

**SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 2031 and 1740**

**STATE OF NEW JERSEY
218th LEGISLATURE**

ADOPTED OCTOBER 18, 2018

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Senator JOSEPH P. CRYAN

District 20 (Union)

Senator M. TERESA RUIZ

District 29 (Essex)

Co-Sponsored by:

Senator Gopal

SYNOPSIS

“Historic Property Reinvestment Act”; provides credits against certain taxes for certain costs of rehabilitating historic properties.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate State Government, Wagering, Tourism & Historic Preservation Committee.



(Sponsorship Updated As Of: 10/30/2018)

1 AN ACT providing credits against certain taxes for certain costs of
2 rehabilitating historic properties and supplementing Title 13 of
3 the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. This act shall be known and may be cited as the “Historic
9 Property Reinvestment Act.”

10
11 2. As used in this act:

12 “Cost of rehabilitation” means the consideration given, valued in
13 money, whether given in money or otherwise, for the materials and
14 services which constitute the rehabilitation.

15 “Director” means the Director of the Division of Taxation in the
16 Department of the Treasury.

17 “New Jersey S corporation” means the same as the term is
18 defined in section 12 of P.L.1993, c.173 (C.54A:5-10).

19 “Officer” means the State Historic Preservation Officer or the
20 official within the State designated by the Governor or by statute in
21 accordance with the provisions of the "National Historic
22 Preservation Act," Pub.L.89-665 (16 U.S.C. s.470 et seq.), to act as
23 liaison for the purpose of administering historic preservation
24 programs in the State.

25 “Partnership” means an entity classified as a partnership for
26 federal income tax purposes.

27 “Principal residence” means a one- or two-family homestead
28 actually and continually occupied by an individual as the
29 individual’s permanent residence, as distinguished from a vacation
30 home, property owned and rented or offered for rent by the
31 individual, and other secondary real property holdings, except that
32 the permanent residence of military personnel called to active duty
33 shall be considered to be a principal residence so long as the
34 individual maintains ownership of the residence for which the credit
35 is sought.

36 “Property” means a structure, including its site improvements
37 and landscape features, assessed as real property, and used for a
38 residential purpose, residential rental purpose, commercial purpose,
39 or any combination thereof.

40 “Qualified property” means a property located in the State of
41 New Jersey that is:

42 (a) (i) individually listed, or located in a district listed on the
43 National Register of Historic Places in accordance with the
44 "National Historic Preservation Act," Pub.L.89-665 (16 U.S.C.
45 s.470 et seq.), or on the New Jersey Register of Historic Places
46 pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or
47 individually designated, or located in a district designated, by the
48 Pinelands Commission as a historic resource of significance to the

1 Pinelands in accordance with the Pinelands comprehensive
2 management plan adopted pursuant to the "Pinelands Protection
3 Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and

4 (ii) if located within a district, certified by either the officer or
5 the Pinelands Commission, as appropriate, as contributing to the
6 historic significance of the district; or

7 (b) (i) individually identified or registered, or located in a
8 district composed of properties identified or registered, for
9 protection as significant historic resources in accordance with
10 criteria established by a municipality in which the property or
11 district is located if the criteria for identification or registration has
12 been approved by the officer as suitable for substantially achieving
13 the purpose of preserving and rehabilitating buildings of historic
14 significance within the jurisdiction of the municipality, and

15 (ii) if located within a district, certified by the officer as
16 contributing to the historic significance of the district.

17 "Rehabilitation" means the repair or reconstruction of the
18 exterior or interior of a qualified property to make an efficient
19 contemporary use possible while preserving the portions or features
20 of the property that have significant historical, architectural, and
21 cultural values.

22 "Rehabilitation of the interior of the qualified property" means
23 the repair or reconstruction of the structural or substrate
24 components and electrical, plumbing, and heating components
25 within the interior of a qualified property.

26 "Selected rehabilitation period" means a period of 24 months if
27 the beginning of such period is chosen by the business entity during
28 which, or parts of which, a rehabilitation is occurring or a period of
29 60 months if a rehabilitation is reasonably expected to be completed
30 in distinct phases set forth in written architectural plans and
31 specifications completed before or during the physical work on the
32 rehabilitation.

