OLR Bill Analysis
sHB 5272

AN ACT CONSOLIDATING CERTIFIED HISTORIC STRUCTURE REHABILITATION TAX CREDITS.

SUMMARY:

This bill consolidates two Department of Economic and Community Development (DECD) programs that provide tax credits to people and business entities for rehabilitating certain historic structures and converting them into (1) housing or (2) mixed residential and commercial use. It prohibits the DECD commissioner from reserving tax credits under the existing programs starting July 1, 2014.

The existing programs offer tax credits for different purposes. One offers credits for converting a wide range of historic properties, including certain residential properties, for residential use; the other offers credits for converting many different types of historic property for mixed residential and commercial use or commercial use only. The bill combines these programs, and retains the current tax credit amounts. As under current law, the credits are applied against insurance premium, corporation business, air carrier, railroad company, cable and satellite TV, and hospital taxes.

The bill caps the total amount of tax credits DECD may reserve under the consolidated program at $31.7 million per year, and caps at $500,000 the amount of tax credits a project may receive.

The existing programs together allow credits for converting a wide range of specific types of historic structures, including those used by institutions, and those with apartment units and commercial establishments. The bill extends the credits to projects converting any type of qualifying property for the designated uses, instead of property formerly used for specific purposes. The range of eligible converted uses encompasses those authorized by the two existing programs.

These fall into three categories: (1) residential use of at least five units, (2) mixed residential and nonresidential uses, or (3) nonresidential uses consistent with the historic character of the property or district in which it is located. Like the existing programs, the new program allows owners to sell or transfer the credits, but the bill limits to three the number of times this may be done.

As under current law, unused credits may be carried forward for up to five years. The bill also retains (1) the same annual reporting requirements for DECD and (2) DECD's ability to issue vouchers for the rehabilitation of a portion of a building sufficient to allow for issuance of certificate of occupancy.

EFFECTIVE DATE: July 1, 2014. The tax credits are applicable to income years starting January 1, 2014.

EXPANDING THE TYPES OF PROPERTY ELGIBLE FOR THE PROGRAM

The bill makes the consolidated program available to more properties than can avail themselves of the credits under existing law. Under the law and the bill, eligible properties must be properties (1) listed individually on the National or State Register of Historic Places or (2) located in a district listed on either of those registers and certified by the state historic preservation officer as contributing to the district's historic character.

Under current law, the residential tax credit program is available for the conversion for residential use of historic commercial, industrial, institutional, or former municipal, state, or federal government property; cultural buildings; or residential property of at least five units. The mixed use program is available for converting most of these same structures, but instead of residential property of at least five units it is available for historic mixed residential and nonresidential property for conversion to (1) nonresidential uses only or (2) mixed residential and nonresidential uses. Current law imposes no minimum unit requirement on conversions for mixed uses. The bill imposes a minimum five-unit requirement, which is the same as under the current residential program.

As under current law, to seek a tax credit before beginning rehabilitation work, the owner must submit certain information to the State Historic Preservation Officer. The bill requires that this include a determination of whether the rehabilitation work meets the U.S. Interior Secretary's Standards for Rehabilitation (36 CFR 67), instead of state standards. It requires that, for rehabilitation including affordable housing, the owner submit to the Housing Department the same information on those units as it submits to DECD.

As under existing law, the bill authorizes tax credits for owners of eligible property of 25% of a project's qualified rehabilitation expenses or 30% if (1) at least 20% of the units are rental units that qualify as affordable housing or (2) at least 10% of the units are individual homeownership units that qualify as affordable housing. Under the bill, however, for DECD to reserve these credits, the rehabilitation plan must conform to the federal rehabilitation standards mentioned above, rather than state standards.

Also as under existing law, no tax credit can be allocated for projects including affordable housing unless the applicant receives a housing department certificate confirming that the project meets the legal definition for affordable housing (see BACKGROUND).

TRANSFER OF CREDITS

As under the existing programs, the bill allows an owner to sell, assign, or otherwise transfer tax credits, but it limits to three the number of such transfers. The bill adds reporting components not found in the existing programs. If a credit is transferred, whether by the owner or a subsequent transferee, the transferor and transferee must jointly notify DECD in writing within 30 days of the transfer. The notification must include the:

1. transferor's and transferee's identification numbers,

2. credit voucher number,

3. date of the transfer,
4. amount of the credit transferred,
5. tax credit balance before and after the transfer, and
6. any other information DECD requires.

Failure to comply results in DECD disallowing the tax credit until the transferor and transferee fully comply, and for a second and third transfer, there is compliance by all subsequent transferors and transferees.

The bill requires DECD to annually provide to the revenue services department a list detailing (1) the credits approved for the most recent fiscal year, and (2) all sales assignments and transfers made for the year.

The bill also requires DECD to adopt regulations to carry out the bill's purposes, including provisions for filing applications, rating criteria, and timely approval by the department.

The new program does not include a credit recapture requirement, which is part of the existing mixed-use program. Under existing law, an owner who does not complete the residential portion of a mixed-use property by the date specified in the rehabilitation plan must repay the entire credit.

HOUSING DEPARTMENT REQUIREMENTS

The bill requires the housing commissioner to review applications for housing tax credits under the bill, and to issue a certificate if she determines the application contains affordable housing. She may charge a $2,000 fee to cover the cost of reviewing the applications. The housing commissioner also may adopt regulations to monitor affordable housing projects built under the bill to ensure they are maintained as affordable for at least 10 years, and may require deed restrictions or other fiscal mechanisms to ensure compliance with project requirements.

BACKGROUND

Affordable Housing

By law, affordable housing means housing for which people and families pay 30% or less of their annual income, where the income is less than or equal to the area median income for the municipality in which such housing is located, as determined by the U.S. Department of Housing and Urban Development (CGS § 8-39a).

Related Bill

sHB 5004, which the Commerce Committee favorably reported, raises the annual credit cap for a third historic preservation program from $3 million to $5 million.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute
Yea 17 Nay 0 (03/20/2014)