

**SENATE, No. 412**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**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:**

**Senators Gopal and Addiego**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 7/22/2020)**

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 officer,  
35 shall be allowed a credit against the tax otherwise due pursuant to  
36 N.J.S.54A:1-1 et seq. for 25 percent of the cost of rehabilitation  
37 paid by the individual for the rehabilitation of a qualified property  
38 that the individual owns and occupies as the individual's principal  
39 residence for a period of twelve consecutive months following the  
40 completion of the rehabilitation, provided that (1) the cost of  
41 rehabilitation is in an amount not less than 50 percent of the  
42 equalized assessed value of the structure for local real estate tax  
43 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:1-1  
19 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 adopt  
47 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.

17

18

19 STATEMENT

20

21 This bill establishes the "Historic Property Reinvestment Act."  
22 The bill provides tax credits for part of the cost of rehabilitating  
23 historic properties in this State. The bill creates two tax credits for  
24 up to 25 percent of the taxpayer's outlay for rehabilitating a historic  
25 property: one for homeowners, which is capped at \$25,000 per  
26 property during a ten-year period; and one for businesses, which is  
27 not capped. The homeowners' tax credit applies against  
28 homeowners' gross income tax liabilities, while the businesses' tax  
29 credit applies against businesses' corporation business tax and  
30 insurance premium tax liabilities. If a taxpayer's liability is  
31 insufficient to take full advantage of the credit, the bill allows the  
32 taxpayer to sell the credit through a tax credit transfer certificate  
33 program to be established by the State Historic Preservation Officer  
34 (SHPO) and the Director of the Division of Taxation in the  
35 Department of the Treasury. To qualify for the homeowner or  
36 business tax credits provided in this bill, a property to be  
37 rehabilitated must be:

38 (1) (a) Individually listed (or located in a district listed) on the  
39 National Register of Historic Places or the New Jersey Register of  
40 Historic Places, or designated (or located in a district designated) by  
41 the Pinelands Commission as a historic resource of significance to  
42 the Pinelands; and (b) if located within a district, certified by either  
43 the SHPO or the Pinelands Commission as contributing to the  
44 district's historic significance; or

45 (2) (a) Individually identified (or located in a district composed  
46 of properties identified) for protection as a significant resource in  
47 accordance with criteria established by the appropriate municipality  
48 and approved by the SHPO; and (b) if located within a district,



1 certified by the SHPO as contributing to the district's historic  
2 significance.

3 A homeowner seeking a tax credit must spend no more than 60  
4 percent of the cost of rehabilitation on interior rehabilitation and  
5 must own and occupy the qualified property as the homeowner's  
6 principal residence for twelve consecutive months following the  
7 completion of the rehabilitation. Moreover, rehabilitation  
8 expenditures must be at least 50 percent of the equalized assessed  
9 value of the structure for local real estate tax purposes as indicated  
10 on the most recent property tax bill for the property prior to the start  
11 of the rehabilitation.

12 A business seeking the tax credit, to the contrary, must, during a  
13 selected 24-month or 60-month rehabilitation period, as provided in  
14 the bill, have eligible rehabilitation expenditures of the greater of  
15 \$5,000 or the property's adjusted basis of the structure used for  
16 federal income tax purposes.

17 The bill provides that the cumulative amount of tax credits  
18 approved cannot exceed \$15 million in the first fiscal year, \$25  
19 million in the second fiscal year, \$40 million in the third fiscal year,  
20 and \$50 million in the fourth fiscal year and thereafter. The bill  
21 requires that in any fiscal year in which tax credits are issued, at  
22 least 25 percent of the total monetary amount of tax credits  
23 approved be granted for the rehabilitation of qualified properties by  
24 homeowners and at least 65 percent of the total monetary amount of  
25 tax credits approved be granted for the rehabilitation of qualified  
26 properties by business entities.

27 The bill requires the SHPO, in consultation with the director, to  
28 prepare and submit a written report to the Governor and the  
29 Legislature on or before December 31st of the fourth year following  
30 the bill's effective date. The reports would detail the number and  
31 total monetary amount of tax credits granted for the rehabilitation of  
32 qualified properties, the geographical distribution of the credits  
33 granted, a summary of the tax credit transfer program, an evaluation  
34 of the effectiveness of the tax credits in promoting the rehabilitation  
35 of historic properties, recommendations for administrative or  
36 legislative changes to increase the effectiveness of the program, and  
37 any other information that the officer or the director may deem  
38 useful or appropriate.