33
34 3. a. An individual, upon successful application to the
35 officer, shall be allowed a credit against the tax otherwise due
36 pursuant to N.J.S.54A:1-1 et seq. for 25 percent of the cost of
37 rehabilitation paid by the individual for the rehabilitation of a
38 qualified property that the individual owns and occupies as the
39 individual's principal residence for a period of twelve consecutive
40 months following the completion of the rehabilitation, provided that
41 (1) the cost of rehabilitation is in an amount not less than 50 percent
42 of the equalized assessed value of the structure for local real estate
43 tax purposes as indicated on the most recent property tax bill for the
44 qualified property prior to the start of the rehabilitation, and that (2)
45 for the purpose of calculating the amount of the total credit, no
46 more than 60 percent of the total cost of rehabilitation shall be
47 attributable to interior rehabilitation.

1 If more than one individual owns a qualified property and at least
2 one of the owners occupies the qualified property as the owner's
3 principal residence for a period of twelve consecutive months
4 following the completion of the rehabilitation, each owner shall be
5 allowed a credit against the tax otherwise due pursuant to
6 N.J.S.54A:1-1 et seq. for 25 percent of the cost of rehabilitation
7 paid by that owner for the rehabilitation of a qualified property,
8 provided that (1) the total cost of rehabilitation of the qualified
9 property borne by all owners is in an amount not less than 50
10 percent of the equalized assessed value of the structure for local real
11 estate tax purposes as indicated on the most recent property tax bill
12 for the qualified property prior to the start of the rehabilitation, and
13 that (2) for the purpose of calculating the amount of the total credit,
14 no more than 60 percent of the total cost of rehabilitation of the
15 qualified property borne by all owners shall be attributable to
16 interior rehabilitation.

17 b. The amount of the credit allowable under this section shall
18 be applied against the tax otherwise due pursuant to N.J.S.54A:1-
19 1 et seq. during the taxable year in which the officer issues the tax
20 credit certification to be attached by the individual to the
21 individual's tax return. The director shall determine the order in
22 which the credit allowed under this section and any other credit
23 permitted by law shall be applied against the individual's amount of
24 tax due. If the amount of the credit exceeds the individual's tax
25 liability, that amount of excess shall not be considered an
26 overpayment for the purposes of N.J.S.54A:9-7, but instead may be
27 carried over, if necessary, to the four taxable years following the
28 taxable year for which the credit was allowed.

29 c. The cumulative amount of credit granted under this section
30 for the cost of rehabilitation of a specific qualified property shall
31 not exceed \$25,000 within any ten-year period.

32

33 4. a. A business entity, upon successful application to the
34 officer, shall be allowed a credit against the tax otherwise due
35 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), the tax
36 imposed on insurers generally, pursuant to P.L.1945, c.132
37 (C.54:18A-1 et. seq.), or the tax imposed on marine insurance
38 companies pursuant to R.S.54:16-1 et. seq., for 25 percent of the
39 cost of rehabilitation paid by the business entity for the
40 rehabilitation of a qualified property, if the cost of rehabilitation
41 during a business entity's selected rehabilitation period is not less
42 than the greater of (1) the adjusted basis of the structure of the
43 qualified property used for federal income tax purposes as of the
44 beginning of the business entity's selected rehabilitation period, or
45 (2) \$5,000. The amount of the credit claimed in any accounting or
46 privilege period shall not reduce the amount of the tax liability to
47 less than the statutory minimum provided in subsection (e) of
48 section 5 of P.L.1945, c.162 (C.54:10A-5).

1 b. The amount of credit granted, or recognized through a tax
2 credit transfer certificate acquired pursuant to section 5 of this act,
3 to a partnership, limited liability company, New Jersey S
4 corporation, multiple owners, or qualifying long-term leaseholders
5 of the property, shall be passed through to the partners, members,
6 shareholders, or owners respectively, either in proportion to their
7 ownership interest in the entity or as the partners, members,
8 shareholders, or owners mutually agree as provided in an executed
9 document detailing the alternate distribution method.

