

As Amended by House Committee

Session of 2022

HOUSE BILL No. 2569

By Representatives Proctor, Arnberger, Baker, Barker, Blex, Collins, Concannon, Croft, Ellis, French, Hoheisel, T. Johnson, Neelly, Wasinger and Waymaster

1-28

1 AN ACT concerning taxation; relating to income and privilege tax; credits;  
2 establishing an older structures tax credit; amending the historic  
3 structures tax credit; amending K.S.A. 79-32,211 and repealing the  
4 existing section.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. K.S.A. 79-32,211, and amendments thereto, and  
8 sections 1 and 2, and amendments thereto, shall be known as and may be  
9 cited as the historic Kansas act.

10 New Sec. 2. (a) For all taxable years commencing after December 31,  
11 2021, there shall be allowed a tax credit against the income, privilege or  
12 premium tax liability imposed upon a taxpayer pursuant to the Kansas  
13 income tax act, the privilege tax imposed upon any national banking  
14 association, state bank, trust company or savings and loan association  
15 pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and  
16 amendments thereto, or the premiums tax and privilege fees imposed upon  
17 an insurance company pursuant to K.S.A. 40-252, and amendments  
18 thereto, in an amount equal to 10% of ~~qualified expenditures~~ **costs and**  
19 **expenses** incurred for the restoration and preservation of a ~~qualified~~  
20 ~~structure~~ **commercial structure at least 50 years old that does not**  
21 **receive tax credits pursuant to K.S.A. 79-32,211, and amendments**  
22 **thereto.** An additional tax credit of 10% of the ~~qualified expenditures~~  
23 **costs and expenses** may be allowed for the installation of fire suppression  
24 materials or equipment by a ~~qualified~~ taxpayer. The total amount of such  
25 ~~expenditures~~ **for each such qualified expenditure costs and expenses** shall  
26 be at least ~~equal \$2,000~~ **\$25,000** but shall not exceed ~~\$1,000,000~~  
27 **\$500,000.** If the amount of such tax credit exceeds the ~~qualified~~ taxpayer's  
28 income, privilege or premium tax liability for the year in which the  
29 rehabilitation was ~~begun~~ **completed**, such excess amount may be carried  
30 over for deduction from such taxpayer's income, privilege or premium tax  
31 liability in the next succeeding year or years until the total amount of the  
32 credit has been deducted from tax liability, except that no such credit shall  
33 be carried over for deduction after the 10<sup>th</sup> taxable year succeeding the  
34 taxable year in which the rehabilitation plan was placed in service.

35 (b) Any bank, savings and loan association; ~~or savings bank or credit~~

1 ~~union~~ shall pay taxes on ~~25%~~ **50%** of the interest earned on loans to  
2 ~~qualified~~ taxpayers used for ~~expenditures~~ **costs and expenses** for the  
3 restoration and preservation of ~~qualified structures~~ **a commercial**  
4 **structure at least 50 years old** or for the installation of fire suppression  
5 materials or equipment.

6 (c) ~~As used in this section:~~

7 (1) ~~"Qualified expenditures" means the costs and expenses incurred~~  
8 ~~by a qualified taxpayer in the restoration and preservation of a qualified~~  
9 ~~structure that is at least 50 years old;~~

10 (2) ~~"qualified structure" means any building, whether or not income~~  
11 ~~producing, that includes residential, commercial and agricultural buildings;~~  
12 ~~and~~

13 (3) ~~"qualified taxpayer" means the owner of the qualified structure.~~

14 (d) ~~If the taxpayer is a corporation having an election in effect under~~  
15 ~~subchapter S of the federal internal revenue code, a partnership or a~~  
16 ~~limited liability company, the credit provided by this section shall be~~  
17 ~~claimed by the shareholders of such corporation, the partners of such~~  
18 ~~partnership or the members of such limited liability company in the same~~  
19 ~~manner as such shareholders, partners or members account for their~~  
20 ~~proportionate shares of the income or loss of the corporation, partnership~~  
21 ~~or limited liability company, or as the corporation, partnership or limited~~  
22 ~~liability company mutually agree as provided in the bylaws or other~~  
23 ~~executed agreement. Credits granted to a partnership, a limited liability~~  
24 ~~company taxed as a partnership or other multiple owners of property shall~~  
25 ~~be passed through to the partners, members or owners respectively pro rata~~  
26 ~~or pursuant to an executed agreement among the partners, members or~~  
27 ~~owners documenting any alternate distribution method.~~

