Senate

General Assembly

File No. 140

February Session, 2006

Substitute Senate Bill No. 539

Senate, March 27, 2006

The Committee on Planning and Development reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING TAX CREDITS FOR REHABILITATING HISTORIC STRUCTURES.

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

Section 1. (NEW) (*Effective July 1, 2006, and applicable to income years commencing on or after January 1, 2006*) (a) As used in this section, the following terms shall have the following meanings unless the context clearly indicates another meaning:

(1) "Commission" means the Connecticut Commission on Culture and Tourism established pursuant to section 10-392 of the general statutes;

(2) "Certified historic structure" means an historic commercial or industrial property that: (A) Is listed individually on the National or State Register of Historic Places, or (B) is located in a district listed on the National or State Register of Historic Places, and has been certified by the commission as contributing to the historic character of such

district;

(3) "Certified rehabilitation" means any rehabilitation of a certified historic structure for residential use consistent with the historic character of such property or the district in which the property is located as determined by regulations adopted by the commission;

(4) "Owner" means any person, firm, limited liability company, nonprofit or for-profit corporation or other business entity which possesses title to an historic structure and undertakes the rehabilitation of such structure;

(5) "Placed in service" means that substantial rehabilitation work has been completed which would allow for issuance of a certificate of occupancy for the entire building or, in projects completed in phases, for individual residential units that are an identifiable portion of the building;

(6) "Qualified rehabilitation expenditures" means any costs incurred for the physical construction involved in the rehabilitation of a certified historic structure for residential use, excluding: (A) The owner's personal labor, (B) the cost of a new addition, except as required to comply with any provision of the State Building Code or the State Fire Safety Code, and (C) any nonconstruction cost such as architectural fees, legal fees and financing fees;

(7) "Rehabilitation plan" means any construction plans and specifications for the proposed rehabilitation of a certified historic structure in sufficient detail for evaluation by compliance with the standards developed under the provisions of subsections (b) to (d), inclusive, of this section; and

(8) "Substantial rehabilitation" or "substantially rehabilitate" means the qualified rehabilitation expenditures of a certified historic structure that exceed twenty-five per cent of the assessed value of such structure.

(b) (1) The commission shall administer a system of tax credit vouchers within the resources, requirements and purposes of this section for owners rehabilitating certified historic structures.

(2) The credit authorized by this section shall be available in the tax year in which the substantially rehabilitated certified historic structure is placed in service. In the case of projects completed in phases, the tax credit shall be prorated to the substantially rehabilitated identifiable portion of the building placed in service. If the tax credit is more than the amount owed by the taxpayer for the year in which the substantially rehabilitated certified historic structure is placed in service, the amount that is more than the taxpayer's tax liability may be carried forward and credited against the taxes imposed for the succeeding five years or until the full credit is used, whichever occurs first.

(3) Any credits allowed under this section that are provided to multiple owners of certified historic structures shall be passed through to persons designated as partners, members or owners, pro rata or pursuant to an agreement among such persons designated as partners, members or owners documenting an alternative distribution method without regard to other tax or economic attributes of such entity. Any owner entitled to a credit under this section may assign, transfer or convey the credits, in whole or in part, by sale or otherwise to any individual or entity and such transferee shall be entitled to offset the tax imposed under chapter 207, 208, 209, 210, 211 or 212 of the general statutes as if such transferee had incurred the qualified rehabilitation expenditure.

(c) The commission shall develop standards for the approval of rehabilitation of certified historic structures for which a tax credit voucher is sought. Such standards shall take into account whether the rehabilitation of a certified historic structure will preserve the historic character of the building.

(d) The commission shall adopt regulations, in accordance with chapter 54 of the general statutes, to carry out the purposes of this section. Such regulations shall include provisions for filing of applications, rating criteria and for timely approval by the commission.

(e) Prior to beginning any rehabilitation work on a certified historic structure, the owner shall submit (1) a rehabilitation plan to the commission for a determination of whether or not such rehabilitation work meets the standards developed under the provisions of subsections (b) to (d), inclusive, of this section, and (2) an estimate of the qualified rehabilitation expenditures. The provisions of this subsection shall not disqualify applications for tax credits for certified historic structures for which rehabilitation commenced but were not placed in service before the effective date of this section.

(f) If the commission certifies that the rehabilitation plan conforms to the standards developed under the provisions of subsections (b) to (d), inclusive, of this section, the commission shall reserve for the benefit of the owner an allocation for a tax credit equivalent to twenty-five per cent of the projected qualified rehabilitation expenditures, not exceeding two million seven hundred thousand dollars.