10 c. A business entity may claim a credit under this section
11 during the accounting or privilege period (1) in which it makes the
12 final payment for the cost of the rehabilitation if the business entity
13 has chosen a selected rehabilitation period of 24 months, or (2) in
14 which a distinct project phase of the rehabilitation is completed if
15 the business entity has chosen a selected rehabilitation period of 60
16 months. The credit may be claimed against any tax liability
17 otherwise due after any other credits permitted pursuant to law have
18 been applied. The amount of credit claimed in an accounting or
19 privilege period that cannot be applied for that accounting or
20 privilege period due to limitations in this section may be carried
21 over, if necessary, to the nine accounting or privilege periods
22 following the accounting or privilege period for which the credit
23 was allowed.

24
25 5. a. The officer shall, in cooperation with the director,
26 establish and administer a gross income tax credit transfer
27 certificate program, a corporation business tax credit transfer
28 certificate program, and an insurance premiums tax credit transfer
29 certificate program to enable individuals and business entities with
30 unused, otherwise allowable amounts of tax credits issued pursuant
31 to this act to exchange these credits, in whole or in part, for private
32 financial assistance prior to the expiration of the tax credit.

33 A certificate issued by the officer shall include a statement
34 waiving the rights of the individual to whom or the business entity
35 to which the tax credit has been granted to claim that amount of the
36 credit against any tax liability.

37 b. An individual or business entity holding an unused,
38 otherwise allowable tax credit issued pursuant to this act may apply
39 to the officer for a tax credit transfer certificate pursuant to
40 subsection a. of this section. Upon receipt thereof, the individual or
41 the business entity may sell or assign, in full or in part, the tax
42 credit transfer certificate to another taxpayer in exchange for private
43 financial assistance to be provided by the purchaser or assignee of
44 the tax credit transfer certificate to the seller thereof. The purchaser
45 or assignee of the tax credit transfer certificate may apply the face
46 value of the tax credit transfer certificate acquired against the
47 purchaser's or assignee's applicable tax liability by claiming the tax
48 credit on the purchaser's or assignee's gross income tax,

1 corporation business tax or insurance premiums tax return with the
2 corresponding tax credit transfer certificate accompanying the tax
3 return.

4
5 6. a. The officer shall, in consultation with the director,
6 promulgate rules and regulations in accordance with the
7 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
8 seq.), as the officer deems necessary to administer the provisions of
9 this act, including but not limited to rules establishing
10 administrative fees to implement the provisions of this act and the
11 setting of an annual application submission date.

12 b. For every tax credit allowed pursuant to sections 3 and 4 of
13 this act, the officer shall certify to the director the total cost of
14 rehabilitation; that the property meets the definition of qualified
15 property; that the rehabilitation has been completed in substantial
16 compliance with the requirements of the Secretary of the Interior's
17 Standards for Rehabilitation pursuant to section 67.7 of title 36,
18 Code of Federal Regulations; and, if applicable, that no more than
19 60 percent of the cost of rehabilitation which will be used to
20 calculate the credit is for the rehabilitation of the interior of the
21 qualified property. The individual or business entity shall attach the
22 certification to the tax return on which the individual or business
23 entity claims the credit.

24 c. The total amount of credits approved by the officer pursuant
25 to this act shall not exceed \$15,000,000 in the first fiscal year,
26 \$25,000,000 in the second fiscal year, \$40,000,000 in the third
27 fiscal year, and \$50,000,000 in the fourth fiscal year and thereafter.

28 The officer shall devise criteria for allocating tax credit amounts
29 if the approved amounts combined exceed the total amount in each
30 fiscal year, including rules that allocate over multiple fiscal years a
31 single credit amount granted in excess of \$2,000,000. The criteria
32 shall include a project's historic importance, positive impact on the
33 surrounding neighborhood, economic sustainability, geographic
34 diversity, and consistency with Statewide growth and development
35 policies and plans.

