

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

A Bill

HOUSE BILL 1059

5 By: Representative Pennartz
6
7

For An Act To Be Entitled

9 AN ACT TO ESTABLISH AN INVESTMENT TAX CREDIT FOR
10 THE REHABILITATION AND DEVELOPMENT OF CENTRAL
11 BUSINESS IMPROVEMENT DISTRICTS; AND FOR OTHER
12 PURPOSES.
13

Subtitle

14 TO ESTABLISH AN INVESTMENT TAX CREDIT
15 FOR THE REHABILITATION AND DEVELOPMENT
16 OF CENTRAL BUSINESS IMPROVEMENT
17 DISTRICTS.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code 26, Chapter 51 is amended to add an
24 additional subchapter to read as follows:

25 Subchapter 22 - Arkansas Central Business Improvement District
26 Rehabilitation and Development Investment Tax Credit Act.
27

28 26-51-2201. Title.

29 This subchapter shall be known and may be cited as the "Arkansas
30 Central Business Improvement District Rehabilitation and Development
31 Investment Tax Credit Act".
32

33 26-51-2202. Purpose.

34 The purpose of this subchapter is to encourage economic development
35 within central business improvement districts by promoting the rehabilitation
36 and development of structures within the central business improvement



1 districts.

2

3 26-51-2203. Definitions.

4 As used in this subchapter:

5 (1) "Central business improvement district" means the central
6 business district of any municipality of the first-class or municipality of
7 the second-class of the state that has been designated as a central business
8 improvement district under § 14-184-101 et seq.;

9 (2) "Development" means the new construction of a structure or
10 the expansion of an existing structure;

11 (3) "Eligibility certificate" means a certificate:

12 (A) Authorized and issued by the governing body of the
13 central business improvement district certifying that a project is a
14 qualified project, has met the requirements of this subchapter, and is an
15 eligible central business improvement district property; and

16 (B) That specifies the total amount of qualified
17 rehabilitation or development expenditures allowed;

18 (4) "Eligible central business improvement district property"
19 means property that is located within the physical boundaries of a central
20 business improvement district and is a qualified project;

21 (5) "Investment tax credit" means the Arkansas Central Business
22 Improvement District Rehabilitation and Development investment tax credit
23 under this subchapter;

24 (6) "Qualified project" means eligible central business
25 improvement district property that has met the requirements of § 26-51-
26 2204(b) and has been approved for rehabilitation or development by the
27 governing body of the central business improvement district where the
28 eligible central business improvement district property is located;

29 (7)(A) "Qualified rehabilitation or development expenditures"
30 means expenditures approved by the governing body of the central business
31 improvement district where the eligible central business improvement district
32 property is located that meets the requirements of this subchapter.

33 (B) "Qualified rehabilitation or development expenditures"
34 do not include:

35 (i) The cost of acquiring the eligible central
36 business improvement district property or realtor's fees associated with the

1 eligible central business improvement district property;

2 (ii) Taxes due on the eligible central business
3 improvement district property;

4 (iii) Insurance costs;

5 (iv) Costs of landscaping; or

6 (v) Sales and marketing costs; and

7 (8) "Taxpayer" means a partnership, limited liability company,
8 firm, or corporation subject to the state income tax imposed by the Income
9 Tax Act of 1929, § 26-51-101 et seq.

10
11 26-51-2204. Qualified project.

12 (a) To apply for a designation as a qualified project, a taxpayer
13 shall submit to the governing body of the central business improvement
14 district where the property to be rehabilitated or developed is located all
15 forms and fees required by the Department of Finance and Administration.

16 (b) To qualify as eligible central business improvement district
17 property, the taxpayer shall demonstrate that the property to be
18 rehabilitated or developed meets the following requirements:

19 (1) The project must be planned within the physical boundaries
20 of the central business improvement district;

21 (2) A full set of plans by a licensed architect must be
22 submitted to the governing body of the central business improvement district
23 where the property to be rehabilitated or developed is located;

24 (3) The project must meet all zoning and building codes of the
25 municipality in which the property to be rehabilitated or developed is
26 located;

27 (4) The project must meet the design guidelines, be compatible
28 with the overall plan for the central business improvement district, and have
29 a use that the governing body of the central business improvement district
30 determines as maintaining the overall integrity of the central business
31 improvement district; and

32 (5) The qualified rehabilitation or development expenditures for
33 the project must be greater than seventy five thousand dollars (\$75,000).

34 (c) After evaluating the information provided by the taxpayer, the
35 governing body of the central business improvement district shall issue a
36 determination about whether the property to be rehabilitated or developed is

1 a qualified project.

