use development on the development site and the surrounding area in terms of architecture, accessibility to pedestrians, retail entertainment and dining sales, job creation, property values, connectivity, and revenue from sales, income, lodging, and property taxes. The tax credit authority shall not certify a project unless it satisfies the following conditions: 174  
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(a) The project qualifies as a transformational mixed use development and satisfies all other criteria prescribed by this section or by rule of the director of development services; 184  
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(b) The estimated increase in tax collections during the 187

completion period exceeds ten per cent of the estimated 188  
development costs for the project reported under division (B) (3) 189  
of this section; 190

(c) The project will not be completed unless the applicant 191  
receives the credit; 192

(d) If the development site is located within ten miles of 193  
a major city, the estimated development costs to complete the 194  
project plus, if applicable, the estimated expenditures that 195  
have been or will be incurred to complete all other contiguous 196  
phases of the project, exceed fifty million dollars. 197

In making its determination of whether or not to approve 198  
an application, the tax credit authority may conduct an 199  
interview of the applicant. 200

(2) If the tax credit authority approves an application, 201  
the authority shall issue a statement certifying the associated 202  
transformational mixed use development project and preliminarily 203  
approving a tax credit. The statement shall stipulate that 204  
receipt of a tax credit certificate is contingent upon 205  
completion of the transformational mixed use development as 206  
described in the development plan. The statement shall specify 207  
the estimated amount of the tax credit, but state that the 208  
amount of the credit is dependent upon determination of the 209  
actual development costs attributed to the project and, unless 210  
the tax credit authority grants a request by the property owner 211  
under division (F) of this section, of the increase in tax 212  
collections during the completion period. 213

(3) Except as otherwise provided in this division, if the 214  
applicant is an insurance company that is not the property 215  
owner, the estimated amount of the tax credit shall equal ten 216



per cent of the insurance company's capital contribution to the 217  
project as reported in the development plan pursuant to division 218  
(B) (7) of this section. Except as otherwise provided in this 219  
division, if the applicant is the property owner, the estimated 220  
amount of the tax credit shall equal ten per cent of the 221  
estimated development costs for the project as reported in the 222  
development plan pursuant to division (B) (3) of this section 223  
minus any estimated credit amounts that have been preliminarily 224  
approved for insurance companies contributing capital to the 225  
project. The estimated credit amounts may be reduced by the tax 226  
credit authority as a condition of certifying the project if 227  
such a reduction is necessary to comply with the limitations on 228  
the amount of credits that may be preliminarily approved as 229  
prescribed by division (C) (5) of this section. The estimated 230  
credit amounts shall not be adjusted after the statement 231  
described in division (C) (2) of this section has been issued. 232

(4) If the tax credit authority denies an application, the 233  
authority shall notify the applicant of the reason or reasons 234  
for such determination. The authority's determination is final, 235  
but an applicant may revise and resubmit a previously denied 236  
application. 237

(5) (a) The tax credit authority shall not certify any 238  
transformational mixed use development projects after June 30, 239  
2023. 240

(b) The tax credit authority may not preliminarily approve 241  
more than one hundred million dollars of estimated tax credits 242  
in each of fiscal years 2020, 2021, 2022, and 2023. 243

(c) Not more than eighty million dollars of estimated tax 244  
credits in each such fiscal year may be preliminarily approved 245  
in connection with projects that are located within ten miles of 246

<u>a major city.</u>	247
<u>(d) Not more than forty million dollars of estimated tax</u>	248
<u>credits may be preliminarily approved in connection with the</u>	249
<u>same transformational mixed use development project.</u>	250
<u>(6) If the dollar amount of tax credits applied for under</u>	251
<u>division (B) of this section in connection with projects that</u>	252
<u>are located within ten miles of a major city exceeds eighty</u>	253
<u>million dollars for a fiscal year, the tax credit authority</u>	254
<u>shall rank those applications and certify the associated</u>	255
<u>projects in order, starting with the project that presents the</u>	256
<u>best combination of economic value and transformational impact.</u>	257
<u>If the dollar amount of tax credits applied for in connection</u>	258
<u>with projects not located within ten miles of a major city</u>	259
<u>exceeds twenty million dollars for a fiscal year, the tax credit</u>	260
<u>authority shall rank those applications and certify the</u>	261
<u>associated projects in order, starting with the project that</u>	262
<u>presents the best combination of economic value and</u>	263
<u>transformational impact. In either case, the authority shall</u>	264
<u>consider the following factors in ranking the applications:</u>	265
<u>(a) The projected increase in tax collections during the</u>	266
<u>completion period as a percentage of the total amount of</u>	267
<u>estimated tax credits that would be preliminarily approved in</u>	268
<u>connection with the project;</u>	269
<u>(b) The economic impact of the project on the development</u>	270
<u>site and the surrounding area and the impact of the project in</u>	271
<u>terms of architecture, accessibility to pedestrians, retail</u>	272
<u>entertainment and dining sales, job creation, property values,</u>	273
<u>and connectivity;</u>	274
<u>(c) The expeditiousness of the schedule for completing the</u>	275

