House of Representatives

General Assembly

File No. 699

January Session, 2001

Substitute House Bill No. 5126

House of Representatives, May 9, 2001

The Committee on Appropriations reported through REP. DYSON of the 94th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE URBAN SITES REINVESTMENT PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 32-9t of the general statutes is amended by adding subsections (t), (u) and (v) as follows:

(NEW) (t) (1) There is established a fund to be known as the "Urban Sites Remediation Revolving Fund". The fund shall contain any moneys required by law to be deposited in the fund and shall be held in trust separate and apart from all other moneys, funds and accounts. Any of the original amount deposited but not committed and remaining in said fund on June 30, 2002, shall lapse and be deposited in the General Fund. Said fund shall be used to purchase any available installment for tax credits for an eligible urban reinvestment project or eligible industrial site investment project that is unclaimed by April thirtieth of the year the tax credit becomes available at fifty per cent of value. The taxpayer may sell the tax credits to any other person to insure investments in an eligible industrial site investment project or an urban reinvestment project. The funds may be used for administrative expenses incurred in implementing the provisions of this subsection and subsections (u) and (v) of this section.

(2) The commissioner, upon determination that such action benefits an eligible industrial site investment project or an urban reinvestment project, may enter into an agreement with the taxpayer entitled to the tax credits under subsection (i) of this section to provide a loan to purchase all or some of the tax credits under subsection (i) of this section, based upon an amount that equals fifty per cent of the value of any tax credit that has not otherwise become available when the project initially qualified as an eligible industrial site investment project or an urban reinvestment project or at any time that the project so qualified.

(3) The commissioner may for the benefit and with the consent of the taxpayer for an eligible industrial site investment project or an urban reinvestment project enter into an agreement to (A) pledge the full faith and credit of the state to insure the principal of any mortgage that benefits such project will be repaid when due, and (B) enter into a repurchase agreement or take a security interest in the real estate, proceeds of any sale or tax credit subordinate to any recapture provision.

(4) Any taxpayer for an eligible industrial site investment project or an urban reinvestment project may sell, at any time, any tax credit authorized under this section either to the commissioner, or to another taxpayer, for any price, provided if the taxpayer sells the tax credit to another taxpayer, unless otherwise forgiven by the commissioner, the taxpayer shall repay the loan by April fifteenth of the year following the year the tax credit becomes available or repaid on such terms and conditions approved by the commissioner. To assure that the mortgage payments insured by the commissioner have priority, payment shall be

made by transmitting to the commissioner that portion of the selling price that equals fifty per cent of said value. Such payment shall be deposited in the fund established pursuant to subdivision (1) of this subsection. The commissioner shall deposit the proceeds from all sales of tax credits under this section in such fund and use said proceeds for making additional tax credit purchases or as mortgage insurance under this section.

(NEW) (u) The commissioner, with moneys available in the fund established under subsection (t) of this section, may establish a reserve to cover any contract of insurance under which the state pledges the full faith and credit of the state in the principal amount of any investment made to a fund manager or any mortgage of an eligible industrial site investment project or an urban reinvestment project. The commissioner may negotiate terms and conditions with the taxpayer of an eligible urban investment project or eligible industrial site investment and mortgage provider for insurance on the mortgage, including, but not limited to, terms and conditions establishing when a default can not be cured and when the mortgage holder may elect to transfer the mortgage or property to the commissioner in order to receive insurance payment of the principal and conditions for approval of any security interest in the real property for which any such insured investment is made. Thirty per cent of such security interests shall be subordinate to the tax credit recapture provisions of this section unless the commissioner waives said recapture provisions for the purpose of protecting such security interests.

(NEW) (v) Any taxpayer required to pay taxes for an eligible industrial site investment project or an urban reinvestment project may elect not to recognize income until state control over the project and right to recapture has concluded.

Sec. 2. This act shall take effect July 1, 2001.

Statement of Legislative Commissioners:
In Subdiv. (2) of Subsec. (t), "an amount that equals" was inserted after "based upon" and in Subsec. (u) "under which the state pledges" replaced "make to pledge of" for clarity.

CE	*Joint Favorable C/R*	APP
APP	*Joint Favorable Subst.*	

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:	Potential Significant Cost and Potential Significant Revenue Loss
Affected Agencies:	Departments of Economic and Community Development and Revenue Services
Municipal Impact:	None

Explanation

State Impact:

The bill establishes an Urban Sites Revolving Remediation Fund to be used to purchase any available installment for tax credits for an eligible industrial site investment project or eligible urban reinvestment project under the urban and industrial sites reinvestment program (UISRP). The bill does not capitalize the fund. It is unclear how the legislation can be implemented without a funding mechanism. Since the UISRP allows business taxpayers to claim up to $100 million in tax credits equal to the amount they invest in projects, the cost associated with the purchase of tax credits is indeterminate but could be significant. In addition, costs associated with loans to purchase the credits could also be significant.

Provisions of the bill allowing the Commissioner of the Department of Economic and Community Development (DECD) to enter into an agreement to pledge the full faith and credit of the state to insure the principal of any mortgage that benefits the project will be repaid when due, will result in an open-ended fiscal commitment by the state. The effect of this provision on the states credit rating is indeterminate.

The provision in the bill allowing a taxpayer to not recognize income if he pays taxes on an eligible industrial site investment project until state control over the project or right to recapture has concluded, could result in a significant revenue loss. This is because the income recognition is not tied to the investment and because the state may not ultimately take control over the project and conclude a right to recapture. The ability to not recognize income appears open-ended.

