March 19, 2013

ENGROSSED
SENATE BILL No. 4

DIGEST OF SB 4 (Updated March 14, 2013 10:38 am - DI 75)

Citations Affected: IC 4-4; IC 6-3.1; IC 36-7.

Synopsis: Historic preservation. Provides the exclusive method for removing the designation of a historic district. Provides that a petition requesting the removal of a designation of a historic district may be filed with the legislative body of the unit by the owners of: (1) a building, structure, or site designated as a single site historic district; or (2) in the case of a historic district with two or more parcels, at least 60% of the owners of the real property of the historic district. Requires the legislative body to submit the petition to the historic preservation commission (commission) of the unit. Requires the commission to conduct a public hearing on the petition not later than 60 days after receiving the petition. Requires the commission to make findings and a recommendation to grant or deny the petition not later than ten days after the public hearing. Requires the legislative body of the unit to grant or deny the petition not later than 45 days after receiving the petition from the commission. Requires the legislative body of the unit, before granting or denying a petition requesting the removal of a historic district designation, to take public comment and receive evidence in support of or in opposition to the petition. Provides that the

(Continued next page)

Effective: July 1, 2013.

Arnold, Yoder

(HOUSE SPONSORS — DERMODY, MCNAMARA, RIECKEN, CLERE)

January 7, 2013, read first time and referred to Committee on Local Government.
January 24, 2013, amended, reported favorably — Do Pass.
January 28, 2013, read second time, ordered engrossed. Engrossed.
January 29, 2013, read third time, passed. Yeas 46, nays 0.

HOUSE ACTION

February 26, 2013, read first time and referred to Committee on Local Government.
March 18, 2013, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

C o p y

Digest Continued

legislative body may adopt an ordinance granting a petition by: (1) a majority vote, if the recommendation of the commission is to grant the petition; or (2) by a two-thirds vote, if the recommendation of the commission is to deny the petition. Provides that if the legislative body does not act upon the petition within the 45 day period, the petition is considered granted or denied in accordance with the recommendation of the commission. Provides that if a petition is granted, the legislative body must adopt an ordinance to remove the designation of the historic district and record the ordinance with the county recorder. Provides that the designation of the historic district is considered removed on the date the ordinance is recorded with the county recorder. Transfers administration of the historic rehabilitation tax credit from the division of historic preservation and archeology of the department of natural resources to the office of community and rural affairs (office). Provides that the credit applies to the preservation or rehabilitation of historic properties that have been vacant for at least one year. Establishes four new methodologies for determining the amount of the tax credit. Provides that a property's adjusted basis is not reduced by the amount of the credit if a person is entitled to a federal low income housing tax credit. Changes numerous spending floors and caps relating to the tax credit. Phases in increases to the annual statewide cap on the tax credit until the cap is $10,000,000. Specifies that the office may adopt emergency rules. Voids a rule providing that the maximum amount of tax credits for a particular project is $100,000. Prohibits the office from reallocating available tax credits from year to year.

C o p y

March 19, 2013

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

C o p y

ENGROSSED
SENATE BILL No. 4

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-4-9.7-6, AS AMENDED BY P.L.144-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. The office shall do the following:

(1) Administer the rural economic development fund under section 9 of this chapter.

(2) Administer the Indiana main street program under IC 4-4-16.

(3) Administer the community development block grant program.

(4) Make certifications required under IC 6-3.1-16 with respect to the historic rehabilitation tax credit.

SECTION 2. IC 6-3.1-16-0.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 0.1. (a) An amendment to this chapter enacted in 2013 applies to tax credits awarded after June 30, 2013.**

(b) A tax credit awarded under this chapter for a taxable year ending before January 1, 2013, is subject to:

(1) this chapter (as in effect on January 1, 2013);

(2) the rules of the natural resources commission (as in effect on January 1, 2013); and

(3) any terms and conditions imposed upon the tax credit by the department of state revenue or the department of natural resources, including a requirement that the tax credit must be claimed in a taxable year beginning after December 31, 2013.