project, realizing the increase in tax collections, and 276  
attaining the economic and other impacts on the development site 277  
and the surrounding area. 278

(D) Within twelve months of the date a project is 279  
certified, the property owner shall provide the tax credit 280  
authority with an updated schedule for the progression and 281  
completion of the project and documentation sufficient to 282  
demonstrate that construction of the project has begun. If the 283  
property owner does not provide the schedule and documentation 284  
or if construction of the project has not begun within the time 285  
prescribed by this division, the tax credit authority shall 286  
rescind certification of the project and send notice of the 287  
rescission to the property owner and each insurance company that 288  
is preliminarily approved for a tax credit in connection with 289  
the project. A property owner that receives notice of rescission 290  
may submit a new application concerning the same project under 291  
division (B) of this section. 292

(E) An applicant that is the property owner and is 293  
preliminarily approved for a tax credit under this section may 294  
sell or transfer the rights to that credit to one or more 295  
persons for the purpose of raising capital for the certified 296  
project. The applicant shall notify the tax credit authority 297  
upon selling or transferring the rights to the credit. The 298  
notice shall identify the person or persons to which the credit 299  
was sold or transferred and the credit amount sold or 300  
transferred to each such person. Only an applicant that owns the 301  
property may sell or transfer a credit under this division. A 302  
credit may be divided among multiple purchasers through more 303  
than one transaction but once a particular credit amount is 304  
acquired by a person other than the applicant it may not be sold 305  
or transferred again. 306

(F) After a transformational mixed use development project 307  
is certified and before it is completed, the property owner may 308  
request that the value of the tax credit certificates awarded in 309  
connection with the project be computed using the alternative 310  
method described in division (I) of this section. The tax credit 311  
authority shall grant the request if the authority determines, 312  
and a third party engaged by the authority at the expense of the 313  
property owner affirms, that it is reasonably certain that the 314  
increase in tax collections will exceed ten per cent of the 315  
estimated development costs within one year after the project is 316  
completed. Otherwise, the authority shall deny the request and 317  
the amount of each credit awarded in connection with the project 318  
shall be computed under division (H) of this section. The 319  
authority's determination under this division shall be delivered 320  
in writing and is final and not appealable. 321

(G) (1) The property owner shall notify the tax credit 322  
authority upon completion of a certified transformational mixed 323  
use development project. The notification shall include a report 324  
prepared by a third-party certified public accountant that 325  
contains a detailed accounting of the actual development costs 326  
attributed to the project. 327

(2) Upon receiving such a notice, unless the tax credit 328  
authority has previously granted a request by the property owner 329  
under division (F) of this section, the authority shall 330  
determine the increase in tax collections since the date the 331  
project was certified by consulting with the tax commissioner 332  
and with the tax administrator of any municipal corporation that 333  
levies an income tax within the project site and the surrounding 334  
area. The tax commissioner and the tax administrators that are 335  
consulted pursuant to this division shall provide the tax credit 336  
authority with any information that is necessary to determine 337

the increase in tax collections. 338

(3) After determining the increase in tax collections 339  
under division (G) (2) of this section, if required, and 340  
computing the value of the tax credit under division (H) or (I) 341  
of this section, as applicable, the tax credit authority shall 342  
issue a tax credit certificate to each applicant that is 343  
preliminarily approved for a credit associated with the project 344  
or to the person or persons to which such an applicant sold or 345  
transferred the rights to the credit under division (E) of this 346  
section. If the amount of the tax credit awarded to the property 347  
owner is less than the credit amount estimated under division 348  
(C) of this section and the property owner sold or transferred 349  
the rights to the credit, the tax credit authority shall reduce 350  
the amount of each tax credit certificate issued to each 351  
purchaser or recipient on a pro rata basis unless the property 352  
owner requests an alternative allocation of the credit. 353

