

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 *As Engrossed: H1/24/11 H1/31/11 H2/1/11 H3/2/11 S3/30/11*

2 88th General Assembly

A Bill

3 Regular Session, 2011

HOUSE BILL 1118

4

5 *By: Representatives Pennartz, Tyler, Williams, Allen, S. Malone, D. Altes, McLean, Hopper, Leding*

6 By: Senator Files

7

8

For An Act To Be Entitled

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

13

14

15

Subtitle

16

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

20

21

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

23

24

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

27 Subchapter 24 - Arkansas Central Business Improvement District
28 Rehabilitation and Development Investment Tax Credit Act.

29

30 26-51-2401. Title.

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

34

35 26-51-2402. Purpose.

36 The purpose of this subchapter is to encourage economic development



1 within central business improvement districts by promoting the rehabilitation
2 and development of structures within the central business improvement
3 districts.

4
5 26-51-2403. Definitions.

6 As used in this subchapter:

7 (1) "Central business improvement district" means the central
8 business district of any municipality of the first-class or municipality of
9 the second-class of the state that has been designated as a central business
10 improvement district under the Central Business Improvement District Act, §
11 14-184-101 et seq.;

12 (2) "Development" means the new construction of a structure or
13 the expansion or rehabilitation of an existing structure;

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

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

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

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

24 (5) "Governing body of the central business improvement
25 district" means the board of commissioners of the central business
26 improvement district;

27 (6) "Governing body of the municipality" means the city council,
28 board of directors, commission, or other municipal body exercising general
29 legislative power in the municipality;

30 (7) "Investment tax credit" means the Arkansas Central Business
31 Improvement District Rehabilitation and Development investment tax credit
32 under this subchapter;

33 (8) "Qualified project" means eligible central business
34 improvement district property that has met the requirements of § 26-51-
35 2404(b) and has been approved for rehabilitation or development by the
36 governing body of the central business improvement district where the

1 eligible central business improvement district property is located;

2 (9)(A) "Qualified rehabilitation or development expenditures"
3 means expenditures approved by the governing body of the central business
4 improvement district where the eligible central business improvement district
5 property is located that meets the requirements of this subchapter.

6 (B) "Qualified rehabilitation or development expenditures"
7 does not include:

8 (i) The cost of acquiring the eligible central
9 business improvement district property or *real estate licensee's* fees
10 associated with the eligible central business improvement district property;

11 (ii) Taxes due on the eligible central business
12 improvement district property;

13 (iii) Insurance costs;

14 (iv) Costs of landscaping; or

15 (v) Sales and marketing costs; and

16 (10) "Taxpayer" means an individual, a partnership, limited
17 liability company, or corporation subject to the state income tax imposed by
18 the Income Tax Act of 1929, § 26-51-101 et seq.

19
20 26-51-2404. Qualified project.

21 (a) To apply for a designation as a qualified project, a taxpayer
22 shall submit to the governing body of the central business improvement
23 district where the property to be rehabilitated or developed is located all
24 forms and fees required by the governing body of the central business
25 improvement district.

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

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

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

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

1 (4) The project must meet the design guidelines, be compatible
2 with the overall plan for the central business improvement district, and have
3 a use that the governing body of the central business improvement district
4 determines as maintaining the overall integrity of the central business
5 improvement district;

6 (5) The qualified rehabilitation or development expenditures for
7 the project must have occurred on or after the effective date of this act;
8 and

9 (6) The qualified rehabilitation or development expenditures for
10 the project must be greater than thirty thousand dollars (\$30,000).

11 (c) After evaluating the information provided by the taxpayer, the
12 governing body of the central business improvement district shall issue a
13 determination about whether the property to be rehabilitated or developed is
14 a qualified project.

15 (d)(1) If the taxpayer is dissatisfied with the determination made by
16 the governing body of the central business improvement district, the taxpayer
17 may request that a review of that determination be made by the governing body
18 of the municipality.

19 (2)(A) The request for review shall be made in writing to the
20 governing body of the municipality within thirty (30) days from the date of
21 the determination of the governing body of the central business improvement
22 district under subsection (c) of this section.

23 (B) The decision of the governing body of the municipality
24 is a final decision.

25
26 26-51-2405. Eligibility certificate.

27 (a) After a property to be rehabilitated or developed is designated a
28 qualified project under § 26-51-2404 and the taxpayer completes the
29 rehabilitation or development work, the taxpayer shall submit to the
30 governing body of the central business improvement district where the
31 eligible central business improvement district property is located all
32 documentation and forms required by the governing body of the municipality
33 and the governing body of the central business improvement district to verify
34 that the qualified project has been completed.

35 (b) If the governing body of the central business improvement district
36 determines that the qualified project has been successfully completed, the

1 governing body of the central business improvement district shall issue an
2 eligibility certificate.

3 (c)(1) If the taxpayer is dissatisfied with the determination made by
4 the governing body of the central business improvement district under
5 subsection (b) of this section, the taxpayer may request that a review of
6 that determination be made by the governing body of the municipality.

7 (2)(A) The request for review shall be made in writing to the
8 governing body of the municipality within thirty (30) days from the date of
9 the determination of the governing body of the central business improvement
10 district under subsection (b) of this section.

11 (B) The decision of the governing body of the
12 municipality is a final decision.