(g) Following the completion of rehabilitation of a certified historic structure, the owner shall notify the commission that such rehabilitation has been completed. The owner shall provide the commission with documentation of work performed on the certified historic structure and shall submit certification of the costs incurred in rehabilitating the certified historic structure. The commission shall review such rehabilitation and verify its compliance with the rehabilitation plan. Following such verification, the commission shall issue a tax credit voucher to the owner rehabilitating the certified historic structure or to the taxpayer named by the owner as contributing to the rehabilitation. The tax credit voucher shall be in an amount equivalent to the lesser of the tax credit reserved upon certification of the rehabilitation plan under the provisions of subsection (f) of this section or twenty-five per cent of the actual qualified rehabilitation expenditures not exceeding two million seven hundred thousand dollars. In order to obtain a credit against any state tax due that is specified in subsections (h) to (k), inclusive, of this section, the holder of the tax credit voucher shall file the voucher with the holder's state tax return.

(h) The Commissioner of Revenue Services shall grant a tax credit to a taxpayer holding the tax credit voucher issued under subsections (e) to (i), inclusive, of this section against any tax due under chapter 207, 208, 209, 210, 211 or 212 of the general statutes in the amount specified in the tax credit voucher. Such taxpayer shall submit the voucher and the corresponding tax return to the Department of Revenue Services.

(i) The aggregate amount of all tax credits which may be reserved by the commission upon certification of rehabilitation plans under subsections (b) to (d), inclusive, of this section shall not exceed fifteen million dollars in any one fiscal year.

(j) The commission may charge an application fee in an amount not to exceed ten thousand dollars to cover the cost of administering the program established pursuant to this section. Any moneys received by the commission pursuant to this section shall be deposited into the account established pursuant to section 2 of this act.

Sec. 2. (NEW) (*Effective July 1, 2006*) There is established an account within the General Fund to be known as the "historic structures account". Said account shall contain any moneys required by law to be deposited in the account. Any balance remaining in the account at the end of any fiscal year shall be carried forward in the account for the fiscal year next succeeding. The account shall be used by the Connecticut Commission on Culture and Tourism for the purposes of section 1 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2006, and applicable to income years commencing on or after January 1, 2006*	New section

Sec. 2	*July 1, 2006*	New section

Statement of Legislative Commissioners:
The last sentence of Subdiv. (3) of Subsec. (b) of Section 1 was rewritten for consistency.

PD *Joint Favorable Subst.-LCO*

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:

Agency Affected	Fund-Effect	FY 07 $	FY 08 $
Commission on Culture and Tourism	GF– Cost/Revenue Gain	See Below	See Below
Department of Revenue Services	GF - Cost	$140,000	None
Department of Revenue Services	GF - Revenue Loss	None	Up to $15 million

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill establishes a tax credit against various business taxes for expenses incurred to rehabilitate historic commercial and industrial properties. The total amount of tax credits is capped at $15 million per year and $2.7 million per project. Therefore, the bill could result in a General Fund revenue loss of up to $15 million per year beginning in FY 08.

The Department of Revenue Services is anticipated to incur one-time computer programming costs of $140,000 in FY 07 to integrate the new tax credit program into the Department's integrated tax administration system.

The Commission on Culture and Tourism will require a program administrator at a cost of approximately $75,000 in FY 07 plus fringe benefits[1] to administer the program. The legislation allows the

[1] The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate as a percentage of payroll is 23.6%, effective July 1, 2005. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the

Commission to charge an application fee in an amount not to exceed $10,000. These funds are to be deposited into a non lapsing account within the General Fund established in the bill to offset the Commission costs. However, it is anticipated that the account would not provide sufficient funds initially to hire the employee, and it is not known at this time when sufficient funds would be available.

The Out Years

The annualized ongoing cost identified above would continue into the future subject to inflation. In addition, the bill could result in an ongoing General Fund revenue loss of up to $15 million per year.

State Employees Retirement System (SERS). The SERS 2005-06 fringe benefit rate is 34.7%, which when combined with the non pension fringe benefit rate would total 58.3%.

OLR BILL ANALYSIS

SB 539

AN ACT CONCERNING TAX CREDITS FOR REHABILITATING HISTORIC STRUCTURES.

SUMMARY:

This bill authorize $15 million a year in business tax credits for funds spent rehabilitating historic commercial and industrial properties for residential use. It specifies the process through which property owners may apply for and claim the credits, which may equal up to 25% of the qualified rehabilitation costs, up to $2.7 million.