(H) (1) Unless the tax credit authority granted a request 354  
by the property owner under division (F) of this section, the 355  
aggregate value of the tax credit certificates issued under 356  
division (G) of this section to the property owner and to any 357  
persons to whom the property owner sold or transferred the 358  
rights to the credit shall equal the lesser of the following: 359

(a) Ten per cent of the adjusted development costs; 360

(b) Five per cent of the adjusted development costs plus 361  
any amount by which the property owner's share of the increase 362  
in tax collections since the date the project was certified 363  
exceeds five per cent of the adjusted development costs; 364

(c) The estimated credit amount specified in the tax 365  
credit authority's statement certifying the project and 366

preliminarily approving the tax credit under division (C) of 367  
this section. 368

(2) The value of a tax credit certificate issued under 369  
division (G) of this section to an insurance company that 370  
contributed capital to the project shall equal the lesser of the 371  
following: 372

(a) Ten per cent of the insurance company's actual capital 373  
contribution; 374

(b) Five per cent of such capital contribution plus any 375  
amount by which the insurance company's share of the increase in 376  
tax collections since the date the project was certified exceeds 377  
five per cent of the insurance company's capital contribution; 378

(c) The estimated credit amount specified in the tax 379  
credit authority's statement certifying the project and 380  
preliminarily approving the tax credit under division (C) of 381  
this section. 382

(I) If the tax credit authority granted a request by the 383  
property owner under division (F) of this section, the value of 384  
the tax credit certificates issued in connection with the 385  
transformational mixed use development project shall be computed 386  
as follows: 387

(1) For the property owner or any person to which the 388  
property owner sold or transferred the rights to the credit, ten 389  
per cent of the actual development costs attributed to the 390  
project. If the amount of the credit is less than the credit 391  
amount estimated under division (C) of this section and the 392  
property owner sold or transferred the rights to the credit to 393  
more than one person, the authority shall reduce the amount of 394  
each tax credit certificate on a pro rata basis unless the 395

property owner requests an alternative allocation of the credit. 396

(2) For an insurance company that contributed capital to 397  
the project, ten per cent of the insurance company's actual 398  
capital contribution. 399

(J) If the value of a tax credit certificate was computed 400  
under division (H) of this section for a project, the property 401  
owner, on or before the thirtieth day following the first, 402  
second, third, fourth, and fifth anniversaries of the date the 403  
certified transformational mixed use development project is 404  
completed, may request in writing that the tax credit authority 405  
update the increase in tax collections during the completion 406  
period. Upon receiving such a request, the tax credit authority 407  
shall update the increase in tax collections in the same manner 408  
described by division (G) of this section. If the tax credit 409  
authority determines that the value of the tax credit 410  
certificates computed under division (H) of this section would 411  
be greater if computed based on the updated increase in tax 412  
collections, the authority shall issue an additional tax credit 413  
certificate to each person that previously received a 414  
certificate for the project under those divisions. The value of 415  
each additional tax credit certificate shall equal the amount by 416  
which the tax credit certificate computed under division (H) of 417  
this section upon completion of the project would have been 418  
greater had the value of such certificate been computed based on 419  
the updated increase in tax collections, less the value of any 420  
additional tax credit certificates previously issued under this 421  
division to the same person respecting the same project. 422

(K) The aggregate value of all tax credit certificates 423  
issued under this section for the same transformational mixed 424  
use development project shall not exceed (1) ten per cent of the 425

actual development costs of that project or (2) the sum of all 426  
estimated credit amounts preliminarily approved by the tax 427  
credit authority in connection with the project. 428

(L) Issuance of a tax credit certificate under this 429  
section does not represent a verification or certification by 430  
the tax credit authority of the actual development costs of the 431  
project or the capital contributions to the project by an 432  
insurance company. Such amounts are subject to inspection and 433  
examination by the superintendent of insurance. 434