SECTION 3. IC 6-3.1-16-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 1.5. As used in this chapter, "difficult development area" has the meaning set forth in Section 42(d)(5)(B)(iii) of the Internal Revenue Code.**

SECTION 4. IC 6-3.1-16-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 2.5. As used in this chapter, "office" refers to the office of community and rural affairs established by IC 4-4-9.7-4.**

SECTION 5. IC 6-3.1-16-2.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 2.8. As used in this chapter, "person" means:**

(1) an individual;

(2) a corporation;

(3) an S corporation;

(4) a partnership;

(5) a limited liability company;

(6) a limited liability partnership;

(7) a nonprofit organization; or

(8) a joint venture.

SECTION 6. IC 6-3.1-16-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 3.5. As used in this chapter, "qualified census tract" has the meaning set forth in Section 42(d)(5)(B)(ii) of the Internal Revenue Code.**

SECTION 7. IC 6-3.1-16-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 5.5. As used in this chapter, "rurality index" refers to a ranking of Indiana counties from the least to most rural as determined and updated from time to time by the office.**

SECTION 8. IC 6-3.1-16-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6.1. As used in this chapter, "taxpayer" means: ~~an individual, a corporation, an S~~

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~~corporation, a partnership, a limited liability company, a limited liability partnership, a nonprofit organization, or a joint venture.~~

(1) a person that:

(A) is the holder of a credit that is awarded under this chapter; and

(B) has a state tax liability against which any part of the credit may be applied; or

(2) a shareholder, partner, or member of a pass through entity that:

(A) is the holder of a credit that is awarded under this chapter; and

(B) does not have any state tax liability against which any part of the credit may be applied.

SECTION 9. IC 6-3.1-16-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6.5. As used in this chapter, "significant use" refers to the use of a historic property:**

(1) as a residence; or

(2) in a trade or business for a purpose other than storage or warehousing.

SECTION 10. IC 6-3.1-16-6.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6.6. As used in this chapter, "vacant" means, with respect to a historic property, that at least fifty percent (50%) of the useable interior floor space of the historic property is not occupied and used for a significant use.**

SECTION 11. IC 6-3.1-16-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) Subject to section 14 of this chapter, a taxpayer is entitled to a credit against the taxpayer's state tax liability in the taxable year in which the taxpayer completes the preservation or rehabilitation of historic property and obtains the certifications required under section 8 of this chapter.

~~(b) The amount of the credit is equal to twenty percent (20%) of the qualified expenditures that:~~

~~(1) the taxpayer makes for the preservation or rehabilitation of historic property; and~~

~~(2) are approved by the division.~~

(b) The credit applies to qualified expenditures that:

(1) the taxpayer makes for the preservation or rehabilitation of historic property; and

(2) are approved by the office.

(c) The amount of the credit must be determined under one (1)

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of the following methods:

(1) If the total amount of the taxpayer's qualified expenditures is less than two million dollars ($2,000,000), the amount of the credit is equal to forty percent (40%) of either of the following amounts:

(A) The total amount of the qualified expenditures made by the taxpayer.

(B) The product of:

(i) the total amount of the qualified expenditures made by the taxpayer; multiplied by

(ii) one and three-tenths (1.3);

in the case of a person that applies for a credit for the preservation or rehabilitation of historic property located in a difficult development area or a qualified census tract.

(2) If the property preserved or rehabilitated is a school, is a hospital, or is subject to a grant received under the Indiana main street program established under IC 4-4-16-1, the amount of the credit is equal to forty percent (40%) of either of the following amounts:

(A) The total amount of the qualified expenditures made by the taxpayer.

(B) The product of:

(i) the total amount of the qualified expenditures made by the taxpayer; multiplied by

(ii) one and three-tenths (1.3);

in the case of a person that applies for a credit for the preservation or rehabilitation of historic property located in a difficult development area or a qualified census tract.

(3) If the property preserved or rehabilitated obtains a qualifying score under section 7.7 of this chapter, the amount of the credit is equal to forty percent (40%) of either of the following amounts:

(A) The total amount of the qualified expenditures made by the taxpayer.

(B) The product of:

(i) the total amount of the qualified expenditures made by the taxpayer; multiplied by

(ii) one and three-tenths (1.3);

in the case of a person that applies for a credit for the preservation or rehabilitation of historic property located in a difficult development area or a qualified census tract.

