

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 469

Representatives Schuring, Patton

A BILL

To amend sections 107.036, 5725.98, and 5729.98 and 1
to enact sections 122.09, 5725.35, and 5729.18 2
of the Revised Code to authorize a nonrefundable 3
insurance company tax credit for contributions 4
of capital to transformational mixed use 5
development projects. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 107.036, 5725.98, and 5729.98 be 7
amended and sections 122.09, 5725.35, and 5729.18 of the Revised 8
Code be enacted to read as follows: 9

Sec. 107.036. (A) For each business incentive tax credit, 10
the main operating appropriations act shall contain a detailed 11
estimate of the total amount of credits that may be authorized 12
in each year, an estimate of the amount of credits expected to 13
be claimed in each year, and an estimate of the amount of 14
credits expected to remain outstanding at the end of the 15
biennium. The governor shall include such estimates in the state 16
budget submitted to the general assembly pursuant to section 17
107.03 of the Revised Code. 18

(B) As used in this section, "business incentive tax 19

credit" means all of the following:	20
(1) The job creation tax credit under section 122.17 of the Revised Code;	21 22
(2) The job retention tax credit under section 122.171 of the Revised Code;	23 24
(3) The historic preservation tax credit under section 149.311 of the Revised Code;	25 26
(4) The motion picture tax credit under section 122.85 of the Revised Code;	27 28
(5) The new markets tax credit under section 5725.33 of the Revised Code;	29 30
(6) The research and development credit under section 166.21 of the Revised Code;	31 32
(7) The small business investment credit under section 122.86 of the Revised Code;	33 34
<u>(8) The transformational mixed use development credit under section 122.09 of the Revised Code.</u>	35 36
<u>Sec. 122.09. (A) As used in this section:</u>	37
<u>(1) "Development costs" means expenditures paid or incurred by the property owner in completing a certified transformational mixed use development project, including architectural or engineering fees paid or incurred in connection with the project and expenses incurred before the date the project is certified by the director of development services under division (C) of this section.</u>	38 39 40 41 42 43 44
<u>(2) "Owner" means a person holding a fee simple or leasehold interest in real property, including interests in real</u>	45 46

property acquired through a capital lease arrangement. "Owner" 47
does not include the state or a state agency, or any political 48
subdivision as defined in section 9.23 of the Revised Code. For 49
the purpose of this division, "fee simple interest," "leasehold 50
interest," and "capital lease" shall be construed in accordance 51
with generally accepted accounting principles. 52

(3) "Project area" means all territory located within a 53
one-mile radius of the site of a transformational mixed use 54
development site. 55

(4) "Transformational mixed use development" means a site 56
not exceeding seven acres that integrates some combination of 57
retail, office, residential, hotel, recreation, structured 58
parking, and other uses and that includes at least one building 59
that is twenty or more stories in height. 60

(B) The owner of one or more parcels of land in this state 61
within which a transformational mixed use development is planned 62
may apply to the director for a tax credit certificate if the 63
estimated development costs to complete the project exceed four 64
hundred million dollars. Each application shall be filed in the 65
form and manner prescribed by the director and shall, at 66
minimum, include a development plan comprised of all of the 67
following information: 68

(1) A detailed description of the proposed 69
transformational mixed use development including site plans, 70
construction drawings, architectural renderings, or other means 71
sufficient to convey the appearance, size, purposes, capacity, 72
and scope of the project; 73

(2) A viable financial plan that estimates the development 74
costs to be incurred in the completion of the project and that 75

designates a source of financing or a strategy for obtaining 76
financing; 77

(3) An estimated schedule for the progression and 78
completion of the project; 79

(4) An assessment of the projected economic impact of the 80
project on the development site and the project area. 81

(C) If the director determines that the project described 82
in an application submitted under division (B) of this section 83
qualifies as a transformational mixed use development and 84
satisfies all other criteria prescribed by this section or by 85
rule of the director, the director may issue to the applicant a 86
written statement that certifies the project and preliminarily 87
approves a tax credit. The statement shall specify the estimated 88
amount of the credit, which shall equal ten per cent of the 89
development costs. The statement shall stipulate that receipt of 90
a tax credit certificate is contingent upon completion of the 91
transformational mixed use development as described in the 92
development plan submitted by the applicant under division (B) 93
of this section. 94

In determining whether or not to certify a project, the 95
director shall consider the potential impact of the 96
transformational mixed use development on the project area in 97
terms of architecture, accessibility to pedestrians, retail 98
entertainment and dining sales, job creation, property values, 99
connectivity, and revenue from sales, income, lodging, and 100
property taxes. If the director denies an application, the 101
director shall notify the applicant of the reason or reasons for 102
such determination. The director's determination is final, but 103
an applicant may revise and resubmit a previously denied 104
application. 105