(M) Upon the issuance of a tax credit certificate under 435  
division (G) or (J) of this section, the tax credit authority 436  
shall certify to the superintendent of insurance (1) the name of 437  
each person that was issued a tax credit certificate, (2) 438  
whether the person is the property owner, an insurance company 439  
that contributed capital to the development, or a person that 440  
acquired the rights to the tax credit certificate from the 441  
property owner, (3) the credit amount shown on each tax credit 442  
certificate, and (4) any other information required by the rules 443  
adopted under this section. A person that holds the rights to a 444  
tax credit certificate issued under this section and that is an 445  
insurance company may claim a tax credit under section 5725.35 446  
or 5729.18 of the Revised Code. 447

(N) The tax credit authority shall publish information 448  
about each transformational mixed use development on the web 449  
site of the development services agency not later than the first 450  
day of August following certification of the project. The tax 451  
credit authority shall update the published information annually 452  
until the project is complete and the credit or credits are 453  
fully claimed. The published information shall include all of 454  
the following: 455



<u>(1) The location of the transformational mixed use</u>	456
<u>development and the name by which it is known;</u>	457
<u>(2) The estimated schedule for progression and completion</u>	458
<u>of the project included in the development plan pursuant to</u>	459
<u>division (B) (4) of this section;</u>	460
<u>(3) The assessment of the projected economic impact of the</u>	461
<u>project included in the development plan pursuant to division</u>	462
<u>(B) (5) of this section;</u>	463
<u>(4) The evidence supporting the estimated increase in tax</u>	464
<u>collections included in the development plan pursuant to</u>	465
<u>division (B) (6) of this section, except that the tax credit</u>	466
<u>authority may omit any proprietary or sensitive information</u>	467
<u>included in such evidence;</u>	468
<u>(5) The estimated development costs that have been or will</u>	469
<u>be incurred in completion of the project and, if applicable, the</u>	470
<u>amount of the insurance company's capital contribution to the</u>	471
<u>development and the date on which it was made, as reported in</u>	472
<u>the development plan pursuant to divisions (B) (3) and (7) of</u>	473
<u>this section;</u>	474
<u>(6) A copy of each report submitted to the tax credit</u>	475
<u>authority by the applicant under division (D) of this section.</u>	476
<u>(0) The director, in accordance with Chapter 119. of the</u>	477
<u>Revised Code, shall adopt rules that establish all of the</u>	478
<u>following:</u>	479
<u>(1) Forms and procedures by which applicants may apply for</u>	480
<u>a transformational investment tax credit, and any deadlines for</u>	481
<u>applying;</u>	482
<u>(2) Criteria and procedures for reviewing, evaluating,</u>	483

ranking, and approving applications within the limitations 484  
prescribed by this section, including rules prescribing the 485  
timing and frequency by which the tax credit authority must rank 486  
applications and preliminarily approve tax credits under 487  
division (C) of this section; 488

(3) Eligibility requirements for obtaining a tax credit 489  
certificate under this section; 490

(4) The form of the tax credit certificate; 491

(5) Reporting requirements and monitoring procedures; 492

(6) Procedures for computing the increase in tax 493  
collections within the project site and the surrounding area; 494

(7) Forms and procedures by which property owners may 495  
request the alternative method of computing the value of tax 496  
credit certificates under division (I) of this section that are 497  
awarded in connection with a project and criteria for evaluating 498  
and making a determination on such requests; 499

(8) Any other rules necessary to implement and administer 500  
this section. 501

**Sec. 1311.87.** (A) (1) A lien established pursuant to 502  
section 1311.86 of the Revised Code is perfected when both of 503  
the following have occurred: 504

(a) The broker is entitled to a fee or commission under 505  
the contract. 506

(b) The broker has met the requirements of division (B) of 507  
this section. 508

(2) The lien is perfected as of the date the requirements 509  
of division (A) (1) of this section are met and does not relate 510

back to an earlier date. 511

(B) To perfect a lien pursuant to division (A) (1) of this 512  
section, a broker shall comply with all of the following: 513