(4) If the property preserved or rehabilitated is not described

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by subdivisions (1) through (3), the amount of the credit is equal to twenty percent (20%) of the appropriate amount as follows:

(A) The total amount of the qualified expenditures made by the taxpayer.

(B) The product of:

(i) the total amount of the qualified expenditures made by the taxpayer; multiplied by

(ii) one and three-tenths (1.3);

in the case of a person that applies for a credit for the preservation or rehabilitation of historic property located in a difficult development area or a qualified census tract.

~~(c)~~ **(d)** In the case of a husband and wife who:

(1) own and rehabilitate a historic property jointly; and

(2) file separate tax returns;

the husband and wife may take the credit in equal shares or one (1) spouse may take the whole credit.

SECTION 12. IC 6-3.1-16-7.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 7.7. (a) The office shall develop a scoring system to evaluate preservation or rehabilitation projects for purposes of qualifying for an enhanced credit under section 7(c)(3) of this chapter.**

(b) A project scoring at least fifty (50) points in a system developed under this section is entitled to receive the enhanced credit under section 7(c)(3) of this chapter.

(c) The system must contain the following components:

(1) A score that is equal to the quotient of:

(A) the rurality index rank of the county in which the preservation or rehabilitation project is located; divided by

(B) two (2).

(2) A score that is equal to the quotient of:

(A) the median household income rank of the county in which the preservation or rehabilitation project is located as determined by the United States Census Bureau; divided by

(B) four (4).

However, the score determined under this subdivision is zero (0) if the county's median household income is equal to or greater than the Indiana median household income.

(3) A score for the quality of the building being preserved or rehabilitated by the taxpayer as follows:

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(A) Fifteen (15) points for a building rated outstanding in the most recent interim report published by the division for the county in which the property is located.

(B) Ten (10) points for a building rated notable in the most recent interim report published by the division for the county in which the property is located.

(C) Zero (0) points for a building that is neither outstanding nor notable.

SECTION 13. IC 6-3.1-16-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. A taxpayer qualifies for a credit under section 7 of this chapter if all of the following conditions are met:

(1) The historic property: ~~is:~~

(A) **is** located in Indiana;

(B) **is** at least fifty (50) years old; ~~and~~

(C) has been vacant for at least one (1) year as of the date the taxpayer submitted a proposed preservation or rehabilitation plan to the division; and

~~(C)~~ **(D)** except as provided in section ~~7(c)~~ **7(d)** of this chapter, **is** owned by the taxpayer.

(2) The ~~division~~ **office** certifies that the historic property is listed in the register of Indiana historic sites and historic structures.

(3) The ~~division~~ **office** certifies that the taxpayer submitted a proposed preservation or rehabilitation plan to the ~~division~~ **office** that complies with the standards of the division.

(4) The ~~division~~ **office** certifies that the preservation or rehabilitation work that is the subject of the credit substantially complies with the proposed plan referred to in subdivision (3).

(5) The preservation or rehabilitation work is completed in not more than:

(A) two (2) years; or

(B) five (5) years if the preservation or rehabilitation plan indicates that the preservation or rehabilitation is initially planned for completion in phases.

The time in which work must be completed begins when the physical work of construction or destruction in preparation for construction begins.

(6) The historic property is:

(A) actively used in a trade or business;

(B) held for the production of income; or

(C) held for ~~the~~ rental or other use in the ordinary course of the taxpayer's trade or business.

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(7) The qualified expenditures for preservation or rehabilitation of the historic property exceed ~~ten~~ **twenty-five** thousand dollars ~~($10,000).~~ **($25,000).**

SECTION 14. IC 6-3.1-16-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) The ~~division~~ **office** shall provide the certifications referred to in section 8(3) and 8(4) of this chapter if a taxpayer's proposed preservation or rehabilitation plan complies with the standards of the ~~division~~ **office** and the taxpayer's preservation or rehabilitation work complies with the plan.

(b) The taxpayer may appeal a decision by the ~~division~~ **office** under this chapter to the review board.

SECTION 15. IC 6-3.1-16-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. To obtain a credit under this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue the certifications by the ~~division~~ **office** required under section 8 of this chapter and all information that the department of state revenue determines is necessary for the calculation of the credit provided by this chapter.

