2009 -- H 6177

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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO TAXATION – HISTORIC STRUCTURES -- TAX CREDIT

Introduced By: Representative Peter F. Kilmartin

Date Introduced: May 06, 2009

Referred To: House Finance

It is enacted by the General Assembly as follows:

SECTION 1. Section 44-33.2-4 of the General Laws in Chapter 44-33.2 entitled "Historic Structures - Tax Credit" is hereby amended to read as follows:

44-33.2-4. Administration. – (a) To claim the tax credit authorized in this chapter, taxpayers shall apply: (i) to the commission prior to the certified historic structure being placed in service for a certification that the certified historic structure's rehabilitation will be consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation; and (ii) after completion of the rehabilitation work to the certified historic structure: (A) to the commission for a certification that the rehabilitation is consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation, and (B) to the division of taxation for a certification as to the amount of tax credit for which the rehabilitation qualifies. The commission and the division of taxation shall be entitled to rely on the facts represented in the application without independent investigation and, with respect to the amount of tax credit for which the rehabilitation qualifies, upon the certification of a certified public accountant licensed in the state of Rhode Island. The applications shall be developed by the commission and the division of taxation and may be amended from time to time.

(b) Within ninety (90) days after the commission's and the division of taxation's receipt of the taxpayer's application requesting certification for the completed rehabilitation work, (i) the commission shall issue the taxpayer a written determination either denying or certifying the rehabilitation, and (ii) the division of taxation shall issue a certification of the amount of credit for

which the rehabilitation qualifies. To claim the tax credit, the commission's and the division of taxation's certification as to the amount of the tax credit shall be attached to all state tax returns on which the credit is claimed.

(c) No taxpayer may benefit from the provisions of this chapter unless the owner of the certified historic structure grants a restrictive covenant to the commission, agreeing that during the holding period no alterations to the certified historic structure will be made without the commission's approval and in a manner inconsistent with the standards of the Secretary of the United States Department of the Interior.

(d) The division of taxation shall charge a fee equal to two and one quarter percent (2.25%) of the qualified rehabilitation expenditures of structures placed in service after July 31, 2005 and prior to January 1, 2008. The fee shall have been paid by May 15, 2008 for certified historical structures or some identifiable portion of a structure to qualify for the thirty percent (30%) tax credits under subsection 44-33.2-3(a). For certified historical structures or some identifiable portion of a structure placed in service after December 31, 2007, the division of taxation shall charge a fee equal to three percent (3%), four percent (4%), or five percent (5%) of the qualified rehabilitation expenditures as contracted between the division of taxation and the person, firm, partnership, trust, estate, limited liability company, corporation (whether for profit or non-profit) or other business entity that incurs qualified rehabilitation expenditures for the substantial rehabilitation of certified historic structures or some identifiable portion of a structure to be placed in service after December 31, 2007; provided further that two and one quarter percent (2.25%) of the qualified rehabilitation expenditures shall be paid by May 15, 2008 with the remaining percent to be paid by March 5, 2009. Payments made after March 5, 2009 shall accrue interest ~~as set forth in section 44-1-7~~ at the rate of two percent (2%) over the prime rate of interest in effect as of January 1, 2009, and each successive January thereafter the tax administrator shall compute the rate of interest to be in effect for that calendar year by adding two percent (2%) to the prime rate which was in effect on October 1 of the preceding year.

(e) If information comes to the attention of the commission or the division of taxation at any time up to and including the last day of the holding period that is materially inconsistent with representations made in an application, the commission or the division of taxation may deny the requested certification, revoke a certification previously given or terminate the contract, with any processing fees paid to be forfeited.

(f) The general assembly hereby finds that the state's fiscal budgetary crisis is of such a nature to cause immediate peril to the public health, safety or welfare that any regulations promulgated by the division of taxation or the Rhode Island historical preservation and heritage

commission in furtherance of this chapter must be promulgated as emergency regulations pursuant to subsection 42-35-3(b).

SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

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RELATING TO TAXATION – HISTORIC STRUCTURES -- TAX CREDIT

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This act would provide that fees paid after March 5, 2009 to the division of taxation with respect to historic tax credits would accrue interest at the rate of two percent (2%) over the prime rate of interest in effect as of January 1, 2009, and for each successive January thereafter the tax administrator would add two percent (2%) to the prime rate which was in effect on October 1 of the preceding year.

This act would take effect upon passage.

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