(1) The broker shall record a lien affidavit in the county 514  
recorder's office of the county in which the real estate is 515  
located. The recorder shall record on the affidavit the date and 516  
precise time the affidavit was presented for record, and shall 517  
record the affidavit. The recorder shall charge and collect the 518  
fees set forth in section 317.32 of the Revised Code for the 519  
recorder's services. 520

(2) (a) The lien affidavit shall include the name of the 521  
broker who has the lien, the name of the owner of the lien 522  
property, a legal description of the lien property, the amount 523  
for which the lien is claimed, the date and a summary of the 524  
written contract on which the lien is based, and the real estate 525  
license number of the broker. The lien affidavit shall state 526  
that the information contained in the affidavit is true and 527  
accurate to the knowledge of the signator, be signed by the 528  
broker or the broker's agent, and be verified. 529

(b) For purposes of division (B) (2) (a) of this section, a 530  
description that is sufficient to describe the lien property for 531  
the purpose of conveyance, or is contained in the instrument by 532  
which the owner took title, is a legal description. 533

(3) A lien affidavit based on the sale of lien property 534  
shall be recorded prior to the conveyance of the lien property. 535

(4) A lien affidavit based on the purchase of lien 536  
property shall be recorded within ninety days after the 537  
conveyance of the lien property. 538

(5) A lien affidavit based on a lease of lien property 539

shall be recorded within ninety days after a default by the 540  
owner in the payment of an amount due under a written contract 541  
for services related to leasing the lien property. 542

(6) ~~On the day the~~ Within three days of the recording of 543  
the lien affidavit is recorded, the broker shall provide a copy 544  
of the lien affidavit to the owner of the lien property and, 545  
where a contract for the sale or other conveyance of the lien 546  
property has been entered into, to the prospective transferee, 547  
where known, ~~either~~ by personal delivery or by certified mail, 548  
~~return receipt requested~~ commercial carrier service, or any other 549  
method that includes written evidence of receipt. 550

(C) Initial leases, lease renewals, and expansions of the 551  
space leased shall be treated as separate leases for purposes of 552  
division (B) (5) of this section. 553

**Sec. 1311.88.** (A) To commence proceedings to enforce a 554  
lien, a broker shall comply with all of the following: 555

(1) The broker shall file a complaint in the common pleas 556  
court in the county where the lien property is located. 557

(2) (a) The complaint shall be filed within two years 558  
following the recording of the lien affidavit as provided in 559  
division (B) of section 1311.87 of the Revised Code. 560

(b) Failure to file a complaint within the time specified 561  
in this division extinguishes the lien, in which case no 562  
subsequent lien affidavit may be recorded for the same claim and 563  
the claim may not be asserted in any proceeding under this 564  
section. 565

(3) A complaint shall identify the contract upon which the 566  
lien is based and the date of the contract, describe the 567  
services performed by the broker pursuant to the contract, 568

specify the unpaid amounts due to the broker pursuant to the 569  
contract, specify the address of the lien property, and have a 570  
copy of the contract attached. 571

(4) The broker shall name as defendants in the complaint 572  
all parties that have a legal or equitable interest in the lien 573  
property of whom the broker has knowledge. 574

(B) (1) The owner may demand that the broker commence a 575  
suit to enforce a broker's lien by serving a written notice of 576  
demand on the broker by personal delivery or by certified mail, 577  
~~return receipt requested commercial carrier service, or any other~~ 578  
method that includes written evidence of receipt. 579

(2) If the broker does not commence the suit ~~or file the~~ 580  
~~answer demanded~~ within twenty-eight days after receipt of the 581  
notice of demand, the lien is extinguished. 582

(C) In an action based on a broker's lien, a court ~~may~~ 583  
shall assess the nonprevailing parties with all costs and 584  
reasonable attorney's fees incurred by the prevailing parties. 585  
If the broker prevails, the assessed costs and attorney's fees 586  
shall include all those incurred by the broker to perfect and 587  
enforce the broker lien including any litigation costs and any 588  
prejudgment interest due. The court shall equitably apportion 589  
the assessed costs ~~and, attorney's fees, and prejudgment~~ 590  
interest among all responsible nonprevailing parties. 591

**Sec. 1311.90.** (A) A broker shall record a written release 592  
or satisfaction of the broker's lien in the county recorder's 593  
office of the county in which the lien was recorded within ten 594  
days after any of the following: 595

