

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**S. B. No. 344**

**Senator Schuring**

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**A BILL**

To amend sections 107.036 and 5747.98 and to enact 1  
section 122.91 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 122.91 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 122.91 of the Revised Code.</u>	40 41
<b><u>Sec. 122.91. (A) For purposes of this section:</u></b>	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. 246

**Sec. 5747.98.** (A) To provide a uniform procedure for 247  
calculating a taxpayer's aggregate tax liability under section 248  
5747.02 of the Revised Code, a taxpayer shall claim any credits 249  
to which the taxpayer is entitled in the following order: 250

Either the retirement income credit under division (B) of 251

section 5747.055 of the Revised Code or the lump sum retirement	252
income credits under divisions (C), (D), and (E) of that	253
section;	254
Either the senior citizen credit under division (F) of	255
section 5747.055 of the Revised Code or the lump sum	256
distribution credit under division (G) of that section;	257
The dependent care credit under section 5747.054 of the	258
Revised Code;	259
The credit for displaced workers who pay for job training	260
under section 5747.27 of the Revised Code;	261
The campaign contribution credit under section 5747.29 of	262
the Revised Code;	263
The twenty-dollar personal exemption credit under section	264
5747.022 of the Revised Code;	265
The joint filing credit under division (G) of section	266
5747.05 of the Revised Code;	267
The earned income credit under section 5747.71 of the	268
Revised Code;	269
The nonrefundable credit for education expenses under	270
section 5747.72 of the Revised Code;	271
The nonrefundable credit for donations to scholarship	272
granting organizations under section 5747.73 of the Revised	273
Code;	274
The nonrefundable credit for tuition paid to a	275
nonchartered nonpublic school under section 5747.75 of the	276
Revised Code;	277
The nonrefundable vocational job credit under section	278

5747.057 of the Revised Code;	279
The credit for adoption of a minor child under section	280
5747.37 of the Revised Code;	281
The nonrefundable job retention credit under division (B)	282
of section 5747.058 of the Revised Code;	283
The enterprise zone credit under section 5709.66 of the	284
Revised Code;	285
The credit for beginning farmers who participate in a	286
financial management program under division (B) of section	287
5747.77 of the Revised Code;	288
<u>The nonrefundable community revitalization credit under</u>	289
<u>section 122.91 of the Revised Code;</u>	290
The credit for selling or renting agricultural assets to	291
beginning farmers under division (A) of section 5747.77 of the	292
Revised Code;	293
The credit for purchases of qualifying grape production	294
property under section 5747.28 of the Revised Code;	295
The small business investment credit under section 5747.81	296
of the Revised Code;	297
The nonrefundable lead abatement credit under section	298
5747.26 of the Revised Code;	299
The opportunity zone investment credit under section	300
122.84 of the Revised Code;	301
The enterprise zone credits under section 5709.65 of the	302
Revised Code;	303
The research and development credit under section 5747.331	304
of the Revised Code;	305

The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	306 307
The nonresident credit under division (A) of section 5747.05 of the Revised Code;	308 309
The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	310 311
The refundable motion picture and Broadway theatrical production credit under section 5747.66 of the Revised Code;	312 313
The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	314 315 316
The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	317 318
The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	319 320 321
The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	322 323 324
The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code.	325 326
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (H) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the taxpayer's aggregate amount of tax due under section 5747.02 of the Revised Code, after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a	327 328 329 330 331 332 333

particular credit may be carried forward if authorized under the 334  
section creating that credit. Nothing in this chapter shall be 335  
construed to allow a taxpayer to claim, directly or indirectly, 336  
a credit more than once for a taxable year. 337

**Section 2.** That existing sections 107.036 and 5747.98 of 338  
the Revised Code are hereby repealed. 339

**Section 3.** The first application period as described in 340  
division (B) of section 122.91 of the Revised Code, as enacted 341  
by this act, shall be the first application period that begins 342  
six months after the effective date of this section. 343