

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 896

STATE OF NEW JERSEY
212th LEGISLATURE

ADOPTED JUNE 1, 2006

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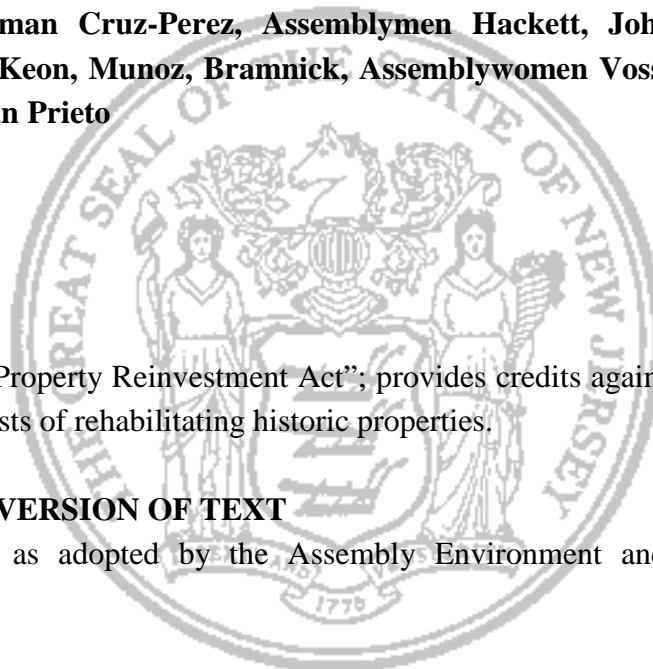
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SYNOPSIS

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

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Environment and Solid Waste Committee.



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 individual’s
29 permanent residence, as distinguished from a vacation home, property
30 owned and rented or offered for rent by the individual, and other
31 secondary real property holdings, except that the permanent residence
32 of military personnel called to active duty shall be considered to be a
33 principal residence so long as the individual maintains ownership of
34 the residence for which the credit is sought.

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

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

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

33

34 3. a. An individual, upon application to the officer before the
35 start of the physical work on the rehabilitation, shall be allowed a
36 credit against the tax otherwise due pursuant to N.J.S.54A:1-1 et
37 seq. for 25 percent of the cost of rehabilitation paid by the
38 individual for the rehabilitation of a qualified property that the
39 individual owns and occupies as the individual's principal residence
40 for a period of twelve consecutive months following the completion
41 of the rehabilitation, provided that (1) the cost of rehabilitation is in
42 an amount not less than 50 percent of the equalized assessed value
43 of the structure for local real estate tax purposes as indicated on the
44 most recent property tax bill for the qualified property prior to the
45 start of the rehabilitation, that (2) the cost for the rehabilitation of
46 the interior of the qualified property does not exceed 50 percent of
47 the total cost of rehabilitation, and that (3) the physical work on the

1 rehabilitation has not commenced prior to the approval by the
2 officer of the initial tax credit application.

3 If more than one individual own a qualified property and at least
4 one of the owners occupies the qualified property as the owner's
5 principal residence for a period of twelve consecutive months
6 following the completion of the rehabilitation, each owner shall be
7 allowed a credit against the tax otherwise due pursuant to
8 N.J.S.54A:1-1 et seq. for 25 percent of the cost of rehabilitation
9 paid by that owner for the rehabilitation of a qualified property,
10 provided that (1) the total cost of rehabilitation of the qualified
11 property borne by all owners is in an amount not less than 50
12 percent of the equalized assessed value of the structure for local real
13 estate tax purposes as indicated on the most recent property tax bill
14 for the qualified property prior to the start of the rehabilitation, that
15 (2) the cost for the rehabilitation of the interior of the qualified
16 property does not exceed 50 percent of the total cost of
17 rehabilitation of the qualified property borne by all owners, and that
18 (3) the physical work on the rehabilitation has not commenced prior
19 to the approval by the officer of the initial tax credit application.

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

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

35
36 4. a. A business entity, upon application to the officer before
37 the start of the physical work on the rehabilitation, shall be allowed
38 a credit against the tax otherwise due pursuant to section 5 of
39 P.L.1945, c.162 (C.54:10A-5), the tax imposed on insurers
40 generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et. seq.), or the
41 tax imposed on marine insurance companies pursuant to R.S.54:16-
42 1 et. seq., for 25 percent of the cost of rehabilitation paid by the
43 business entity for the rehabilitation of a qualified property, if the
44 cost of rehabilitation during a business entity's selected
45 rehabilitation period is not less than the greater of (1) the adjusted
46 basis of the structure of the qualified property used for federal
47 income tax purposes as of the beginning of the business entity's

1 selected rehabilitation period, or (2) \$5,000. The amount of the
2 credit claimed in any accounting or privilege period shall not reduce
3 the amount of the tax liability to less than the statutory minimum
4 provided in subsection (e) of section 5 of P.L.1945, c.162
5 (C.54:10A-5). The officer shall not approve any application for a
6 tax credit under this section if the physical work on the
7 rehabilitation has commenced prior to the director's approval of the
8 application.

