

58 63M-1-3411, Utah Code Annotated 1953

59 63M-1-3412, Utah Code Annotated 1953

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61 *Be it enacted by the Legislature of the state of Utah:*

62 Section 1. Section 17-31-9 is enacted to read:

63 **17-31-9. Payment to Stay Another Day and Bounce Back Account.**

64 A county in which a qualified hotel, as defined in Section 63M-1-3402, is located shall
65 make an annual payment to the Division of Finance:

66 (1) for deposit into the Stay Another Day and Bounce Back Account, established in
67 Section 63M-1-3411;

68 (2) for any year in which the Governor's Office of Economic Development issues a tax
69 credit certificate, as defined in Section 63M-1-3402; and

70 (3) in the amount of 5% of the state portion, as defined in Section 63M-1-3402 ~~H→~~ [, of the
71 tax credit, as defined in Section 63M-1-3402, awarded by the tax credit certificate] ~~←H~~ .

72 Section 2. Section 59-7-616 is enacted to read:

73 **59-7-616. Refundable tax credit for certain business entities.**

74 (1) As used in this section:

75 ~~H→~~ [(a) "Eligibility period" has the same meaning as defined in Section 63M-1-3402.]

76 ~~[(b)]~~ (a) ←H "Office" means the Governor's Office of Economic Development.

77 ~~H→~~ [(c)] (b) ←H "Pass-through entity" has the same meaning as defined in

77a Section 59-10-1402.

78 ~~H→~~ [(d)] (c) ←H "Pass-through entity taxpayer" has the same meaning as defined in Section
79 59-10-1402.

80 ~~H→~~ [(e)] (d) ←H "Tax credit certificate" has the same meaning as defined in

80a Section 63M-1-3402.

81 ~~H→~~ [(f)] (e) ←H "Tax credit recipient" has the same meaning as defined in

81a Section 63M-1-3402.

82 (2) (a) Subject to the other provisions of this section, a tax credit recipient that is a
83 corporation may claim a refundable tax credit as provided in Subsection (3).

84 (b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass
85 through to one or more pass-through entity taxpayers of the pass-through entity, in accordance
86 with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a
87 refundable tax credit that the tax credit recipient could otherwise claim under this section.

88 (3) The amount of a tax credit is the amount listed as the tax credit amount on the tax

89 credit certificate that the office issues to the tax credit recipient for the taxable year.

90 (4) A tax credit recipient:

91 (a) may claim or pass through a tax credit in a taxable year other than the taxable year
 92 during which the tax credit recipient has been issued a tax credit certificate; and

93 (b) may not claim a tax credit under both this section and Section 59-7-1110.

94 (5) (a) In accordance with any rules prescribed by the commission under Subsection
 95 (5)(b), the commission shall:

96 (i) make a refund to a tax credit recipient that claims a tax credit under this section if
 97 the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter;
 98 and

99 (ii) transfer at least annually from the General Fund into the Education Fund an amount
 100 equal to the amount of tax credit claimed under this section.

101 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 102 commission may make rules providing procedures for making:

103 (i) a refund to a tax credit recipient or pass-through entity taxpayer as required by
 104 Subsection (5)(a)(i); or

105 (ii) transfers from the General Fund into the Education Fund as required by Subsection
 106 (5)(a)(ii).

107 Section 3. Section **59-10-1110** is enacted to read:

108 **59-10-1110. Refundable tax credit for certain business entities.**

109 (1) As used in this section:

110 ~~Ĥ→ [(a) "Eligibility period" has the same meaning as defined in Section 63M-1-3402;]~~

111 ~~[(b)] (a) ←Ĥ~~ "Office" means the Governor's Office of Economic Development.

112 ~~Ĥ→ [(c)] (b) ←Ĥ~~ "Pass-through entity" has the same meaning as defined in

112a Section 59-10-1402.

113 ~~Ĥ→ [(d)] (c) ←Ĥ~~ "Pass-through entity taxpayer" has the same meaning as defined in Section
 114 59-10-1402.

