

SENATE, No. 2191

STATE OF NEW JERSEY

INTRODUCED JUNE 12, 1997

By Senators LaROSSA, KYRILLOS and Singer

1 **AN ACT** providing a credit against the gross income tax and the
2 corporation business tax for certain costs of rehabilitating historic
3 properties, supplementing chapter 4 of Title 54A of the New Jersey
4 Statutes and P.L.1945, c.162 (C.54:10A-1 et seq.).
5

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

8 1. This act shall be known and may be cited as "The Historic
9 Property Reinvestment Act."

10 2. a. As used in this section:
11 "Cost of rehabilitation" means the consideration given, valued in
12 money whether given in money or otherwise, for the materials and
13 services which constitute the rehabilitation.

14 "Property" means a structure, including its site improvements and
15 landscape features, assessed as real property, and used for a
16 residential purpose or commercial purpose, or both.

17 "Qualified property" means a property that is:

18 (1) located in a municipality;
19 (2) owned and occupied for a period of twelve consecutive months
20 either prior to rehabilitation or following the completion of the
21 rehabilitation, or both, as the taxpayer's principal place of residence
22 or as the principal place where the taxpayer conducts a business,
23 financial operation or venture, or both;

24 (3) (a) (i) individually listed, or located in a district listed, on the
25 National Register of Historic Places in accordance with the "National
26 Historic Preservation Act," Pub.L. 89-665 (16 U.S.C. §470 et seq.),
27 or on the New Jersey Register of Historic Places pursuant to
28 P.L.1970, c.268 (C.13:1B-15.128 et seq.), and

29 (ii) if located within a district, certified by the State Historic
30 Preservation Officer as contributing to the historic significance of the
31 district; or

32 (b) (i) individually identified or registered, or located in a district
33 composed of properties identified or registered, for protection as
34 significant historic resources in accordance with criteria established by
35 a municipality in which the property or district is located if the criteria

1 for identification or registration has been approved by the State
2 Historic Preservation Officer as suitable for substantially achieving the
3 purpose of preserving and rehabilitating buildings of historic
4 significance within the jurisdiction of the municipality, and

5 (ii) if located within a district, certified by the State Historic
6 Preservation Officer as contributing to the historic significance of the
7 district.

8 "Rehabilitation of the interior of a qualified property" means the
9 repair or reconstruction of the structural or substrate components and
10 electrical, plumbing, and heating components within the interior of a
11 qualified property.

12 "Rehabilitation" means the repair or reconstruction of the exterior
13 or interior of a qualified property to make an efficient contemporary
14 use possible while preserving the portions or features of the property
15 that have significant historical, architectural and cultural values.

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

21 "Municipality" means a municipality ranked within the first 100
22 municipalities on the Municipal Distress Index which is complete and
23 in effect at the time the actual physical components of the
24 rehabilitation are commenced

25 "Municipal Distress Index" means the ranking of municipalities
26 compiled by the State according to certain variables, which variables
27 were designated in 1979 by the Governor's Committee of Mayors, to
28 measure diverse aspects of social, economic, physical and fiscal
29 conditions in each locality.

30 b. A taxpayer shall be allowed a credit against the tax otherwise
31 due pursuant to N.J.S.54A:1-1 et seq. for 25 percent of the cost of
32 rehabilitation paid by the taxpayer for the rehabilitation of a qualified
33 property. If a qualified property is owned by more than one taxpayer,
34 each taxpayer owner shall be allowed a credit against the tax
35 otherwise due pursuant to N.J.S.54A:1-1 et seq. for 25 percent of the
36 cost of the rehabilitation actually paid by the taxpayer. For the
37 purpose of calculating the amount of credit, no more than 40 percent
38 of the cost of rehabilitation shall be attributable to the cost for the
39 rehabilitation of the interior of the qualified property.

40 If the taxpayer is a partner in a partnership, a member of an
41 association or a shareholder in a New Jersey S corporation, the credit
42 shall be allocated to each partner of the partnership, member of the
43 association or shareholder in the New Jersey S corporation in
44 proportion to the partner's, member's or shareholder's share of the
45 income or gain received by the partnership, association or New Jersey
46 S corporation for its taxable year ending within or with the partner's,

1 member's or shareholder's taxable year.