SECTION 16. IC 6-3.1-16-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 10.5. The division shall provide the office with technical guidance and any assistance necessary to implement this chapter.**

SECTION 17. IC 6-3.1-16-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. **(a) This section does not apply to a person if the person is entitled to a credit under Section 42 of the Internal Revenue Code for the historic property.**

(b) For purposes of IC 6-3, the adjusted basis of:

(1) the structure, if the historic property is a structure; or

(2) the entire property, if the historic property is not a structure;

shall be reduced by the amount of a credit granted under this chapter.

SECTION 18. IC 6-3.1-16-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) **Except as provided in subsection (b),** a credit claimed under this chapter shall be recaptured from the taxpayer **who obtained the certifications required under section 8 of this chapter** if:

(1) the property is transferred less than five (5) years after completion of the certified preservation or rehabilitation work; or

(2) less than five (5) years after completion of the certified

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preservation or rehabilitation, additional modifications to the property are undertaken that do not meet the standards of the division.

(b) A historic property subject to a tax credit awarded under this chapter may be transferred without subjecting the tax credit to recapture under subsection (a) if the historic property is transferred as a condominium (as defined by IC 32-25-2-7).

~~(b)~~ **(c)** If the recapture of a credit is required under this section, an amount equal to the credit recaptured shall be added to the tax liability of the taxpayer for the taxable year during which the credit is recaptured.

SECTION 19. IC 6-3.1-16-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14. **(a)** The amount of tax credits allowed under this chapter may not exceed **the following amounts:**

~~(1) seven hundred fifty thousand dollars ($750,000) in the state fiscal year beginning July 1, 1997, and the state fiscal year beginning July 1, 1998; and~~

~~(2)~~ **(1)** Four hundred fifty thousand dollars ($450,000) in a state fiscal year that begins ~~July 1,~~ **after June 30,** 1999, ~~or thereafter.~~ **and ends before July 1, 2013.**

(2) Two million five hundred thousand dollars ($2,500,000) in the state fiscal year beginning July 1, 2013.

(3) Five million dollars ($5,000,000) in the state fiscal year beginning July 1, 2014.

(4) Seven million five hundred thousand dollars ($7,500,000) in the state fiscal year beginning July 1, 2015.

(5) Ten million dollars ($10,000,000) in a state fiscal year beginning after June 30, 2016.

(b) The amount of the tax credit allowed under this chapter for the preservation or rehabilitation of a particular property in a particular state fiscal year may not exceed the product of:

(1) the total amount of credits that may be allowed to all taxpayers in that state fiscal year; multiplied by

(2) twenty percent (20%).

(c) The office shall reserve twenty-five percent (25%) of the total amount of available tax credits in each state fiscal year for projects for which the qualified expenditures approved by the office do not exceed five hundred thousand dollars ($500,000). If the amount reserved under this subsection exceeds the amount of tax credits actually allowed to taxpayers that are eligible to receive tax credits from the reserved amount, the office may allow the

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excess amount to be claimed by any taxpayer otherwise entitled to a tax credit under this chapter.

(d) The office may not increase the amount of tax credits allowed under subsection (a) in a particular state fiscal year by reducing the amount specified by subsection (a) for any other state fiscal year.

SECTION 20. IC 6-3.1-16-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 15. The following may adopt rules under IC 4-22-2, **including emergency rules in the manner provided under IC 4-22-2-37.1,** to carry out this chapter:

(1) The department of state revenue.

(2) The ~~division.~~ **office.**

SECTION 21. IC 6-3.1-16-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 16. (a) 312 IAC 23-3-4(b) is void.**

(b) The publisher of the Indiana Administrative Code and Indiana Register shall remove 312 IAC 23-3-4(b) from the Indiana Administrative Code.