115 ~~Ĥ→ [(e)] (d) ←Ĥ~~ "Tax credit certificate" has the same meaning as defined in

115a Section 63M-1-3402.

116 ~~Ĥ→ [(f)] (e) ←Ĥ~~ "Tax credit recipient" has the same meaning as defined i

116a Section 63M-1-3402.

117 (2) (a) Subject to the other provisions of this section, a tax credit recipient may claim a
 118 refundable tax credit as provided in Subsection (3).

119 (b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass

182 related to the management or operation of the office.

183 Section 5. Section **63M-1-3401** is enacted to read:

184 **Part 34. New Convention Hotel Development Incentive Act**

185 **63M-1-3401. Title.**

186 This part is known as the "New Convention ~~H~~→ [Hotel] Facility ←~~H~~ Development
186a Incentive Act."

187 Section 6. Section **63M-1-3402** is enacted to read:

188 **63M-1-3402. Definitions.**

189 As used in this part:

190 (1) "Agreement" means an agreement described in Section 63M-1-3403.

191 (2) "Commission" means the Utah State Tax Commission.

192 (3) "Committee" means the independent review committee established as provided in
193 Subsection 63M-1-3404(1).

194 (4) "Community development and renewal agency" has the same meaning as defined in
195 Section 17C-1-102.

196 (5) "Eligibility period" means:

197 (a) the period that:

198 (i) begins the date construction of a qualified hotel begins, and

199 (ii) ends ~~H~~→ :

199a **(A) for purposes of the state portion, ←~~H~~**

199b 20 years after the date of initial occupancy of that qualified hotel; or

199c **~~H~~→ (B) for purposes of the local portion, 25 years after the date of initial occupancy of**
199d **that hotel; or ←~~H~~**

200 (b) as provided in an agreement between the office and a qualified hotel owner or host
201 local government, a period that:

202 (i) begins no earlier than the date construction of a qualified hotel begins; and

203 (ii) is shorter than the period described in Subsection (5)(a).

204 (6) "Host agency" means the community development and renewal agency of the host
205 local government.

206 (7) "Host local government" means:

207 (a) a county that enters into an agreement with the office for the construction of a
208 qualified hotel within the unincorporated area of the county; or

209 (b) a city or town that enters into an agreement with the office for the construction of a
210 qualified hotel within the boundary of the city or town.

211 (8) "Hotel property" means a qualified hotel and any property that is included in the
212 same development as the qualified hotel, including convention, exhibit, and meeting space,

213 retail shops, restaurants, parking, and other ancillary facilities and amenities.

214 (9) "Incremental property tax revenue" means the amount of property tax revenue
 215 generated from hotel property that equals the difference between:

216 (a) the amount of property tax revenue generated in any tax year by all taxing entities
 217 from hotel property, using the current assessed value of the hotel property; and

218 (b) the amount of property tax revenue that would be generated that tax year by all
 219 taxing entities from hotel property, using a base taxable value of the hotel property as
 220 established by the county in which the hotel property is located.

221 (10) "Local portion" means ~~H→~~ :

221a (a) ~~←H~~ the portion of new tax revenue that is not the state portion ~~H→~~ [:] ; and

221b (b) incremental property tax revenue. ~~←H~~

222 (11) "New tax revenue" means:

223 (a) all incremental new revenue generated from a tax under Title 59, Chapter 12, Sales
 224 and Use Tax Act, on transactions occurring during the eligibility period as a result of the
 225 construction of a qualified hotel, including purchases made by a qualified hotel owner and its
 226 subcontractors; ~~H→~~ [and] ~~←H~~

227 (b) all incremental new revenue generated from a tax under Title 59, Chapter 12, Sales
 228 and Use Tax Act, on transactions occurring on hotel property during the eligibility
 228a period ~~H→~~ [:] ; and

228b (c) all incremental new revenue generated from a tax under Title 59, Chapter 12, Sales
 228c and Use Tax Act, on transactions by a third-party seller occurring other than on hotel
 228d property during the eligibility period, if:

228e (i) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act;
 228f and

228g (ii) the third-party seller voluntarily consents to the disclosure of information to the
 228h office, as provided in Subsection 63M-1-3405(1)(b)(i)(E). ~~←H~~

229 (12) "Public infrastructure" means:

230 (a) water, sewer, storm drainage, electrical, telecommunications, and other similar
 231 systems and lines;

232 (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public
 233 transportation facilities; and

234 (c) other buildings, facilities, infrastructure, and improvements that benefit the public.