2 c. The amount of the credit shall be applied during the taxable year
3 in which the final payment for the cost of the rehabilitation is made by
4 the taxpayer against any tax liability otherwise due after any other
5 credits permitted pursuant to law have been applied. If the credit
6 reduces the taxpayer's tax liability to zero, the remaining amount of the
7 credit shall not be considered an overpayment of the tax. If the
8 amount of the credit otherwise allowable under this section in a
9 taxable year exceeds the tax liability for the taxable year, the amount
10 that exceeds the tax liability may be carried over for credit against the
11 tax liability of the taxpayer in the next two taxable years or until the
12 full credit is used, whichever occurs first.

13 d. The total credit taken by a taxpayer, including any carryforward
14 credit, within any ten year period for the cost of rehabilitation of a
15 qualified property shall not exceed \$5,000. If more than one taxpayer
16 takes a credit for the cost of rehabilitation of a qualified property, the
17 total of the credits taken by all taxpayers for rehabilitation of that
18 qualified property, including carryforward credits, within any ten year
19 period shall not exceed \$5,000.

20 e. To claim the credit authorized under this section, a taxpayer
21 shall apply to the State Historic Preservation officer for certification
22 of credit eligibility. The officer shall certify to the Division of
23 Taxation the total cost of rehabilitation, that the property meets the
24 definition of qualified property, that no more than 40 percent of the
25 cost of rehabilitation which will be used to calculate the credit is for
26 the rehabilitation of the interior of the qualified property and that the
27 rehabilitation has been completed in substantial compliance with the
28 requirements of the Secretary of the Interior's Standards of
29 Rehabilitation, 35 C.F.R. §67.7 (1995). The taxpayer shall attach the
30 certification to the gross income tax return on which the credit is
31 claimed.

32 f. If a taxpayer who is eligible for the credit provided by this
33 section sells the qualified property before receiving any or all of the
34 credit allowed, the succeeding owner of the qualified property shall
35 be allowed a credit against the tax otherwise due pursuant to
36 N.J.S.54A:1-1 et. seq. to the extent of the amount of the credit,
37 either total or partial, not taken by the taxpayer who paid for the cost
38 of rehabilitation, in the same manner as the credit could have been
39 taken by that original taxpayer.

40 g. The director shall, in consultation with the Commissioner of the
41 Department of Environmental Protection, promulgate rules and
42 regulations in accordance with the "Administrative Procedure Act,"
43 P.L.1968, c.410 (C.52:14B-1 et seq.), as are deemed necessary to
44 administer the provisions of this act.

45

46 3. a. As used in this section:

1 "Cost of rehabilitation" means the consideration given, valued in
2 money whether given in money or otherwise, for the materials and
3 services which constitute the rehabilitation.

4 "Property" means a structure, including its site improvements and
5 landscape features, assessed as real property, and used for a
6 commercial purpose or both a residential and commercial purpose.

7 "Qualified property" means a property that is:

8 (1) located in a municipality;

9 (2) occupied for a period of twelve consecutive months either prior
10 to rehabilitation or following the completion of the rehabilitation, or
11 both, as the principal place where the taxpayer conducts a business,
12 financial operation or venture;

13 (3) (a) (i) individually listed, or located in a district listed, on the
14 National Register of Historic Places in accordance with the "National
15 Historic Preservation Act," Pub.L. 89-665 (16 U.S.C. §470 et seq.),
16 or on the New Jersey Register of Historic Places pursuant to
17 P.L.1970, c.268 (C.13:1B-15.128 et seq.), and

18 (ii) if located within a district, certified by the State Historic
19 Preservation Officer as contributing to the historic significance of the
20 district; or

21 (b) (i) individually identified or registered, or located in a district
22 composed of properties identified or registered, for protection as
23 significant historic resources in accordance with criteria established by
24 a municipality in which the property or district is located if the criteria
25 for identification or registration has been approved by the State
26 Historic Preservation Officer as suitable for substantially achieving the
27 purpose of preserving and rehabilitating buildings of historic
28 significance within the jurisdiction of the municipality, and

29 (ii) if located within a district, certified by the State Historic
30 Preservation Officer as contributing to the historic significance of the
31 district.