(D) An applicant who is preliminarily approved for a tax credit under this section shall provide the director with sufficient evidence of reviewable progress within twelve months after the date the applicant's project is certified. In addition, the applicant shall provide the director with evidence that the applicant has secured and closed on financing for the project within eighteen months after such certification. If the applicant fails to comply with the requirements of this division, the director may rescind the approval of the application. The director shall notify the applicant if the approval has been rescinded. An applicant whose approval has been rescinded may submit a new application for a tax credit under division (B) of this section. 106
107
108
109
110
111
112
113
114
115
116
117
118

(E) An applicant who is preliminarily approved for a tax credit under this section may sell or transfer the rights to that credit to one or more persons for the purpose of raising capital for the certified project. The applicant shall notify the director upon selling or transferring the rights to the credit. The notice shall identify the person or persons to which the credit was sold or transferred and the credit amount sold or transferred to each such person. Only the applicant may sell or transfer a credit under this division. A credit may be divided among multiple purchasers through more than one transaction but once a particular credit amount is acquired by a person other than the applicant it may not be sold or transferred again. 119
120
121
122
123
124
125
126
127
128
129
130

(F) (1) The applicant shall notify the director upon completion of a certified transformational mixed use development project. The notification shall include a third-party cost certification by a certified public accountant of the actual development costs attributed to the project. Upon receiving such a notice, the director shall issue a tax credit certificate to 131
132
133
134
135
136

the applicant or to the person or persons to which the applicant 137
sold or transferred the rights to the credit under division (E) 138
of this section. The aggregate value of the certificates issued 139
by the director shall equal ten per cent of the actual 140
development costs attributed to the project. If the amount of 141
the credit is less than the credit amount estimated under 142
division (C) of this section because the actual development 143
costs are less than the estimated development costs and the 144
applicant has sold or transferred the rights to the credit to 145
more than one person, the director shall reduce the amount of 146
each tax credit certificate on a pro rata basis unless the 147
applicant requests an alternative allocation of the credit. 148

(2) Issuance of a tax credit certificate does not 149
represent a verification or certification by the director of the 150
amount of development costs for which a tax credit may be 151
claimed. The amount of development costs for which a tax credit 152
may be claimed is subject to inspection and examination by the 153
tax commissioner or employees of the commissioner under section 154
5703.19 of the Revised Code and any other applicable law. 155

(3) Upon the issuance of a tax credit certificate, the 156
director shall certify to the commissioner, in the form and 157
manner requested by the commissioner, the name of the applicant, 158
the name of each person to which a tax credit certificate was 159
issued, the actual amount of development costs attributed to the 160
project, the credit amount shown on each tax credit certificate, 161
and any other information required by the rules adopted under 162
this section. 163

(4) The person holding the rights to a tax credit 164
certificate issued under this section may claim a tax credit 165
under section 5725.35 or 5729.18 of the Revised Code. 166

(G) The director, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules that establish all of the following: 167
168
169

(1) Forms and procedures by which applicants may apply for a transformational investment tax credit; 170
171

(2) Criteria for reviewing, evaluating, and approving applications for certificates within the limitations prescribed by this section; 172
173
174

(3) Eligibility requirements for obtaining a tax credit certificate under this section; 175
176

(4) The form of the tax credit certificate; 177

(5) Reporting requirements and monitoring procedures; 178

(6) Any other rules necessary to implement and administer this section. 179
180

Sec. 5725.35. (A) There is allowed a credit against the tax imposed by section 5725.18 of the Revised Code for an insurance company subject to that tax that holds the rights to a tax credit certificate issued under section 122.09 of the Revised Code. The credit shall equal the dollar amount indicated on the certificate. The credit shall be claimed in the calendar year specified in the certificate and in the order required under section 5725.98 of the Revised Code. If the credit exceeds the amount of tax otherwise due in that year, the company may carry forward the excess for not more than five ensuing years, but the amount of the excess credit claimed against the tax for any year shall be deducted from the balance carried forward to the next year. 181
182
183
184
185
186
187
188
189
190
191
192
193

(B) An insurance company claiming a credit under this 194

section shall retain the tax credit certificate for four years 195
following the end of the last year in which the credit is 196
claimed, and shall make the certificate available for inspection 197
by the tax commissioner upon the request of the tax commissioner 198
during that period. 199

Sec. 5725.98. (A) To provide a uniform procedure for 200
calculating the amount of tax imposed by section 5725.18 of the 201
Revised Code that is due under this chapter, a taxpayer shall 202
claim any credits and offsets against tax liability to which it 203
is entitled in the following order: 204

(1) The credit for an insurance company or insurance 205
company group under section 5729.031 of the Revised Code; 206

(2) The credit for eligible employee training costs under 207
section 5725.31 of the Revised Code; 208

(3) The credit for purchasers of qualified low-income 209
community investments under section 5725.33 of the Revised Code; 210