SECTION 22. IC 6-3.1-16-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 17. The property, records, and administrative rules maintained by the division to implement this chapter are transferred to the office on July 1, 2013.**

SECTION 23. IC 36-7-11-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 23. (a) This section provides the exclusive method for removing the designation of a historic district. The owner or owners of a building, structure, or site designated as a single site historic district may sign and file a petition with the legislative body of the unit requesting removal of the designation of the building, structure, or site as a historic district. In the case of a historic district containing two (2) or more parcels, at least sixty percent (60%) of the owners of the real property of the historic district may sign and file a petition with the legislative body of the unit requesting removal of the designation of the historic district.**

(b) The legislative body shall submit a petition filed under subsection (a) to the historic preservation commission of the unit. The historic preservation commission shall conduct a public hearing on the petition not later than sixty (60) days after receiving the petition. The historic preservation commission shall provide notice of the hearing:

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(1) by publication under IC 5-3-1-2(b);
(2) in the case of a historic district comprised of real property owned by fewer than fifty (50) property owners, by certified mail, sent at least ten (10) days before the hearing, to each owner of real estate within the historic district; and
(3) in the case of a single building, structure, or site designated as a historic district, by certified mail, sent at least ten (10) days before the hearing, to each owner of the real estate abutting the building, structure, or site designated as a historic district that is the subject of the petition.

(c) The historic preservation commission shall make the following findings after the public hearing:

(1) Whether a building, structure, or site within the historic district continues to meet the criteria for inclusion in a historic district as set forth in the ordinance approving the historic district map under section 7 of this chapter. The determination must state specifically the criteria that are applicable to the buildings, structures, or sites within the district.
(2) Whether failure to remove the designation of the historic district would deny an owner of a building, structure, or site within the historic district reasonable use of the owner's property or prevent reasonable economic return. Evidence provided by the petitioner may include information on:
(A) costs to comply with regulations;
(B) income generation;
(C) availability of contractors to perform work;
(D) real estate values;
(E) assessed values and taxes;
(F) revenue projections;
(G) current level of return;
(H) operating expenses;
(I) vacancy rates;
(J) financing issues;
(K) efforts to explore alternative uses for a property;
(L) availability of economic incentives; and
(M) recent efforts to sell or rent property.
(3) Whether removal of the designation of a historic district would have an adverse economic impact on the owners of real estate abutting the historic district, based on testimony and evidence provided by the owners of the real estate and licensed real estate appraisers or brokers.

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(4) Whether removal of or failure to remove the designation of the historic district would have an adverse impact on the unit's historic resources, and specifically whether it would result in the loss of a building, structure, or site classified as historic by the commission's survey prepared under section 6 of this chapter.

(d) Not later than ten (10) days after the public hearing, the historic preservation commission shall submit:

(1) its findings on the petition; and

(2) a recommendation to grant or deny the petition;

to the legislative body of the unit.

(e) Not later than forty-five (45) days after receiving the historic preservation commission's findings, the legislative body of the unit shall:

(1) take public comment and receive evidence in support of or in opposition to the petition; and

(2) do one (1) of the following:

(A) Deny the petition.

(B) Grant the petition by adopting an ordinance that removes the designation of the historic district by:

(i) a majority vote, if the recommendation of the historic preservation commission is to grant the petition; or

(ii) a two-thirds (2/3) vote, if the recommendation of the historic preservation commission is to deny the petition.

The legislative body shall record an ordinance adopted under subdivision (2) with the county recorder not later than ten (10) days after the legislative body adopts the ordinance. The historic district designation is considered removed on the date the ordinance is recorded with the county recorder.

(f) If the legislative body of the unit does not grant or deny the petition within forty-five (45) days after receiving the historic preservation commission's findings:

(1) the petition is considered granted or denied in accordance with the recommendation of the historic preservation commission; and

(2) if the petition is considered granted, the legislative body shall, not later than fifty-five (55) days after receiving the historic preservation commission's findings:

(A) adopt an ordinance that removes the designation of the historic district; and

(B) record the ordinance with the county recorder.

The historic district designation is considered removed on the date

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1 **the ordinance is recorded with the county recorder.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 4, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 10, delete "fifty-one percent (51%)" and insert "**sixty percent (60%)**".

and when so amended that said bill do pass.

(Reference is to SB 4 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 6, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Senate Bill 4, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-4-9.7-6, AS AMENDED BY P.L.144-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. The office shall do the following:

(1) Administer the rural economic development fund under section 9 of this chapter.

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(3) Administer the community development block grant program.

(4) Make certifications required under IC 6-3.1-16 with respect to the historic rehabilitation tax credit.