32 "Rehabilitation of the interior of a qualified property" means the
33 repair or reconstruction of the structural or substrate components and
34 electrical, plumbing, and heating components within the interior of a
35 qualified property.

36 "Rehabilitation" means the repair or reconstruction of the exterior
37 or interior of a qualified property to make an efficient contemporary
38 use possible while preserving the portions or features of the property
39 that have significant historical, architectural and cultural values.

40 "State Historic Preservation Officer" means the official within the
41 State designated by the Governor or by statute in accordance with the
42 provisions of the "National Historic Preservation Act," Pub.L. 89-665
43 (16 U.S.C. §470 et seq.) to act as liaison for the purpose of
44 administering historic preservation programs in the State.

45 "Municipality" means a municipality ranked within the first 100
46 municipalities on the Municipal Distress Index which is complete and

1 in effect at the time the actual physical components of the
2 rehabilitation are commenced

3 "Municipal Distress Index" means the ranking of municipalities
4 compiled by the State according to certain variables, which variables
5 were designated in 1979 by the Governor's Committee of Mayors, to
6 measure diverse aspects of social, economic, physical and fiscal
7 conditions in each locality.

8 b. A taxpayer shall be allowed a credit against the tax otherwise
9 due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for 25
10 percent of the cost of rehabilitation paid by the taxpayer for the
11 rehabilitation of a qualified property during the fiscal or calendar
12 accounting year. The amount of the credit claimed in the fiscal or
13 calendar accounting year in which the cost is incurred shall not reduce
14 the amount of the tax liability to less than the statutory minimum
15 provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-
16 5). For the purpose of calculating the amount of credit, no more than
17 40 percent of the cost of rehabilitation shall be attributable to cost for
18 the rehabilitation of the interior of the qualified property.

19 c. A taxpayer may claim a credit during the fiscal or calendar
20 accounting year in which the final payment for the cost of the
21 rehabilitation is made by the taxpayer against any tax liability
22 otherwise due after any other credits permitted pursuant to law have
23 been applied. The amount of credit claimed in an accounting year that
24 cannot be applied for that accounting year due to limitations in this
25 section may be carried over, if necessary, to the two accounting years
26 following a credit's accounting year or until the full credit is used,
27 whichever occurs first.

28 d. The total credit taken by a taxpayer, including any carryforward
29 credit, within any ten year period for the cost of rehabilitation of a
30 qualified property shall not exceed \$10,000.

31 e. To claim the credit authorized under this section, a taxpayer
32 shall apply to the State Historic Preservation officer for certification
33 of credit eligibility. The officer shall certify to the Division of
34 Taxation the total cost of rehabilitation, that the property meets the
35 definition of qualified property, that no more than 40 percent of the
36 cost of rehabilitation which will be used to calculate the credit is for
37 the rehabilitation of the interior of the qualified property and that the
38 rehabilitation has been completed in substantial compliance with the
39 requirements of the Secretary of the Interior's Standards of
40 Rehabilitation, 35 C.F.R. §67.7 (1995). The taxpayer shall attach the
41 certification to the gross income tax return on which the credit is
42 claimed.

43 f. The director shall promulgate, in consultation with the
44 Commissioner of the Department of Environmental Protection rules
45 and regulations in accordance with the "Administrative Procedure
46 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are deemed necessary

1 to administer the provisions of this section.

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3 4. This act shall take effect immediately and section 2 shall apply
4 to taxable years beginning on or after January 1, 1997, and section 3
5 shall apply to fiscal or calendar accounting years beginning on or after
6 January 1, 1997.

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9 STATEMENT

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11 This bill provides a credit under the gross income tax and the
12 corporation business tax equal to 25 percent of the cost of
13 rehabilitating an historic property owned by the taxpayer and used for
14 residential or commercial purposes. The historic property must be
15 located in a municipality ranked between 1 through 100 on the latest
16 available Municipal Distress Index compiled by the State.

17 The purpose of this bill is to encourage property owners to
18 undertake the rehabilitation of historic properties in "distressed"
19 municipalities. The bill will promote, generally, historic preservation
20 in the State and, specifically, neighborhood preservation in such areas.

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25 Provides credit under gross income tax and corporation business tax
26 for certain costs of rehabilitating historic property in certain
27 municipalities.