Administrative costs to both the Departments of Revenue Services and Economic and Community Development are contingent on how many tax credits are purchased and how many projects participate in other provisions of the bill. The increase in workload could be substantial and result in the need for additional staff in both agencies. The exact impact is indeterminate at this time.

OLR Bill Analysis
sHB 5126

AN ACT CONCERNING THE URBAN SITES REINVESTMENT PROGRAM.

SUMMARY:
The law allows business taxpayers to claim up to $100 million in tax credits equal to the amount they invest in certain economic development projects, including those that redevelop contaminated or potentially contaminated sites.

This bill:

1. establishes a revolving fund that the Department of Economic and Community Development (DECD) can use to purchase, at 50% of the value, unclaimed, available tax credits earned by taxpayers under the urban and industrial sites reinvestment program (UISRP);

2. authorizes the DECD commissioner to use the fund to provide loans to taxpayers entitled to tax credits under UISRP so that they can purchase additional UISRP tax credits;

3. authorizes a taxpayer who possesses UISRP tax credits to sell the credits to another taxpayer at any price or to the DECD commissioner;

4. authorizes the commissioner to insure the mortgage of an urban sites reinvestment project or an industrial site investment project and to either enter into a repurchase agreement or take a security interest in the project;

5. authorizes the commissioner to negotiate the terms of the state's insurance of the project's mortgage including under what circumstances the mortgage holder can elect to collect from the

state if the project defaults; and

6. authorizes UISRP project taxpayer to choose not to recognize income for tax purposes until state control over the project and right to recapture tax credits has concluded.

EFFECTIVE DATE: July 1, 2001

DECD TAX CREDIT PURCHASES

Under law, tax credits earned through UISRP are claimed over a 10-year schedule and no credits can be claimed until the fourth year after the investment. The bill creates a revolving fund that DECD may use to purchase, at 50% of the value, tax credits earned under the UISRP that are available to claim but are not used by April 30 of the year they become eligible. The bill does not allocate money for the fund, but specifies that any of the original amount deposited, but not committed and remaining in the fund as of June 30, 2002, must be deposited in the General Fund.

DECD can also use the fund to cover administrative costs, insure the mortgages on UISRP projects, and make loans to taxpayers who want to purchase credits from credit holders. Loan repayments must be deposited back in the fund.

LOANS FOR TAXPAYER-PURCHASED TAX CREDITS

The bill authorizes the commissioner to provide loans to the taxpayers entitled to UISRP tax credits so they can purchase additional UISRP tax credits. The amount of the loan will be based on 50% of the value of the credits awarded but not yet available according to the 10-year schedule. The commissioner can provide the loan only if he determines that it would benefit the project.

TAX CREDITS SOLD BETWEEN TAXPAYERS

The law allows taxpayers to transfer credits to other taxpayers. The bill allows taxpayers to sell UISRP credits to another taxpayer at any price or to the DECD commissioner. (It is not clear if this subsection intends that the credits can be sold to the commissioner at any price or at the

50% value price stated in another subsection.) While the language is unclear, the bill appears to require any taxpayer selling UISRP credits originally purchased with a DECD loan to repay the loan by April 15 of the year after the credit becomes available unless the commissioner (1) forgives the loan or (2) agrees to other payment terms. Funds repaid from loans must be deposited in the revolving fund and the commissioner may use the funds for additional credit purchases or to insure additional mortgages.

INSURING UISRP PROJECT MORTGAGES

The bill authorizes the commissioner, with the consent of the taxpayer involved, to enter into an agreement to pledge the full faith and credit of the state to insure the principal of an UISRP project mortgage and to either enter into a repurchase agreement on the property or take a security interest in the project. When the commissioner insures the mortgage on a project where the taxpayer purchased credits with a DECD loan, the taxpayer must repay the loan for an amount equal to the 50% value of the credit if he decides to sell the credits. The bill gives the commissioner's mortgage insurance priority only in cases where the commissioner has also provided a loan to purchase additional credits. The bill also authorizes the commissioner to establish a reserve with money in the revolving fund to cover any mortgage insurance agreement.

The bill authorizes the commissioner to negotiate the terms of the state's insurance of the project's mortgage including the circumstances that constitute default and the conditions triggering the mortgage holder seeking collection from the state. The commissioner can also negotiate how the state's security interests in property will be transferred. The bill specifies that 30% of the state's security interests must be used to repay tax credits unless the commissioner waives the requirements under which taxpayers must repay the credits if a project fails to generate the revenue it projected.

BACKGROUND

Urban and Industrial Sites Reinvestment Program

The UISRP allows businesses to claim business tax credits for 100% of the amount they invest in projects in designated towns (those with enterprise zones or "distressed municipalities") or in redeveloping contaminated or potentially contaminated properties in any town. Businesses can invest the money directly or through a DECD-registered fund manager. Those making direct investments qualify if the investment exceeds $20 million. Businesses investing through a fund manager qualify if the fund's total value exceeds $60 million in the first year they claim the credits. To qualify a project must generate significant additional state or local tax revenue and need the tax credit to attract private investment. It must be economically viable, create new jobs, and generate benefits that outweigh the cost of the investment.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Change of Reference
Yea 18 Nay 5

Appropriations Committee

Joint Favorable Substitute
Yea 31 Nay 18