SECTION 2. IC 6-3.1-16-0.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 0.1. (a) An amendment to this chapter enacted in 2013 applies to tax credits awarded after June 30, 2013.**

(b) A tax credit awarded under this chapter for a taxable year ending before January 1, 2013, is subject to:

(1) this chapter (as in effect on January 1, 2013);

(2) the rules of the natural resources commission (as in effect

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on January 1, 2013); and

(3) any terms and conditions imposed upon the tax credit by the department of state revenue or the department of natural resources, including a requirement that the tax credit must be claimed in a taxable year beginning after December 31, 2013.

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(1) an individual;

(2) a corporation;

(3) an S corporation;

(4) a partnership;

(5) a limited liability company;

(6) a limited liability partnership;

(7) a nonprofit organization; or

(8) a joint venture.

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~~liability partnership, a nonprofit organization, or a joint venture.~~

(1) a person that:

(A) is the holder of a credit that is awarded under this chapter; and

(B) has a state tax liability against which any part of the credit may be applied; or

(2) a shareholder, partner, or member of a pass through entity that:

(A) is the holder of a credit that is awarded under this chapter; and

(B) does not have any state tax liability against which any part of the credit may be applied.

SECTION 9. IC 6-3.1-16-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6.5. As used in this chapter, "significant use" refers to the use of a historic property:**

(1) as a residence; or

(2) in a trade or business for a purpose other than storage or warehousing.

SECTION 10. IC 6-3.1-16-6.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6.6. As used in this chapter, "vacant" means, with respect to a historic property, that at least fifty percent (50%) of the useable interior floor space of the historic property is not occupied and used for a significant use.**

SECTION 11. IC 6-3.1-16-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) Subject to section 14 of this chapter, a taxpayer is entitled to a credit against the taxpayer's state tax liability in the taxable year in which the taxpayer completes the preservation or rehabilitation of historic property and obtains the certifications required under section 8 of this chapter.

~~(b) The amount of the credit is equal to twenty percent (20%) of the qualified expenditures that:~~

~~(1) the taxpayer makes for the preservation or rehabilitation of historic property; and~~

~~(2) are approved by the division.~~

(b) The credit applies to qualified expenditures that:

(1) the taxpayer makes for the preservation or rehabilitation of historic property; and

(2) are approved by the office.

(c) The amount of the credit must be determined under one (1) of the following methods:

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(1) If the total amount of the taxpayer's qualified expenditures is less than two million dollars ($2,000,000), the amount of the credit is equal to forty percent (40%) of either of the following amounts:

(A) The total amount of the qualified expenditures made by the taxpayer.

(B) The product of:

(i) the total amount of the qualified expenditures made by the taxpayer; multiplied by

(ii) one and three-tenths (1.3);

in the case of a person that applies for a credit for the preservation or rehabilitation of historic property located in a difficult development area or a qualified census tract.

(2) If the property preserved or rehabilitated is a school, is a hospital, or is subject to a grant received under the Indiana main street program established under IC 4-4-16-1, the amount of the credit is equal to forty percent (40%) of either of the following amounts:

(A) The total amount of the qualified expenditures made by the taxpayer.

(B) The product of:

(i) the total amount of the qualified expenditures made by the taxpayer; multiplied by

(ii) one and three-tenths (1.3);

in the case of a person that applies for a credit for the preservation or rehabilitation of historic property located in a difficult development area or a qualified census tract.

(3) If the property preserved or rehabilitated obtains a qualifying score under section 7.7 of this chapter, the amount of the credit is equal to forty percent (40%) of either of the following amounts:

(A) The total amount of the qualified expenditures made by the taxpayer.

(B) The product of:

(i) the total amount of the qualified expenditures made by the taxpayer; multiplied by

(ii) one and three-tenths (1.3);

in the case of a person that applies for a credit for the preservation or rehabilitation of historic property located in a difficult development area or a qualified census tract.

(4) If the property preserved or rehabilitated is not described by subdivisions (1) through (3), the amount of the credit is

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equal to twenty percent (20%) of the appropriate amount as follows:

(A) The total amount of the qualified expenditures made by the taxpayer.

(B) The product of:

(i) the total amount of the qualified expenditures made by the taxpayer; multiplied by

(ii) one and three-tenths (1.3);

in the case of a person that applies for a credit for the preservation or rehabilitation of historic property located in a difficult development area or a qualified census tract.