28 (e)(d) Any person, hereinafter designated the assignor, may sell,  
29 assign, convey or otherwise transfer tax credits allowed and earned  
30 pursuant to subsection (a). The taxpayer acquiring credits, hereinafter  
31 designated the assignee, may use the amount of the acquired credits to  
32 offset up to 100% of the assignee's income, privilege or premium tax  
33 liability for either the taxable year in which the ~~qualified expenditures~~  
34 **costs and expenses** were made. Unused credit amounts claimed by the  
35 assignee may be carried forward for up to five years, except that all such  
36 amounts shall be claimed within 10 years following the tax year in which  
37 the ~~qualified expenditures~~ **costs and expenses** were made. The assignor  
38 shall enter into a written agreement with the assignee establishing the  
39 terms and conditions of the agreement.

40 (f)(e) No person claiming a tax credit under this section may claim a  
41 tax credit for the same structure under K.S.A. 79-32,211, and amendments  
42 thereto.

43 (f) **The director of taxation may adopt rules and regulations as**

1 **necessary for the efficient and effective administration of the**  
2 **provisions of this section.**

3 Sec. 3. K.S.A. 79-32,211 is hereby amended to read as follows: 79-  
4 32,211. (a) For all taxable years commencing after December 31, 2006,  
5 there shall be allowed a tax credit against the income, privilege or  
6 premium tax liability imposed upon a taxpayer pursuant to the Kansas  
7 income tax act, the privilege tax imposed upon any national banking  
8 association, state bank, trust company or savings and loan association  
9 pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, *and*  
10 *amendments thereto*, or the premiums tax and privilege fees imposed upon  
11 an insurance company pursuant to K.S.A. 40-252, and amendments  
12 thereto, in an amount equal to:

13 (1) 25% of qualified expenditures incurred in the restoration and  
14 preservation of a qualified historic structure pursuant to a qualified  
15 rehabilitation plan by a qualified taxpayer ~~if the total amount of such~~  
16 ~~expenditures equal \$5,000 or more~~ **if the total amount of such**  
17 **expenditures equals \$5,000 or more;** ~~or in~~

18 (2) *30% of the qualified expenditures incurred in the restoration and*  
19 *preservation of a qualified historic structure located in a city with a*  
20 *population between 9,500 and 50,000* **pursuant to a qualified**  
21 **rehabilitation plan by a qualified taxpayer if the total amount of such**  
22 **expenditures equals \$5,000 or more;** ~~and~~

23 (3) *40% of the qualified expenditures incurred in the restoration and*  
24 *preservation of a qualified historic structure located in a city with a*  
25 *population of less than 9,500-*

26 ~~*In addition, an amount equal to*~~ **pursuant to a qualified rehabilitation**  
27 **plan by a qualified taxpayer if the total amount of such expenditures**  
28 **equals \$5,000 or more; or**

29 (4) 30% of qualified expenditures incurred in the restoration and  
30 preservation of a qualified historic structure which is exempt from federal  
31 income taxation pursuant to section 501(c)(3) of the federal internal  
32 revenue code and which is not income producing pursuant to a qualified  
33 rehabilitation plan by a qualified taxpayer if the total amount of such  
34 expenditures equals \$5,000 or more. ~~In no event shall the total amount of~~  
35 ~~credits allowed under this section exceed \$3,750,000 for fiscal year 2010.~~

36 (b) If the amount of such tax credit exceeds the qualified taxpayer's  
37 income, privilege or premium tax liability for the year in which the  
38 qualified rehabilitation plan was placed in service, as defined by section  
39 47(b)(1) of the federal internal revenue code and federal regulation section  
40 1.48-12(f)(2), such excess amount may be carried over for deduction from  
41 such taxpayer's income, privilege or premium tax liability in the next  
42 succeeding year or years until the total amount of the credit has been  
43 deducted from tax liability, except that no such credit shall be carried over

1 for deduction after the 10<sup>th</sup> taxable year succeeding the taxable year in  
2 which the qualified rehabilitation plan was placed in service.

