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Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Schuring

Mackenzie Damon, Attorney

SUMMARY

- Creates the Community Revitalization Program, through which individuals and businesses may receive a nonrefundable income tax credit for completing a community revitalization project.
- Allows a person that completes an approved project to either claim the tax credit, equal to a portion of the project's expenses, or transfer the credit to another person.
- Limits the credit allowed for each project, or for each distinct phase of a large project, to $5 million.
- Caps the total amount of credits that may be allocated to eligible projects each fiscal year at $100 million.
- Requires the Director of Development to administer the program.

DETAILED ANALYSIS

Community Revitalization Program

The bill creates the Community Revitalization Program. Under the program, an individual or business may undertake a community revitalization project and either claim an income tax credit for a portion of the project expenses or transfer the credit to another person. A "community revitalization project" is a community project designed to incentivize the revitalization of the state's communities. It may be a complete project or a distinct phase of a larger project.[1]

[1] R.C. 122.91(A)(4).

Application process

To receive a tax credit allocation, a person must first submit an application that includes all of the following information to the Director of Development, obtain and submit a resolution expressing support for the project adopted by a municipality or township in which the project will be located, and pay a $500 application fee. Any person may apply for an allocation, even a person not subject to state income tax and thus not eligible to claim the credit.

Application requirements
A description of the community revitalization project and project site, including whether the project is a distinct phase of a larger project.
Documentation showing the availability of the project site.
Project renderings or images that visually depict the final outcome of the project.
Financial statements with estimates showing the project's financial solvency. The estimate may take into account the receipt of a credit allocation under the program.
Construction and development cost estimates, which must be certified by a person qualified to provide such assessments, such as an architect or engineer. The estimate may only include costs the applicant expects to incur after receiving a tax credit allocation. Eligible costs may include, for example, site acquisition; architectural, design, planning, and engineering costs; tax and legal compliance consulting fees; legal fees associated with project formation; and the cost of establishing connections to public utilities and infrastructure.

Application periods

The Director must accept applications during two periods in each fiscal year: the first period runs from July 1 to September 30, and the second runs from January 1 to March 31. If any of those dates fall on a day that is not a business day, then the application period begins on or ends after the next business day, as applicable.[2]

The program's first application period will be the first period that begins at least six months after the bill's 90-day effective date.[3]

Application review

At the conclusion of each application period, the Director of Development will evaluate and rank the applications received. The deadline for approving applications and issuing credit

[2] R.C. 122.91(B).

[3] Section 3.

allocations is December 31 for the first application period, and June 30 for the second period, or, when necessary, the next applicable business day.

The bill sets forth several factors, described below, that the Director must consider when ranking applications, but allows the Director to adopt rules giving different weight to the various factors.

Factors to consider
Project feasibility, such as proof of financing secured or committed, existing end user agreements, and cost estimates from architects, engineers, and contractors.
The economic impact of the project, with a preference towards projects in low-income or high-unemployment areas.
The social impact that the project will have on the surrounding community, such as bringing assets to the community that are otherwise lacking, including critical infrastructure such as health or food access points.
The physical scope of the project, with a preference for larger projects that will maximize the economic stimulus effect on a community by creating more construction jobs and providing a larger area of physical improvement.
Alignment with state priorities, which may include the creation of low-income and middle-income housing, the purchase and revitalization of existing structures for mixed-use commercial and residential development, and the development of job-creating commercial or industrial facilities.

The Director must notify each applicant, in writing, whether or not the applicant's project is approved. If a project is approved, the notice will include the tax credit allocation amount (see below) and the date by which the project must be completed, which is two years after the notice is sent. If denied, the applicant can reapply in the next application period.[4]

Credit allocation and limits

After approving an application, the Director will notify the applicant of its "credit allocation" – the estimated tax credit amount that the applicant will be able to claim or transfer once the project is completed. A project's credit allocation equals 15% of the project's estimated costs, or 20% if the project is located in an economically disadvantaged community, up to a maximum of $5 million. For larger projects with several distinct phases, the $5 million

[4] R.C. 122.91(C) and (G).

limit applies to each phase of the project.[5] The Director can approve up to $100 million in credit allocations in each fiscal year.[6]

An economically disadvantaged community is a census tract in which either the poverty rate exceeds 20% or the median family income does not exceed 80% of the area's median income.[7]

Income tax credit

Tax credit certificate

Once a community revitalization project is completed, the person that received the credit allocation for the project has 14 days to apply to the Director of Development for a tax credit certificate. The certificate authorizes the person to either claim an income tax credit or transfer the credit to another person.

The application for a tax credit certificate must include:

- An itemized cost breakdown of the project, with third-party verification of all costs incurred. The breakdown may only include expenses incurred after receipt of the credit allocation;
- Proof that the project is complete and of the date of its completion, including visual proof of the completed project.

Similar to the application for a credit allocation, the tax credit certificate application must also be accompanied by a resolution adopted by the municipality or township in which the project is located expressing support for the completed project. This resolution cannot be the same one that was submitted with the credit allocation application.

If the Director finds that the project was completed within two years after the credit allocation was approved, the Director must issue the applicant a tax credit certificate within 60 days after receipt of the completed application. The certificate will list the amount of the tax credit the applicant may claim or transfer, which shall equal the lesser of (a) the amount of the credit allocation or (b) either 15% or, if the project is located in an economically disadvantaged community, 20% of the project's actual costs.[8]

Tax credit

A person that receives a tax credit certificate may either (a) claim a nonrefundable income tax credit for the amount stated on the certificate or (b) transfer the credit to another person. The credit must be claimed for the taxable year in which it was issued or, in the case of a transfer, the year in which the credit was transferred. If the amount of the credit exceeds the

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[5] R.C. 122.91(C)(2).

[6] R.C. 122.91(C)(3).

[7] R.C. 122.91(A)(2); 26 United States Code (U.S.C.) 45D(e)(1).

[8] R.C. 122.91(D).

taxpayer's tax liability for that year, the taxpayer can carry forward any excess credit for up to five additional years.[9]

Credit transfer

The bill authorizes the recipient of a tax credit certificate to transfer the right to claim the credit to another person. This may be advantageous, for example, if the recipient will not have an income tax liability for that year or is not subject to the income tax at all. (Only individual and pass-through entity income is subject to the income tax.)

In order to transfer the right to claim all or part of a tax credit, the transferor must notify the Tax Commissioner in writing. The transferor must identify the transferee, the amount of credit to be transferred, and, if applicable, any amount of credit the transferor will retain. A transferee may not transfer the right to claim the credit to any other person.[10]

Budget reporting

The bill adds the credit to the list of business-related tax incentives that must be included in the Governor's executive budget proposal for the purpose of accounting for the amount of credits that might be authorized or claimed in the fiscal biennium and the amount that might remain outstanding thereafter.[11]

HISTORY

Action	Date
Introduced	05-24-22

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[9] R.C. 122.91(E) and 5747.98.

[10] R.C. 122.91(F).

[11] R.C. 107.036.