~~(c)~~ **(d)** In the case of a husband and wife who:

(1) own and rehabilitate a historic property jointly; and

(2) file separate tax returns;

the husband and wife may take the credit in equal shares or one (1) spouse may take the whole credit.

SECTION 12. IC 6-3.1-16-7.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 7.7. (a) The office shall develop a scoring system to evaluate preservation or rehabilitation projects for purposes of qualifying for an enhanced credit under section 7(c)(3) of this chapter.**

(b) A project scoring at least fifty (50) points in a system developed under this section is entitled to receive the enhanced credit under section 7(c)(3) of this chapter.

(c) The system must contain the following components:

(1) A score that is equal to the quotient of:

(A) the rurality index rank of the county in which the preservation or rehabilitation project is located; divided by

(B) two (2).

(2) A score that is equal to the quotient of:

(A) the median household income rank of the county in which the preservation or rehabilitation project is located as determined by the United States Census Bureau; divided by

(B) four (4).

However, the score determined under this subdivision is zero (0) if the county's median household income is equal to or greater than the Indiana median household income.

(3) A score for the quality of the building being preserved or rehabilitated by the taxpayer as follows:

(A) Fifteen (15) points for a building rated outstanding in

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the most recent interim report published by the division for the county in which the property is located.

(B) Ten (10) points for a building rated notable in the most recent interim report published by the division for the county in which the property is located.

(C) Zero (0) points for a building that is neither outstanding nor notable.

SECTION 13. IC 6-3.1-16-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. A taxpayer qualifies for a credit under section 7 of this chapter if all of the following conditions are met:

(1) The historic property: ~~is:~~

(A) **is** located in Indiana;

(B) **is** at least fifty (50) years old; ~~and~~

(C) has been vacant for at least one (1) year as of the date the taxpayer submitted a proposed preservation or rehabilitation plan to the division; and

~~(C)~~ **(D)** except as provided in section ~~7(c)~~ **7(d)** of this chapter, **is** owned by the taxpayer.

(2) The ~~division~~ **office** certifies that the historic property is listed in the register of Indiana historic sites and historic structures.

(3) The ~~division~~ **office** certifies that the taxpayer submitted a proposed preservation or rehabilitation plan to the ~~division~~ **office** that complies with the standards of the division.

(4) The ~~division~~ **office** certifies that the preservation or rehabilitation work that is the subject of the credit substantially complies with the proposed plan referred to in subdivision (3).

(5) The preservation or rehabilitation work is completed in not more than:

(A) two (2) years; or

(B) five (5) years if the preservation or rehabilitation plan indicates that the preservation or rehabilitation is initially planned for completion in phases.

The time in which work must be completed begins when the physical work of construction or destruction in preparation for construction begins.

(6) The historic property is:

(A) actively used in a trade or business;

(B) held for the production of income; or

(C) held for ~~the~~ rental or other use in the ordinary course of the taxpayer's trade or business.

(7) The qualified expenditures for preservation or rehabilitation

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of the historic property exceed ~~ten~~ **twenty-five** thousand dollars ~~($10,000).~~ **($25,000).**

SECTION 14. IC 6-3.1-16-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) The ~~division~~ **office** shall provide the certifications referred to in section 8(3) and 8(4) of this chapter if a taxpayer's proposed preservation or rehabilitation plan complies with the standards of the ~~division~~ **office** and the taxpayer's preservation or rehabilitation work complies with the plan.

(b) The taxpayer may appeal a decision by the ~~division~~ **office** under this chapter to the review board.

SECTION 15. IC 6-3.1-16-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. To obtain a credit under this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue the certifications by the ~~division~~ **office** required under section 8 of this chapter and all information that the department of state revenue determines is necessary for the calculation of the credit provided by this chapter.

SECTION 16. IC 6-3.1-16-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 10.5. The division shall provide the office with technical guidance and any assistance necessary to implement this chapter.**

SECTION 17. IC 6-3.1-16-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. **(a) This section does not apply to a person if the person is entitled to a credit under Section 42 of the Internal Revenue Code for the historic property.**

(b) For purposes of IC 6-3, the adjusted basis of:

(1) the structure, if the historic property is a structure; or

(2) the entire property, if the historic property is not a structure;

shall be reduced by the amount of a credit granted under this chapter.