2 (d)(1) If the taxpayer is dissatisfied with the determination made by
3 the governing body of the central business improvement district, the taxpayer
4 may request that a review of that determination be made by the Director of
5 the Department of Finance and Administration.

6 (2) The request for review shall be made in writing to the
7 Director of the Department of Finance and Administration within thirty (30)
8 days from the date of the determination of the governing body of the central
9 business improvement district under subsection (c) of this section.

10
11 26-51-2205. Eligibility certificate.

12 (a) After a property to be rehabilitated or developed is designated a
13 qualified project under § 26-51-2204 and the taxpayer completes the
14 rehabilitation or development work, the taxpayer shall submit to the
15 governing body of the central business improvement district where the
16 eligible central business improvement district property is located all
17 documentation and forms required by the Department of Finance and
18 Administration and the governing body of the central business improvement
19 district to verify that the qualified project has been completed.

20 (b) If the governing body of the central business improvement district
21 determines that the qualified project has been successfully completed, the
22 governing body of the central business improvement district shall issue an
23 eligibility certificate.

24 (c)(1) If the taxpayer is dissatisfied with the determination made by
25 the governing body of the central business improvement district under
26 subsection (b) of this section, the taxpayer may request that a review of
27 that determination be made by the Director of the Department of Finance and
28 Administration.

29 (2) The request for review shall be made in writing to the
30 Director of the Department of Finance and Administration within thirty (30)
31 days from the date of the determination of the governing body of the central
32 business improvement district under subsection (b) of this section.

33
34 26-51-2206. The projected rehabilitation or development expenditures.

35 (a) The projected rehabilitation or development expenditures must
36 occur during a period not to exceed:

1 (1) Two (2) years for a single-phase project; or

2 (2) Five (5) years for a multiple-phase project.

3 (b) For the rehabilitation or development of an existing structure,
4 the projected qualified rehabilitation or development expenditures must equal
5 or exceed the adjusted basis of the structure, excluding the land, before the
6 qualified rehabilitation or development work begins.

7
8 26-51-2207. Investment tax credits.

9 (a) There is allowed an investment tax credit against the tax imposed
10 by the Income Tax Act of 1929, § 26-51-101 et seq. for any taxpayer incurring
11 costs and expenses that are qualified rehabilitation or development
12 expenditures of eligible central business improvement district property.

13 (b) The investment tax credit is equal to twenty percent (20%) of up
14 to the first two million dollars (\$2,000,000) of qualified rehabilitation or
15 development expenditures incurred for a qualified project.

16 (c)(1) The investment tax credit for a qualified project covering
17 income-producing eligible central business improvement district property
18 shall be taken as follows:

19 (A) For eligible central business improvement district
20 property that has not been approved to be completed in phases by the
21 governing body of the central business improvement district where the
22 eligible central business improvement district property is located, the
23 investment tax credit shall be taken in the tax year in which the eligible
24 central business improvement district property is placed in service; or

25 (B) For central business improvement district property
26 that has been approved to be completed in phases by the governing body of the
27 central business improvement district where the eligible central business
28 improvement district property is located, the investment tax credit shall be
29 taken in the tax year each phase is completed.

30 (2) The investment tax credit for a qualified project covering
31 residential eligible central business improvement district property or other
32 commercial eligible central business improvement district property shall be
33 taken as follows:

34 (A) For eligible central business improvement district
35 property that has not been approved to be completed in phases by the
36 governing body of the central business improvement district, the investment

1 tax credit shall be taken in the tax year the qualified project is completed;
2 or

3 (B) For eligible central business improvement district
4 property that has been approved to be completed in phases by the governing
5 body of the central business improvement district where the eligible central
6 business improvement district property is located, the investment tax credit
7 shall be taken in the tax year that each phase is completed.

8 (d) A taxpayer who receives an investment tax credit under this
9 section shall not claim any other state or local tax credit or deduction
10 based on the qualified rehabilitation or development expenditures except for
11 the deduction for normal depreciation of the eligible central business
12 improvement district property.

13 (e)(1) The maximum amount of investment tax credits awarded by the
14 state in a fiscal year is twenty million dollars (\$20,000,000) to be awarded
15 as follows:

16 (A) Up to ten million dollars (\$10,000,000) in investment
17 tax credits may be awarded for eligible central business improvement district
18 property located in municipalities with a population of less than fifty
19 thousand (50,000), as determined by the last federal census; and

20 (B) Up to ten million dollars (\$10,000,000) in investment
21 tax credits may be awarded for eligible central business improvement district
22 property located in municipalities with a population of fifty thousand
23 (50,000) or more, as determined by the last federal census.