13 (d) Upon issuance of an eligibility certificate, the governing body of
14 the central business improvement district immediately shall report in writing
15 to the Department of Finance and Administration:

16 (1) The name and address of the taxpayer;
17 (2) The taxpayer identification number;
18 (3) The date of issuance of the eligibility certificate;
19 (4) The amount of the eligibility certificate; and
20 (5) Any other information as determined necessary by the
21 department.

22
23 26-51-2406. The projected rehabilitation or development expenditures.

24 (a) The projected qualified rehabilitation or development expenditures
25 must occur during a period not to exceed eighteen (18) months.

26 (b) For the rehabilitation or development of an existing structure,
27 the projected qualified rehabilitation or development expenditures must equal
28 or exceed the adjusted basis of the existing structure, excluding the land,
29 before the qualified rehabilitation or development work begins.

30
31 26-51-2407. Investment tax credits.

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

36 (b) The investment tax credit is equal to twenty-five percent (25%) of

1 qualified rehabilitation or development expenditures incurred for a qualified
2 project up to the first:

3 (1) Five hundred thousand dollars (\$500,000) on income-producing
4 property; or

5 (2) Two hundred thousand dollars (\$200,000) on nonincome-
6 producing property.

7 (c)(1) The investment tax credit for a qualified project covering
8 income-producing eligible central business improvement district property
9 shall be taken in the tax year in which the eligible central business
10 improvement district property is placed in service.

11 (2) The investment tax credit for a qualified project covering
12 residential eligible central business improvement district property or other
13 nonincome-producing eligible central business improvement district property
14 shall be taken in the tax year the qualified project is completed.

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

20 (e)(1) The Department of Finance and Administration shall maintain
21 an ongoing record of the eligibility certificates awarded each fiscal year.

22 (2) The department shall only issue investment tax credits up to
23 one million dollars (\$1,000,000) in any one (1) fiscal year on a first-come,
24 first-serve basis.

25 26-51-2408. Procedure to claim the investment tax credit.

26 (a) To claim the investment tax credit, a taxpayer shall submit the
27 eligibility certificate issued by the governing body of the central business
28 improvement district to the Department of Finance and Administration.

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

32 (2) If the taxpayer fails to attach the eligibility certificate
33 to the taxpayer's income tax return, an investment tax credit is not allowed
34 with respect to the qualified project for that tax year until the eligibility
35 certificate is provided to the Department of Finance and Administration.

36

1 26-51-2409. Credits exceeding tax liability – Assignment.

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

5 (2) Any unused investment tax credit may be carried over for
6 five (5) consecutive taxable years for credit against the state income tax
7 due from the taxpayer.

8 (3)(A) The investment tax credit may be transferred, sold, or
9 assigned only one (1) time.

10 (B) A taxpayer who transfers, sells, or assigns the
11 investment tax credit shall notify in writing the Department of Finance and
12 Administration within thirty (30) days the following information:

13 (i) The name, address, and taxpayer identification
14 number of the transferee, purchaser, or assignee of the investment tax
15 credit;

16 (ii) The original issuance date of the investment
17 tax credit and the date of the transfer, purchase, or assignment of the
18 investment tax credit; and

19 (iii) The amount paid for the investment tax credit
20 by the transferee, purchaser, or assignee.

21 (C)(i) A transferee, purchaser, or assignee of an
22 investment tax credit is entitled for the remaining carry forward period to
23 the investment tax credit under this subchapter only to the extent the
24 investment tax credit is still available and only for the portion of the
25 investment tax credit that has not been previously claimed by the transferor,
26 seller, or assignor.

27 (ii) A transferee, purchaser, or assignee may not
28 transfer, sell, or assign the investment tax credit.

29 (D) The Department of Finance and Administration may
30 refuse to recognize the investment tax credit if the transferor, seller,
31 assignor or the transferee, purchaser, or assignee of the investment tax
32 credit fails to submit the eligibility certificate and any transfer,
33 purchase, or assignment documents.

34 (4) An investment tax credit granted to a partnership, a limited
35 liability company taxed as a partnership, or multiple owners of eligible
36 central business improvement district property shall be passed through to the

1 partners, members, or owners respectively on a pro rata basis or pursuant to
2 an executed agreement between or among the partners, members, or owners
3 documenting an alternative distribution method.

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

8 (2) An assignor of an investment tax credit shall perfect an
9 assignment to an assignee of an investment tax credit by notifying the
10 Department of Finance and Administration in writing within thirty (30)
11 calendar days following the effective date of the assignment and shall
12 provide any information required by the Department of Finance and
13 Administration to administer and carry out this subchapter.

14
15 26-51-2410. Fees.

16 (a) The governing body of the central business improvement district
17 may charge a fee of two hundred fifty dollars (\$250) for the services it
18 provides under this subchapter.

19 (b) The fee collected under subsection (a) of this section by
20 the governing body of the central business improvement district shall be
21 considered cash funds of the central business improvement district and shall
22 be used for the administration of this subchapter.

23
24 26-51-2411. Enforcement.

25 (a)(1) The Director of the Department of Finance and Administration
26 may make rules and prescribe forms for a taxpayer to claim the investment tax
27 credit provided by this subchapter and for the proper enforcement of the
28 claim.

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

33 (b) A fee collected under § 26-51-2204 by the governing body of the
34 central business improvement district shall be deposited into the treasury
35 cash fund of the governing body of a central business improvement district
36 receiving the fee.