SECTION 18. IC 6-3.1-16-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) **Except as provided in subsection (b),** a credit claimed under this chapter shall be recaptured from the taxpayer **who obtained the certifications required under section 8 of this chapter** if:

(1) the property is transferred less than five (5) years after completion of the certified preservation or rehabilitation work; or

(2) less than five (5) years after completion of the certified preservation or rehabilitation, additional modifications to the

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property are undertaken that do not meet the standards of the division.

(b) A historic property subject to a tax credit awarded under this chapter may be transferred without subjecting the tax credit to recapture under subsection (a) if the historic property is transferred as a condominium (as defined by IC 32-25-2-7).

~~(b)~~ **(c)** If the recapture of a credit is required under this section, an amount equal to the credit recaptured shall be added to the tax liability of the taxpayer for the taxable year during which the credit is recaptured.

SECTION 19. IC 6-3.1-16-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14. **(a)** The amount of tax credits allowed under this chapter may not exceed **the following amounts:**

~~(1) seven hundred fifty thousand dollars ($750,000) in the state fiscal year beginning July 1, 1997, and the state fiscal year beginning July 1, 1998; and~~

~~(2)~~ **(1)** Four hundred fifty thousand dollars ($450,000) in a state fiscal year that begins ~~July 1,~~ **after June 30,** 1999, ~~or thereafter.~~ **and ends before July 1, 2013.**

(2) Two million five hundred thousand dollars ($2,500,000) in the state fiscal year beginning July 1, 2013.

(3) Five million dollars ($5,000,000) in the state fiscal year beginning July 1, 2014.

(4) Seven million five hundred thousand dollars ($7,500,000) in the state fiscal year beginning July 1, 2015.

(5) Ten million dollars ($10,000,000) in a state fiscal year beginning after June 30, 2016.

(b) The amount of the tax credit allowed under this chapter for the preservation or rehabilitation of a particular property in a particular state fiscal year may not exceed the product of:

(1) the total amount of credits that may be allowed to all taxpayers in that state fiscal year; multiplied by

(2) twenty percent (20%).

(c) The office shall reserve twenty-five percent (25%) of the total amount of available tax credits in each state fiscal year for projects for which the qualified expenditures approved by the office do not exceed five hundred thousand dollars ($500,000). If the amount reserved under this subsection exceeds the amount of tax credits actually allowed to taxpayers that are eligible to receive tax credits from the reserved amount, the office may allow the excess amount to be claimed by any taxpayer otherwise entitled to

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a tax credit under this chapter.

(d) The office may not increase the amount of tax credits allowed under subsection (a) in a particular state fiscal year by reducing the amount specified by subsection (a) for any other state fiscal year.

SECTION 20. IC 6-3.1-16-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 15. The following may adopt rules under IC 4-22-2, **including emergency rules in the manner provided under IC 4-22-2-37.1,** to carry out this chapter:

(1) The department of state revenue.

(2) The ~~division.~~ **office.**

SECTION 21. IC 6-3.1-16-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 16. (a) 312 IAC 23-3-4(b) is void.**

(b) The publisher of the Indiana Administrative Code and Indiana Register shall remove 312 IAC 23-3-4(b) from the Indiana Administrative Code.

SECTION 22. IC 6-3.1-16-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 17. The property, records, and administrative rules maintained by the division to implement this chapter are transferred to the office on July 1, 2013.**".

Page 2, line 5, after "mail," insert "**sent**".

Page 2, line 8, after "mail," insert "**sent**".

Page 3, line 2, after "Whether" insert "**removal of or**".

Page 3, delete lines 12 through 21, begin a new paragraph and insert:

"**(e) Not later than forty-five (45) days after receiving the historic preservation commission's findings, the legislative body of the unit shall:**

(1) take public comment and receive evidence in support of or in opposition to the petition; and

(2) do one (1) of the following:

(A) Deny the petition.

(B) Grant the petition by adopting an ordinance that removes the designation of the historic district by:

(i) a majority vote, if the recommendation of the historic preservation commission is to grant the petition; or

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(ii) a two-thirds (2/3) vote, if the recommendation of the historic preservation commission is to deny the petition.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 4 as printed January 25, 2013.)

NEESE, Chair

Committee Vote: yeas 10, nays 0.

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