24 (2) Any eligibility certificate that would cause the investment
25 tax credit to exceed the amounts listed in subdivision (e)(1) of this section
26 during the fiscal year will be carried forward to the following fiscal year.

27
28 26-51-2208. Procedure to claim the investment tax credit.

29 (a) To claim the investment tax credit, the taxpayer shall apply to
30 the Department of Finance and Administration.

31 (b)(1) In addition to the application under subsection (a) of this
32 section, the taxpayer shall submit an eligibility certificate at the time of
33 filing the taxpayer's income tax return.

34 (2) If the taxpayer fails to attach the eligibility certificate,
35 an investment tax credit is not allowed with respect to the qualified project
36 for that tax year until the eligibility certificate is provided to the

1 Department of Finance and Administration.

2
3 26-51-2209. Credits exceeding tax liability – Assignment.

4 (a)(1) The amount of the investment tax credit that may be used by a
5 taxpayer for a taxable year shall not exceed the amount of income tax due.

6 (2) Any unused investment tax credit may be carried over for
7 seven (7) consecutive taxable years for credit against the state income tax
8 due.

9 (3) A taxpayer eligible for the investment tax credit may
10 transfer, sell, or assign the investment tax credit.

11 (4) An investment tax credit granted to a partnership, a limited
12 liability company taxed as a partnership, or multiple owners of eligible
13 central business improvement district property shall be passed through to the
14 partners, members, or owners respectively on a pro rata basis or pursuant to
15 an executed agreement between or among the partners, members, or owners
16 documenting an alternative distribution method.

17 (b)(1) Any assignee of an investment tax credit may use an acquired
18 investment tax credit to offset up to one hundred percent (100%) of the state
19 income tax due from the assignee, but the offset shall not exceed the amount
20 of income tax due for the taxable year.

21 (2) An assignor of an investment tax credit shall perfect an
22 assignment to an assignee of an investment tax credit by notifying the
23 Department of Finance and Administration in writing within thirty (30)
24 calendar days following the effective date of the assignment and shall
25 provide any information required by the department to administer and carry
26 out this subchapter.

27
28 26-51-2210. Enforcement.

29 (a)(1) The Director of the Department of Finance and Administration
30 may make rules and prescribe forms for the proper enforcement of claims for
31 an eligibility certificate.

32 (2) The Department of Finance and Administration shall consult
33 with the governing bodies of the central business improvement districts in
34 making rules under this subchapter to maintain consistency with the purpose
35 and intent of this subchapter.

36 (b) The governing body of a central business improvement district may

1 charge a reasonable application fee as established by the Department of
 2 Finance and Administration for the processing of an eligibility certificate.

3 (c) A fee collected under § 26-51-2204 by the central business
 4 improvement district shall be deposited into the treasury cash fund of the
 5 governing body of a central business improvement district receiving the fee.

6 (d) The Department of Finance and Administration and the governing
 7 body of a central business improvement district may inspect facilities and
 8 records of an entity requesting or receiving an investment tax credit as
 9 necessary to verify a claim.

10
 11 26-51-2211. Effective Date.

12 (a) This act is effective for tax years beginning on and after January
 13 1, 2009, and expires December 31, 2013.

14 (b) An unused investment tax credit under this act that is earned
 15 before the end of the 2013 tax year may be carried forward on an income tax
 16 return for up to seven (7) years after the year in which the investment tax
 17 credit was first earned or until exhausted, whichever event occurs first.

18
 19 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
 20 General Assembly of the State of Arkansas that the central business
 21 improvement districts in Arkansas municipalities are in need of
 22 rehabilitation and development; that the state and country are in an economic
 23 recession; that providing an investment tax credit would encourage the needed
 24 rehabilitation and development of the central business improvement districts
 25 in this state; that the rehabilitation and development would provide jobs to
 26 Arkansans; and that the investment tax credit would provide an economic
 27 stimulus to the State of Arkansas. Therefore, an emergency is declared to
 28 exist and this act being necessary for the preservation of the public peace,
 29 health, and safety shall become effective on:

30 (1) The date of its approval by the Governor;

31 (2) If the bill is neither approved nor vetoed by the Governor, the
 32 expiration of the period of time during which the Governor may veto the bill;
 33 or

34 (3) If the bill is vetoed by the Governor and the veto is overridden,
 35 the date the last house overrides the veto.