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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 1240

February 22, 2007

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The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; providing an income tax credit for expenditures for historic
1.3 structure rehabilitation; proposing coding for new law in Minnesota Statutes,
1.4 chapter 290.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [290.0678] CREDIT FOR HISTORIC STRUCTURE
1.7 REHABILITATION.

1.8 Subdivision 1. Definitions. (a) As used in this section, the terms defined in this
1.9 subdivision have the meanings given.

1.10 (b) "Certified historic structure" means a property located in Minnesota and listed
1.11 individually on the National Register of Historic Places or a historic property designated
1.12 by either a certified local government or a heritage preservation commission created
1.13 under the National Historic Preservation Act of 1966 and whose designation is approved
1.14 by the state historic preservation officer.

1.15 (c) "Eligible property" means a certified historic structure or a structure in a certified
1.16 historic district that is offered or used for residential or business purposes.

1.17 (d) "Structure in a certified historic district" means a structure located in Minnesota
1.18 that is certified by the State Historic Preservation Office as contributing to the historic
1.19 significance of a certified historic district listed on the National Register of Historic Places
1.20 or a local district that has been certified by the United States Department of the Interior.

1.21 Subd. 2. Credit allowed. A taxpayer who incurs costs for the rehabilitation of
1.22 eligible property may take a credit against the tax imposed under this chapter in an amount
1.23 equal to 25 percent of the total costs of rehabilitation. Costs of rehabilitation include,
1.24 but are not limited to, qualified rehabilitation expenditures as defined under section

2.1 47(c)(2)(A) of the Internal Revenue Code, provided that the costs of rehabilitation must
2.2 exceed 50 percent of the total basis in the property at the time the rehabilitation activity
2.3 begins and the rehabilitation must meet standards consistent with the standards of the
2.4 Secretary of the Interior for rehabilitation as determined by the State Historic Preservation
2.5 Office of the Minnesota Historical Society.

2.6 Subd. 3. **Carryback and carryforward.** If the amount of the credit under
2.7 subdivision 2 exceeds the tax liability under this chapter for the year in which the cost is
2.8 incurred, the amount that exceeds the tax liability may be carried back to any of the three
2.9 preceding taxable years or carried forward to each of the ten taxable years succeeding the
2.10 taxable year in which the expense was incurred. The entire amount of the credit must
2.11 be carried to the earliest taxable year to which the amount may be carried. The unused
2.12 portion of the credit must be carried to the following taxable year.

2.13 Subd. 4. **Partnerships; multiple owners; transfers.** (a) Credits granted to a
2.14 partnership, a limited liability company taxed as a partnership, or multiple owners of
2.15 property shall be passed through to the partners, members, or owners, respectively, pro
2.16 rata or pursuant to an executed agreement among the partners, members, or owners
2.17 documenting an alternate distribution method.

2.18 (b) Taxpayers eligible for credits may transfer, sell, or assign the credits in whole
2.19 or part. Any assignee may use acquired credits to offset up to 100 percent of the taxes
2.20 otherwise imposed by this chapter. The assignee shall perfect such transfer by notifying
2.21 the Department of Revenue in writing within 30 calendar days following the effective
2.22 date of the transfer in such form and manner as shall be prescribed by the Department
2.23 of Revenue. The proceeds of any sale or assignment of a credit shall be exempt from
2.24 taxation under this chapter.

2.25 Subd. 5. **Process.** To claim the credit, the taxpayer must apply to the State Historic
2.26 Preservation Office of the Minnesota Historical Society before a historic rehabilitation
2.27 project begins. The State Historic Preservation Office shall determine the amount of
2.28 eligible rehabilitation costs and whether the rehabilitation meets the standards of the
2.29 United States Department of the Interior. The State Historic Preservation Office shall issue
2.30 certificates verifying eligibility for and the amount of credit. The taxpayer shall attach
2.31 the certificate to any income tax return on which the credit is claimed. The State Historic
2.32 Preservation Office of the Minnesota Historical Society may collect fees for applications
2.33 for the historic preservation tax credit. Fees shall be set at an amount that does not exceed
2.34 the costs of administering the tax credit program.

3.1 Subd. 6. **Mortgage certificates; credit for lending institutions.** (a) The taxpayer
 3.2 may elect, in lieu of the credit otherwise allowed under this section, to receive a historic
 3.3 rehabilitation mortgage credit certificate.

3.4 (b) For purposes of this subdivision, a historic rehabilitation mortgage credit is a
 3.5 certificate that is issued to the taxpayer according to procedures prescribed by the State
 3.6 Historic Preservation Office with respect to the certified rehabilitation and which meets
 3.7 the requirements of this paragraph. The face amount of the certificate must be equal to
 3.8 the credit that would be allowable under subdivision 2 to the taxpayer with respect to
 3.9 the rehabilitation. The certificate may only be transferred by the taxpayer to a lending
 3.10 institution, including a nondepository home mortgage lending institution, in connection
 3.11 with a loan:

3.12 (1) that is secured by the building with respect to which the credit is issued; and

3.13 (2) the proceeds of which may not be used for any purpose other than the acquisition
 3.14 or rehabilitation of the building.

3.15 (c) In exchange for the certificate, the lending institution must provide to the
 3.16 taxpayer an amount equal to the face amount of the certificate discounted by the amount
 3.17 by which the federal income tax liability of the lending institution is increased due to its
 3.18 use of the certificate in the manner provided in this section. That amount must be applied,
 3.19 as directed by the taxpayer, in whole or in part, to reduce:

3.20 (1) the principal amount of the loan;

3.21 (2) the rate of interest on the loan; or

3.22 (3) the taxpayer's cost of purchasing the building, but only in the case of a qualified
 3.23 historic home that is located in a poverty-impacted area as designated by the State Historic
 3.24 Preservation Office.

3.25 The lending institution may take as a credit against the tax due under this chapter
 3.26 an amount equal to the amount specified in the certificate. If the amount of the discount
 3.27 retained by the lender exceeds the amount by which the lending institution's federal
 3.28 income tax liability is increased due to the use of a mortgage credit certificate, the excess
 3.29 shall be refunded to the borrower with interest at the rate prescribed by the State Historic
 3.30 Preservation Office. The lending institution may carry forward all unused credits under
 3.31 this subdivision until exhausted. Nothing in this subdivision requires a lending institution
 3.32 to accept a historic rehabilitation certificate from any person.

3.33 **Sec. 2. DETERMINATION OF ECONOMIC IMPACT.**

3.34 The Minnesota Historical Society shall annually determine the economic impact
 3.35 to the state from the rehabilitation of eligible property for which credits are provided

4.1 under section 1 and report on the impact to the committees on taxes of the senate and
4.2 house of representatives.

4.3 Sec. 3. **EFFECTIVE DATE.**

4.4 Section 1 is effective for taxable years beginning after December 31, 2006.