The Connecticut Commission on Culture and Tourism (CCCT) must administer the credits and adopt regulations for doing so. The regulations must specify how owners may apply for the credits, how the CCCT will rate their applications, and its timeframe for approving them. CCCT may charge fees to cover its administrative costs.

Owners can claim the credits or assign them to other parties. Credit holders may claim a credit in the tax year when the property received its certificate of occupancy. They may carry forward unused credits for the five succeeding years. For multiphase projects, credit holders may claim a part of the credit in proportion to that part of the project that received a certificate of occupancy. The credit is separate from a similar existing credit for rehabilitating owner-occupied historic homes.

EFFECTIVE DATE: July 1, 2006 and applicable to tax years beginning on or after January 1, 2006

ELIGIBILITY

The bill authorizes business tax credits for the owners of historic commercial or industrial properties who rehabilitate them for residential uses. Owners include individuals as well as firms, limited liability companies, nonprofit and for-profit corporations, and other business entities. They must have title to the property and proceed to rehabilitate it.

An owner's property must be listed individually on the National Register of Historic Places or located in a district listed in the National or State Register of Historic Places. Additionally, the CCCT must have certified that the property contributes to the district's historic character.

ACCESSING THE CREDITS

Credit Reservation

The bill establishes a two-step process for accessing the credits. An owner must first request the CCCT to reserve credits on his behalf before he starts rehabilitating the property. In doing so, he must submit the construction plans and specifications, which must provide enough detail for the CCCT to determine if the work meets its standards. The bill requires the CCCT to adopt standards, including those for determining if the work preserves the structure's historic character.

The owner must also provide an estimate of the rehabilitation's physical costs (i.e., qualified rehabilitation expenditures). These include any cost except his personal labor; new additions that are not needed to comply with building and fire safety codes; and architectural, legal, and financing fees and other nonconstruction costs.

The bill allows the CCCT to reserve credits for an owner who started rehabilitating an eligible structure before he submitted a plan or cost estimates to the CCCT. CCCT may reserve credits if the owner did not substantially complete the rehabilitation before July 1, 2006.

The CCCT must reserve credits for the owner's benefit if the plan meets its standards. The value of the credits must equal 25% of the qualified rehabilitation expenditures, but cannot exceed $2.7 million.

The CCCT may charge owners requesting credit reservations an application fee of up to $10,000 to cover the cost of administering the credits. It must deposit the revenue in a special, nonlasping General Fund account the bill establishes for that purpose (i.e., historic structures account).

Credit Voucher

The owner cannot claim the credit until he requests a credit voucher. He may do so by notifying the CCCT that he finished rehabilitating the structure, show that he actually completed the work, and certify the costs he incurred. The CCCT must review his documents and verify whether the work complies with the rehabilitation plan. If the work complies with the plan, the CCCT must issue the voucher to the owner or to the taxpayer he named as contributing to the rehabilitation (i.e., credit holder).

CCCT may authorize a credit that equals the lesser of the amount it reserved for the owner or 25% of his actual qualified rehabilitation expenditures, but the total credit cannot exceed $2.7 million.

USING CREDITS

Claiming Credits

A credit holder can claim the credit by attaching the voucher to his tax return. He can use the credit against the corporation tax, similar taxes on air carriers and insurers, or the tax on railroad, express, telegraph, cable, cable TV, and utility companies. He can do so in the tax year when the substantially rehabilitated certified structure is placed in service. This happens when the qualified rehabilitation expenditures exceed 25% of the structure's assessed value and the building official issues a certificate of occupancy, which can be for the entire structure or individual dwelling units completed as part of a multiphase project.

The bill specifies how multiple owners of a certified structure must pass through and apportion the credit. They must pass the credit through to those persons who have been designated as partners, members, or owners. The owners must pass a pro rata share through to the designated parties or the portion determined by an alternative distribution method specified in an agreement among them that is not based on their tax or economic attributes.

The bill sets conditions under which the credit holder can claim a portion of the credit over several years. He can carry forward any unused portion of the credit for the next five years or until the full credit is used, whichever happens first. He can also claim a part of the credit when a project is completed in phases. The amount he claims must be proportionate to that portion of the structure that was placed in service.

Assigning Credits

Instead of claming credits on their returns, parties can assign, transfer, or convey all or some of them to other person or entity, who can use the credits to offset business taxes.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable
Yea 16 Nay 0 (03/13/2006)