(1) Moneys in an amount sufficient to release the broker's 596  
lien established pursuant to section 1311.86 of the Revised Code 597

have been deposited in an escrow account established pursuant to 598  
section 1311.92 of the Revised Code. 599

(2) The owner satisfies the claim upon which the broker's 600  
lien is based. 601

(3) The broker fails to file a claim to enforce a lien 602  
within the time specified in section 1311.88 of the Revised 603  
Code. 604

(4) The claim upon which the broker's lien is based has 605  
been resolved by a written agreement of the broker and owner, by 606  
a court, or by any process agreed to by the broker and owner. 607

(B) ~~On the day~~ Within three days of the recording of the 608  
release or satisfaction is recorded, the broker shall provide 609  
the owner with a copy of the release or satisfaction by personal 610  
delivery or by certified mail, ~~return receipt requested~~ 611  
commercial carrier service, or any other method that includes 612  
written evidence of receipt. 613

Sec. 5725.35. There is allowed a credit against the tax 614  
imposed by section 5725.18 of the Revised Code for an insurance 615  
company subject to that tax that holds the rights to a tax 616  
credit certificate issued under section 122.09 of the Revised 617  
Code. The credit shall equal the dollar amount indicated on the 618  
certificate. The credit shall be claimed in the calendar year 619  
specified in the certificate and in the order required under 620  
section 5725.98 of the Revised Code. If the credit exceeds the 621  
amount of tax otherwise due in that year, the company may carry 622  
forward the excess for not more than five ensuing years, but the 623  
amount of the excess credit claimed against the tax for any year 624  
shall be deducted from the balance carried forward to the next 625  
year. 626

**Sec. 5725.98.** (A) To provide a uniform procedure for 627  
calculating the amount of tax imposed by section 5725.18 of the 628  
Revised Code that is due under this chapter, a taxpayer shall 629  
claim any credits and offsets against tax liability to which it 630  
is entitled in the following order: 631

(1) The credit for an insurance company or insurance 632  
company group under section 5729.031 of the Revised Code; 633

(2) The credit for eligible employee training costs under 634  
section 5725.31 of the Revised Code; 635

(3) The credit for purchasers of qualified low-income 636  
community investments under section 5725.33 of the Revised Code; 637

(4) The nonrefundable job retention credit under division 638  
(B) of section 122.171 of the Revised Code; 639

(5) The nonrefundable credit for investments in rural 640  
business growth funds under section 122.152 of the Revised Code; 641

(6) The nonrefundable credit for contributing capital to a 642  
transformational mixed use development project under section 643  
5725.35 of the Revised Code; 644

(7) The offset of assessments by the Ohio life and health 645  
insurance guaranty association permitted by section 3956.20 of 646  
the Revised Code; 647

~~(7)~~ (8) The refundable credit for rehabilitating a 648  
historic building under section 5725.34 of the Revised Code; 649

~~(8)~~ (9) The refundable credit for Ohio job retention under 650  
former division (B) (2) or (3) of section 122.171 of the Revised 651  
Code as those divisions existed before September 29, 2015, the 652  
effective date of the amendment of this section by H.B. 64 of 653  
the 131st general assembly; 654

~~(9)~~~~(10)~~ The refundable credit for Ohio job creation under 655  
section 5725.32 of the Revised Code; 656

~~(10)~~~~(11)~~ The refundable credit under section 5725.19 of 657  
the Revised Code for losses on loans made under the Ohio venture 658  
capital program under sections 150.01 to 150.10 of the Revised 659  
Code. 660

(B) For any credit except the refundable credits 661  
enumerated in this section, the amount of the credit for a 662  
taxable year shall not exceed the tax due after allowing for any 663  
other credit that precedes it in the order required under this 664  
section. Any excess amount of a particular credit may be carried 665  
forward if authorized under the section creating that credit. 666  
Nothing in this chapter shall be construed to allow a taxpayer 667  
to claim, directly or indirectly, a credit more than once for a 668  
taxable year. 669