3 ~~(b)~~(c) **Any bank, savings and loan association or savings bank**  
4 **shall pay taxes on 50% of the interest earned on loans to qualified**  
5 **taxpayers used for qualified expenditures for the restoration and**  
6 **preservation of a qualified historic structure.**

7 (d) As used in this section, unless the context clearly indicates  
8 otherwise:

9 (1) "Qualified expenditures" means the costs and expenses incurred  
10 by a qualified taxpayer in the restoration and preservation of a qualified  
11 historic structure pursuant to a qualified rehabilitation plan which are  
12 defined as a qualified rehabilitation expenditure by section 47(c)(2) of the  
13 federal internal revenue code;

14 (2) "qualified historic structure" means any building, whether or not  
15 income producing, which is defined as a certified historic structure by  
16 section 47(c)(3) of the federal internal revenue code, is individually listed  
17 on the register of Kansas historic places, or is located and contributes to a  
18 district listed on the register of Kansas historic places;

19 (3) "qualified rehabilitation plan" means a project which is approved  
20 by the cultural resources division of the state historical society, or by a  
21 local government certified by the division to so approve, as being  
22 consistent with the standards for rehabilitation and guidelines for  
23 rehabilitation of historic buildings as adopted by the federal secretary of  
24 interior and in effect on the effective date of this act. The society shall  
25 adopt rules and regulations providing application and approval procedures  
26 necessary to effectively and efficiently provide compliance with this act,  
27 and may collect fees in order to defray its approval costs in accordance  
28 with rules and regulations adopted therefor; and

29 (4) "qualified taxpayer" means the owner of the qualified historic  
30 structure or any other person who may qualify for the federal rehabilitation  
31 credit allowed by section 47 of the federal internal revenue code.

32 If the taxpayer is a corporation having an election in effect under  
33 subchapter S of the federal internal revenue code, a partnership or a  
34 limited liability company, the credit provided by this section shall be  
35 claimed by the shareholders of such corporation, the partners of such  
36 partnership or the members of such limited liability company in the same  
37 manner as such shareholders, partners or members account for their  
38 proportionate shares of the income or loss of the corporation, partnership  
39 or limited liability company, or as the corporation, partnership or limited  
40 liability company mutually agree as provided in the bylaws or other  
41 executed agreement. Credits granted to a partnership, a limited liability  
42 company taxed as a partnership or other multiple owners of property shall  
43 be passed through to the partners, members or owners respectively pro rata

1 or pursuant to an executed agreement among the partners, members or  
2 owners documenting any alternate distribution method.

3 ~~(e)/(d)~~(e) Any person, hereinafter designated the assignor, may sell,  
4 assign, convey or otherwise transfer tax credits allowed and earned  
5 pursuant to subsection (a). The taxpayer acquiring credits, hereinafter  
6 designated the assignee, may use the amount of the acquired credits to  
7 offset up to 100% of ~~its~~ *such assignee's* income, privilege or premiums tax  
8 liability for either the taxable year in which the qualified rehabilitation  
9 plan was first placed into service or the taxable year in which such  
10 acquisition was made. Unused credit amounts claimed by the assignee may  
11 be carried forward for up to five years, except that all such amounts shall  
12 be claimed within 10 years following the tax year in which the qualified  
13 rehabilitation plan was first placed into service. The assignor shall enter  
14 into a written agreement with the assignee establishing the terms and  
15 conditions of the agreement and shall perfect such transfer by notifying the  
16 cultural resources division of the state historical society in writing within  
17 90 calendar days following the effective date of the transfer and shall  
18 provide any information as may be required by such division to administer  
19 and carry out the provisions of this section. The amount received by the  
20 assignor of such tax credit shall be taxable as income of the assignor, and  
21 the excess of the value of such credit over the amount paid by the assignee  
22 for such credit shall be taxable as income of the assignee.

23 **(f) The executive director of the state historical society may adopt**  
24 **rules and regulations as necessary for the efficient and effective**  
25 **administration of the provisions of this section.**

26 Sec. 4. K.S.A. 79-32,211 is hereby repealed.

27 Sec. 5. This act shall take effect and be in force from and after its  
28 publication in the statute book.