235 (13) "Qualified hotel" means a single, full-service hotel constructed in the state on or
 236 after July 1, 2014 that:

244 (16) "State portion" means the portion of new tax revenue that is attributable to a tax
 245 imposed under Subsection 59-12-103(2)(a)(i)(A).

246 (17) "Tax credit" means a tax credit under Section 59-7-616 or 59-10-1110.

247 (18) "Tax credit amount" means the amount the office lists as a tax credit on a tax
 248 credit certificate.

249 (19) "Tax credit applicant" means a qualified hotel owner or host local government
 250 that:

251 (a) has entered into an agreement with the office; and

252 (b) pursuant to that agreement, submits an application for the issuance of a tax credit
 253 certificate.

254 (20) "Tax credit certificate" means a certificate issued by the office that includes:

255 (a) the name of the tax credit recipient;

256 (b) the tax credit recipient's taxpayer identification number;

257 (c) the tax credit amount authorized under this part for a taxable year; and

258 (d) other information as determined by the office.

259 (21) "Tax credit recipient" means a tax credit applicant that has been issued a tax credit
 260 certificate.

260a **Ĥ→ (22) "Third-party seller" means a person who is a seller in a transaction:**

260b **(a) occurring other than on hotel property;**

260c **(b) that is:**

260d **(i) the sale, rental, or lease of a room or of convention or exhibit space or other facilities**
 260e **on hotel property; or**

260f **(ii) the sale of tangible personal property or a service on hotel property; and**

260g **(c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act. ←Ĥ**

261 Section 7. Section **63M-1-3403** is enacted to read:

262 **63M-1-3403. Agreement for development of new convention hotel -- Tax credit**
 263 **authorized -- Agreement requirements.**

264 (1) The office, with the board's advice, may enter into an agreement with a qualified
 265 hotel owner or a host local government:

266 (a) for the development of a qualified hotel; and

267 (b) to authorize a tax credit:

268 (i) to the qualified hotel owner or host local government, but not both;

269 (ii) for a period not to exceed the eligibility period; and

270 (iii) if all applicable requirements of this part and the agreement are met.

271 (2) An agreement shall:

272 (a) specify the requirements for a tax credit recipient to qualify for a tax credit;

273 (b) with respect to the state portion of any tax credit that the tax credit recipient may
 274 receive during the eligibility period:

337 (B) documentation of the new tax revenue generated during the preceding year;

338 (C) a document in which the qualified hotel owner expressly directs and authorizes the
 339 commission to disclose to the office the qualified hotel owner's tax returns and other
 340 information that would otherwise be subject to confidentiality under Section 59-1-403 or
 341 Section 6103, Internal Revenue Code;

342 (D) a document in which the qualified hotel's direct vendors, lessees, or subcontractors,
 343 as applicable, expressly direct and authorize the commission to disclose to the office the tax
 344 returns and other information of those vendors, lessees, or subcontractors that would otherwise
 345 be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

346 ~~H~~→ [and]

346a (E) a document in which a third-party seller expressly and voluntarily directs and
 346b authorizes the commission to disclose to the office the third-party seller's tax returns and other
 346c information that would otherwise be subject to confidentiality under Section 59-1-403 or
 346d Section 6103, Internal Revenue Code, and that shows the amount of tax under Title 59,
 346e Chapter 12, Sales and Use Tax Act, that the third-party seller has collected in a transaction
 346f occurring other than on hotel property for the sale, rental, or lease of a room or of convention
 346g or exhibit space or other facilities on hotel property or for the sale of tangible personal
 346h property or a service on hotel property; and