(4) The nonrefundable job retention credit under division 211
(B) of section 122.171 of the Revised Code; 212

(5) The nonrefundable credit for contributing capital to a 213
transformational mixed use development project under section 214
5725.35 of the Revised Code; 215

(6) The offset of assessments by the Ohio life and health 216
insurance guaranty association permitted by section 3956.20 of 217
the Revised Code; 218

~~(6)~~ (7) The refundable credit for rehabilitating a 219
historic building under section 5725.34 of the Revised Code. 220

~~(7)~~ (8) The refundable credit for Ohio job retention under 221
former division (B) (2) or (3) of section 122.171 of the Revised 222

Code as those divisions existed before September 29, 2015, the 223
effective date of the amendment of this section by H.B. 64 of 224
the 131st general assembly; 225

~~(8)~~ (9) The refundable credit for Ohio job creation under 226
section 5725.32 of the Revised Code; 227

~~(9)~~ (10) The refundable credit under section 5725.19 of 228
the Revised Code for losses on loans made under the Ohio venture 229
capital program under sections 150.01 to 150.10 of the Revised 230
Code. 231

(B) For any credit except the refundable credits 232
enumerated in this section, the amount of the credit for a 233
taxable year shall not exceed the tax due after allowing for any 234
other credit that precedes it in the order required under this 235
section. Any excess amount of a particular credit may be carried 236
forward if authorized under the section creating that credit. 237
Nothing in this chapter shall be construed to allow a taxpayer 238
to claim, directly or indirectly, a credit more than once for a 239
taxable year. 240

Sec. 5729.18. (A) There is allowed a credit against the 241
tax imposed by section 5729.03 of the Revised Code for an 242
insurance company subject to that tax that holds the rights to a 243
tax credit certificate issued under section 122.09 of the 244
Revised Code. The credit shall equal the dollar amount indicated 245
on the certificate. The credit shall be claimed in the calendar 246
year specified in the certificate and in the order required 247
under section 5729.98 of the Revised Code. If the credit exceeds 248
the amount of tax otherwise due in that year, the company may 249
carry forward the excess for not more than five ensuing years, 250
but the amount of the excess credit claimed against the tax for 251
any year shall be deducted from the balance carried forward to 252

<u>the next year.</u>	253
<u>(B) An insurance company claiming a credit under this</u>	254
<u>section shall retain the tax credit certificate for four years</u>	255
<u>following the end of the last year in which the credit is</u>	256
<u>claimed, and shall make the certificate available for inspection</u>	257
<u>by the tax commissioner upon the request of the tax commissioner</u>	258
<u>during that period.</u>	259
Sec. 5729.98. (A) To provide a uniform procedure for	260
calculating the amount of tax due under this chapter, a taxpayer	261
shall claim any credits and offsets against tax liability to	262
which it is entitled in the following order:	263
(1) The credit for an insurance company or insurance	264
company group under section 5729.031 of the Revised Code;	265
(2) The credit for eligible employee training costs under	266
section 5729.07 of the Revised Code;	267
(3) The credit for purchases of qualified low-income	268
community investments under section 5729.16 of the Revised Code;	269
(4) The nonrefundable job retention credit under division	270
(B) of section 122.171 of the Revised Code;	271
(5) <u>The nonrefundable credit for contributing capital to a</u>	272
<u>transformational mixed use development project under section</u>	273
<u>5729.18 of the Revised Code;</u>	274
<u>(6)</u> The offset of assessments by the Ohio life and health	275
insurance guaranty association against tax liability permitted	276
by section 3956.20 of the Revised Code;	277
(6) <u>(7)</u> The refundable credit for rehabilitating a	278
historic building under section 5729.17 of the Revised Code.	279

~~(7)~~(8) The refundable credit for Ohio job retention under 280
former division (B) (2) or (3) of section 122.171 of the Revised 281
Code as those divisions existed before September 29, 2015, the 282
effective date of the amendment of this section by H.B. 64 of 283
the 131st general assembly; 284

~~(8)~~(9) The refundable credit for Ohio job creation under 285
section 5729.032 of the Revised Code; 286

~~(9)~~(10) The refundable credit under section 5729.08 of 287
the Revised Code for losses on loans made under the Ohio venture 288
capital program under sections 150.01 to 150.10 of the Revised 289
Code. 290

(B) For any credit except the refundable credits 291
enumerated in this section, the amount of the credit for a 292
taxable year shall not exceed the tax due after allowing for any 293
other credit that precedes it in the order required under this 294
section. Any excess amount of a particular credit may be carried 295
forward if authorized under the section creating that credit. 296
Nothing in this chapter shall be construed to allow a taxpayer 297
to claim, directly or indirectly, a credit more than once for a 298
taxable year. 299

Section 2. That existing sections 107.036, 5725.98, and 300
5729.98 of the Revised Code are hereby repealed. 301