9 b. A partnership or a New Jersey S corporation shall not be
10 allowed a credit under this section directly, but the amount of credit
11 or tax credit transfer certificate acquired pursuant to section 5 of
12 this act shall be passed through to the partners, members,
13 shareholders, or owners respectively, either in proportion to their
14 ownership interest in the entity or as the partners, members,
15 shareholders, or owners mutually agree as provided in an executed
16 document detailing the alternate distribution method.

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

31

32 5. a. The officer shall, in cooperation with the director,
33 establish and administer a gross income tax credit transfer
34 certificate program, a corporation business tax credit transfer
35 certificate program, and an insurance premiums tax credit transfer
36 certificate program to enable individuals and business entities with
37 unused, otherwise allowable amounts of tax credits issued pursuant
38 to this act to exchange these credits, in whole or in part, for private
39 financial assistance prior to the expiration of the tax credit.

40 The officer shall, in cooperation with the director, develop
41 criteria for the approval or disapproval of applications by
42 individuals and business entities for tax credit transfer certificates
43 under this act, and shall thereafter review and approve applications
44 for such tax credit transfer certificates in a manner that can best
45 stimulate and encourage the preservation of historic structures in
46 this State.

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

5 b. An individual or business entity holding an unused, otherwise
6 allowable tax credit issued pursuant to this act may apply to the
7 officer for a tax credit transfer certificate pursuant to subsection a.
8 of this section. Upon receipt thereof, the individual or the business
9 entity may sell or assign, in full or in part, the tax credit transfer
10 certificate to another taxpayer in exchange for private financial
11 assistance to be provided by the purchaser or assignee of the tax
12 credit transfer certificate to the seller thereof. The amount of
13 private financial assistance shall not be below a uniform percentage,
14 as periodically determined by the officer, of the face value of the
15 tax credit transfer certificate. The purchaser or assignee of the tax
16 credit transfer certificate may apply the face value of the tax credit
17 transfer certificate acquired against the purchaser's or assignee's
18 applicable tax liability by claiming the tax credit on the purchaser's
19 or assignee's gross income tax, corporation business tax or
20 insurance premiums tax return with the corresponding tax credit
21 transfer certificate accompanying the tax return.

22 c. The purchaser or assignee of a tax credit transfer certificate
23 shall be liable for the tax credit amount to be recaptured if section 7
24 of this act applies.

25
26 6. a. The officer shall, in consultation with the director,
27 promulgate rules and regulations in accordance with the
28 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.), as the officer deems necessary to administer the provisions of
30 this act, including but not limited to rules establishing
31 administrative fees to implement the provisions of this act and the
32 setting of an annual application submission date that will ensure
33 that all applications for a tax credit pursuant to this act will be
34 reviewed so as to allow individuals and business entities to
35 commence the rehabilitation of a qualified property by the January
36 1 next following the application submission date.

37 b. For every tax credit allowed pursuant to sections 3 and 4 of
38 this act, the officer shall certify to the director the total cost of
39 rehabilitation; that the property meets the definition of qualified
40 property; that the rehabilitation has been completed in substantial
41 compliance with the requirements of the Secretary of the Interior's
42 Standards for Rehabilitation pursuant to section 67.7 of title 36,
43 Code of Federal Regulations; and, if applicable, that no more than
44 50 percent of the cost of rehabilitation which will be used to
45 calculate the credit is for the rehabilitation of the interior of the
46 qualified property. The individual or business entity shall attach the

1 certification to the tax return on which the individual or business
2 entity claims the credit.

3 c. The total amount of credits approved by the officer pursuant
4 to this act shall not exceed \$15,000,000 in fiscal year 2008,
5 \$25,000,000 in fiscal year 2009, \$40,000,000 in fiscal year 2010,
6 and \$50,000,000 in fiscal year 2011 and thereafter.

7 The officer shall devise criteria for allocating tax credit amounts
8 if the approved amounts combined exceed the total amount in fiscal
9 years 2008 through 2011, including rules that allocate over multiple
10 fiscal years a single credit amount granted in excess of \$2,000,000.
11 The criteria shall include a project's historic importance, positive
12 impact on the surrounding neighborhood, economic sustainability,
13 geographic diversity, and consistency with Statewide growth and
14 development policies and plans.