36 d. In any fiscal year, not less than 25 percent of the total
37 monetary amount of tax credits approved pursuant to this act shall
38 be granted for the rehabilitation of qualified properties pursuant to
39 section 3 of this act, and not less than 65 percent of the total
40 monetary amount of tax credits approved pursuant to this act shall
41 be granted for the rehabilitation of qualified properties pursuant to
42 section 4 of this act. Any unallocated or recaptured portion of the
43 tax credits during any year pursuant to section 3 or 4 of this act,
44 may be carried over and reallocated in succeeding years.

45
46 7. a. The officer, in collaboration with the director, shall
47 adopt rules for the recapture of an entire or partial tax credit amount
48 allowed under this act. The rules shall require the officer to notify

1 the director of the recapture of an entire or partial tax credit amount.
2 The recapture of funds shall be subject to the State Uniform Tax
3 Procedure Law, R.S.54:48-1 et seq. and recaptured funds shall be
4 deposited in the General Fund of the State.

5 b. If, before the end of five full years after the completion of
6 the rehabilitation of the qualified property, an individual who or a
7 business entity that has been allowed a tax credit pursuant to section
8 3 or 4 of this act modifies the architectural components of the
9 rehabilitated qualified property so that it ceases to meet the
10 requirements for the rehabilitation of a qualified property as defined
11 in this act, then the tax liability of the individual or business entity
12 for that taxable year or accounting or privilege period shall be
13 increased by the following percentage of that portion of the original
14 tax credit amount that the officer now disallows:

15 (1) 100 percent of the disallowed tax credit amount if the action
16 causing the disallowance occurs within one full year after the
17 rehabilitation's completion;

18 (2) 80 percent of the disallowed tax credit amount if the action
19 causing the disallowance occurs between the first and second full
20 year after the rehabilitation's completion;

21 (3) 60 percent of the disallowed tax credit amount if the action
22 causing the disallowance occurs between the second and third full
23 year after the rehabilitation's completion;

24 (4) 40 percent of the disallowed tax credit amount if the action
25 causing the disallowance occurs between the third and fourth full
26 year after the rehabilitation's completion; and

27 (5) 20 percent of the disallowed tax credit amount if the action
28 causing the disallowance occurs between the fourth and fifth full
29 year after the rehabilitation's completion.

30 c. In the case of a business entity that has chosen a selected
31 rehabilitation period of 60 months, if the architectural plans change
32 in the course of the phased rehabilitation project so that the
33 rehabilitation of the qualified property would, upon the
34 rehabilitation's completion, no longer qualify for a tax credit
35 pursuant to the requirements of this act, then the business entity's
36 tax liability for that accounting or privilege period shall be
37 increased by the full amount of the tax credit that the officer had
38 previously granted upon the completion of a distinct prior project
39 phase that the business entity has applied against its tax liability in a
40 prior accounting or privilege period. Any portion of the tax credit
41 that the business entity has not yet used at the time of the
42 disallowance by the officer shall be deemed void.

43

44 8. On or before December 31 of the fourth year following the
45 effective date of this act, the officer, in consultation with the
46 director, shall prepare and submit a written report regarding the
47 number and total monetary amount of tax credits granted for the
48 rehabilitation of qualified properties pursuant to sections 3 and 4 of

1 this act, the geographical distribution of the credits granted, a
2 summary of the tax credit transfer program established pursuant to
3 section 5 of this act, an evaluation of the effectiveness of the tax
4 credits provided pursuant to this act in promoting the rehabilitation
5 of historic properties, recommendations for administrative or
6 legislative changes to increase the effectiveness of the program, and
7 any other information that the officer or the director may deem
8 useful or appropriate. This report shall be submitted to the
9 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
10 19.1), to the Legislature.

11

12 9. This act shall take effect immediately and section 3 shall
13 apply to taxable years beginning on or after January 1 next
14 following the date of enactment of this act, and section 4 shall apply
15 to accounting or privilege periods beginning on or after July 1 next
16 following the date of enactment of this act.