347 [~~E~~] (F) ←~~H~~ documentation verifying that the qualified hotel owner has satisfied the
 348 performance benchmarks outlined in the agreement;

349 (ii) for an application submitted by a host local government, documentation of the new
 350 tax revenue generated during the preceding year;

351 (c) if the host local government intends to assign the tax credit sought in the tax credit
 352 application to a community development and renewal agency:

353 (i) the taxpayer identification number of the community development and renewal
 354 agency; and

355 (ii) a document signed by the governing body members of the community development
 356 and renewal agency that expressly directs and authorizes the commission to disclose to the
 357 office the agency's tax returns and other information that would otherwise be subject to
 358 confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

359 (d) a statement provided by an independent certified public accountant, at the tax credit
 360 applicant's expense, attesting to the accuracy of the documentation of new tax revenue.

361 (2) (a) The office shall submit to the commission the documents described in
 362 Subsections (1)(b)(i)(C) and (1)(c)(ii) authorizing disclosure of the tax returns and other
 363 information.

364 (b) Upon receipt of the documents described in Subsection (2)(a), the commission shall
 365 provide the office the tax returns and other information described in those documents.

366 (3) If the office determines that the tax returns and other information is inadequate to
 367 validate the issuance of a tax credit certificate, the office shall inform the tax credit applicant

430 providing tax credits; and

431 (d) the estimated and actual costs and economic benefits of the tax credit commitments
432 that the office made.

433 (2) The office shall post the annual report under Subsection (1) on its website and on a
434 state website.

435 Section 15. Section **63M-1-3411** is enacted to read:

436 **63M-1-3411. Stay Another Day and Bounce Back Account.**

437 (1) As used in this section:

438 (a) "Account" means the Stay Another Day and Bounce Back Account, established in
439 Subsection (2).

440 (b) "Board" means the Board of Tourism Development created in Section 63M-1-1401.

441 (2) There is created within the General Fund a restricted account known as the Stay
442 Another Day and Bounce Back Account.

443 (3) The account shall:

444 (a) be administered by the board;

445 (b) earn interest; and

446 (c) be funded by:

447 (i) annual payments under Section 17-31-9 from the county in which a qualified hotel
448 is located; and

449 (ii) any money that the Legislature chooses to appropriate to the account.

450 (4) Interest earned by the account shall be deposited into the account.

451 (5) The board may use money in the account to pay for a tourism program of
452 advertising, marketing, and branding of the state, taking into consideration the long-term
453 strategic plan, economic trends, and opportunities for tourism development on a statewide
454 basis.

455 ~~H→ [(6) The Division of Finance shall:~~

456 ~~— (a) certify money deposited into the account as set aside for the account; and~~

457 ~~— (b) report money deposited into the account to the Office of the Legislative Fiscal~~

458 ~~Analyst.] ←H~~

459 Section 16. Section **63M-1-3412** is enacted to read:

460 **63M-1-3412. Authorized expenditures of tax credit money.**

461 (1) A tax credit recipient may spend money received as a direct result of the state
462 portion of a tax credit only for the purchase of or payment for, or reimbursement of a previous
463 purchase of or payment for:

464 (a) tangible personal property used in the construction of convention, exhibit, or
465 meeting space on hotel property ~~H→~~ , including any associated labor and overhead ~~←H~~ ; or

466 (b) tangible personal property that, upon the construction of hotel property, becomes
467 affixed to hotel property as real property.

468 (2) A tax credit recipient may spend money received as a direct result of the local
469 portion of a tax credit only for:

470 (a) a purpose described in Subsection (1);

471 (b) public infrastructure; and

472 (c) other purposes as approved by the host agency.

473 **Section 17. Effective date.**

474 (1) Except as provided in Subsection (2), this bill takes effect May 13, 2014.

475 (2) Sections 59-7-616 and 59-10-1110 take effect for a taxable year beginning on or
476 after January 1, 2015.

Legislative Review Note
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Office of Legislative Research and General Counsel