**Sec. 5729.18.** There is allowed a credit against the tax 670  
imposed by section 5729.03 of the Revised Code for an insurance 671  
company subject to that tax that holds the rights to a tax 672  
credit certificate issued under section 122.09 of the Revised 673  
Code. The credit shall equal the dollar amount indicated on the 674  
certificate. The credit shall be claimed in the calendar year 675  
specified in the certificate and in the order required under 676  
section 5729.98 of the Revised Code. If the credit exceeds the 677  
amount of tax otherwise due in that year, the company may carry 678  
forward the excess for not more than five ensuing years, but the 679  
amount of the excess credit claimed against the tax for any year 680  
shall be deducted from the balance carried forward to the next 681  
year. 682

**Sec. 5729.98.** (A) To provide a uniform procedure for 683  
calculating the amount of tax due under this chapter, a taxpayer 684



shall claim any credits and offsets against tax liability to	685
which it is entitled in the following order:	686
(1) The credit for an insurance company or insurance	687
company group under section 5729.031 of the Revised Code;	688
(2) The credit for eligible employee training costs under	689
section 5729.07 of the Revised Code;	690
(3) The credit for purchases of qualified low-income	691
community investments under section 5729.16 of the Revised Code;	692
(4) The nonrefundable job retention credit under division	693
(B) of section 122.171 of the Revised Code;	694
(5) The nonrefundable credit for investments in rural	695
business growth funds under section 122.152 of the Revised Code;	696
(6) <u>The nonrefundable credit for contributing capital to a</u>	697
<u>transformational mixed use development project under section</u>	698
<u>5729.18 of the Revised Code;</u>	699
<u>(7)</u> The offset of assessments by the Ohio life and health	700
insurance guaranty association against tax liability permitted	701
by section 3956.20 of the Revised Code;	702
<del>(7)</del> <u>(8)</u> The refundable credit for rehabilitating a	703
historic building under section 5729.17 of the Revised Code;	704
<del>(8)</del> <u>(9)</u> The refundable credit for Ohio job retention under	705
former division (B) (2) or (3) of section 122.171 of the Revised	706
Code as those divisions existed before September 29, 2015, the	707
effective date of the amendment of this section by H.B. 64 of	708
the 131st general assembly;	709
<del>(9)</del> <u>(10)</u> The refundable credit for Ohio job creation under	710
section 5729.032 of the Revised Code;	711

~~(10)~~-(11) The refundable credit under section 5729.08 of 712  
the Revised Code for losses on loans made under the Ohio venture 713  
capital program under sections 150.01 to 150.10 of the Revised 714  
Code. 715

(B) For any credit except the refundable credits 716  
enumerated in this section, the amount of the credit for a 717  
taxable year shall not exceed the tax due after allowing for any 718  
other credit that precedes it in the order required under this 719  
section. Any excess amount of a particular credit may be carried 720  
forward if authorized under the section creating that credit. 721  
Nothing in this chapter shall be construed to allow a taxpayer 722  
to claim, directly or indirectly, a credit more than once for a 723  
taxable year. 724

**Section 2.** That existing sections 107.036, 1311.87, 725  
1311.88, 1311.90, 5725.98, and 5729.98 of the Revised Code are 726  
hereby repealed. 727

**Section 3.** The rules required to be adopted under division 728  
(O) of section 122.09 of the Revised Code, as enacted by this 729  
act, shall be adopted not later than one hundred twenty days 730  
after the effective date of this act, notwithstanding any 731  
provision to the contrary under Chapter 119. of the Revised 732  
Code. Applications for certification of a development and 733  
preliminary approval of a tax credit shall first be accepted by 734  
the Tax Credit Authority not later than thirty days after the 735  
adoption of the rules, and the Authority shall begin to approve 736  
complete and properly filed applications not later than forty- 737  
five days after applications are first accepted by the Tax 738  
Credit Authority. 739

**Section 4.** Pursuant to division (G) of section 5703.95 of 740  
the Revised Code, which states that any bill introduced in the 741

House of Representatives or the Senate that proposes to enact or 742  
modify one or more tax expenditures should include a statement 743  
explaining the objectives of the tax expenditure or its 744  
modification and the sponsor's intent in proposing the tax 745  
expenditure or its modification: 746

The purpose of the amendment or enactment by this bill of 747  
sections 107.036, 122.09, 5725.35, 5725.98, 5729.18, and 5729.98 748  
of the Revised Code is to foster economic development and 749  
increase tax collections for state and local governments. 750