15 d. In any fiscal year, 33 percent of the total monetary amount of
16 tax credits approved pursuant to this act shall be granted for the
17 rehabilitation of qualified properties pursuant to section 3 of this
18 act, and 66 percent of the total monetary amount of tax credits
19 approved pursuant to this act shall be granted for the rehabilitation
20 of qualified properties pursuant to section 4 of this act.

21

22 7. a. The officer, in collaboration with the director, shall adopt
23 rules for the recapture of an entire or partial tax credit amount
24 allowed under this act. The rules shall require the officer to notify
25 the director of the recapture of an entire or partial tax credit amount.
26 The recapture of funds shall be subject to the State Uniform Tax
27 Procedure Law, R.S.54:48-1 et seq. and recaptured funds shall be
28 deposited in the General Fund of the State.

29 b. If, before the end of five full years after the completion of the
30 rehabilitation of the qualified property, an individual who or a
31 business entity that has been allowed a tax credit pursuant to section
32 3 or 4 of this act either disposes of a qualified property or modifies
33 the architectural components of the rehabilitated qualified property
34 so that it ceases to meet the requirements for the rehabilitation of a
35 qualified property as defined in this act, then the tax liability of the
36 individual or business entity for that taxable year or accounting or
37 privilege period shall be increased by the following percentage of
38 that portion of the original tax credit amount that the officer now
39 disallows:

40 (1) 100 percent of the disallowed tax credit amount if the action
41 causing the disallowance occurs within one full year after the
42 rehabilitation's completion;

43 (2) 80 percent of the disallowed tax credit amount if the action
44 causing the disallowance occurs between the first and second full
45 year after the rehabilitation's completion;

1 (3) 60 percent of the disallowed tax credit amount if the action
2 causing the disallowance occurs between the second and third full
3 year after the rehabilitation's completion;

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

7 (5) 20 percent of the disallowed tax credit amount if the action
8 causing the disallowance occurs between the fourth and fifth full
9 year after the rehabilitation's completion.

10 Any portion of the tax credit that the individual or business
11 entity has not yet used at the time of the disallowance by the officer
12 shall be deemed void. If the individual or business entity whose
13 credit amount is disallowed has transferred the credit amount to
14 another individual or business entity by means of a tax credit
15 transfer certificate issued pursuant to section 5 of this act, then the
16 purchaser or assignee of the tax credit transfer certificate shall be
17 held liable for the credit amount to be recaptured.

18 c. In the case of a business entity that has chosen a selected
19 rehabilitation period of 60 months, if the architectural plans change
20 in the course of the phased rehabilitation project so that the
21 rehabilitation of the qualified property would, upon the
22 rehabilitation's completion, no longer qualify for a tax credit
23 pursuant to the requirements of this act, then the business entity's
24 tax liability for that accounting or privilege period shall be
25 increased by the full amount of the tax credit that the officer had
26 previously granted upon the completion of a distinct prior project
27 phase that the business entity has applied against its tax liability in a
28 prior accounting or privilege period. Any portion of the tax credit
29 that the business entity has not yet used at the time of the
30 disallowance by the officer shall be deemed void. If the business
31 entity whose credit amount is disallowed has transferred the credit
32 amount to another individual or business entity by means of a tax
33 credit transfer certificate issued pursuant to section 5 of this act,
34 then the purchaser or assignee of the tax credit transfer certificate
35 shall be held liable for the credit amount to be recaptured.

36
37 8. On or before December 31, 2011, the officer, in consultation
38 with the director, shall prepare and submit a written report
39 regarding the number and total monetary amount of tax credits
40 granted for the rehabilitation of qualified properties pursuant to
41 sections 3 and 4 of this act, the geographical distribution of the
42 credits granted, a summary of the tax credit transfer program
43 established pursuant to section 5 of this act, an evaluation of the
44 effectiveness of the tax credits provided pursuant to this act in
45 promoting the rehabilitation of historic properties,
46 recommendations for administrative or legislative changes to
47 increase the effectiveness of the program, and any other information
48 that the officer or the director may deem useful or appropriate. This

1 report shall be submitted to the Governor and, pursuant to section 2
2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

3

4 9. This act shall take effect immediately and section 3 shall
5 apply to taxable years beginning on or after January 1 next
6 following the date of enactment of this act, and section 4 shall apply
7 to accounting or privilege periods beginning on or after July 1 next
8 following the date of enactment of this act.