

1 HB271  
2 135848-1  
3 By Representatives Gaston, Rogers, Fincher, Clouse,  
4 Williams (P), Wren, Jackson, Scott, Johnson (K), Long,  
5 Sessions, Buskey, Kennedy, Poole, Ball, Harper, Carns,  
6 Treadaway, Hall, Todd, Ison, Davis, Newton (D), Moore (M),  
7 Givan, Robinson (O), Coleman, Sanderford, Williams (J), Greer,  
8 Wood, Hill, Johnson (W), Millican, Bridges, Boman, Moore (B),  
9 Weaver, Beech, Wallace, Collins, Brown, Drake, Mask, Laird,  
10 Patterson and McClurkin  
11 RFD: Ways and Means Education  
12 First Read: 09-FEB-12

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8 SYNOPSIS: Under existing law, there is no state income  
9 tax credit in Alabama for the rehabilitation,  
10 preservation, or development of historic structures  
11 in the area designated by a municipality as the  
12 downtown core area or central business district or  
13 registered historic districts.

14 This bill would provide an income tax credit  
15 in an area designated by a municipality as a  
16 downtown core area or central business district or  
17 any registered historic districts in any Class 1,  
18 Class 2, or Class 3 municipality against the tax  
19 liability of the taxpayer for the rehabilitation,  
20 preservation, and development of historic  
21 structures.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
26

1                   Relating to a Class 1, Class 2, or Class 3  
2 municipality; to provide an income tax credit in any downtown  
3 core area or central business district or any registered  
4 historic districts against the tax liability of the taxpayer  
5 for the rehabilitation, preservation, and development of  
6 historic structures.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8                   Section 1. This act shall only apply to any downtown  
9 core area or central business district or any registered  
10 historic districts in any Class 1, Class 2, or Class 3  
11 municipality.

12                   Section 2. As used in this act, the following terms  
13 shall have the following meanings:

14                   (1) ALABAMA CERTIFIED HISTORIC STRUCTURE. A building  
15 certified by the Alabama Historical Commission as individually  
16 listed in the National Register of Historic Places, eligible  
17 for listing on the National Register of Historic Places, or  
18 certified by the Alabama Historical Commission as contributing  
19 to the historic significance of a National Register District.

20                   (2) ALABAMA CERTIFIED REHABILITATION. Repairs or  
21 alterations to a certified historic structure that is  
22 certified by the Alabama Historical Commission as meeting the  
23 United States Secretary of the Interior's Standards for  
24 Rehabilitation, or to non-historic structures built before  
25 1936 which are certified by the commission as meeting the  
26 requirements contained in Section 47(c)(1)(a) and (b) of the  
27 Internal Revenue Code.

1 (3) COMMISSION. The Alabama Historical Commission.

2 (4) DOWNTOWN CORE AREA or CENTRAL BUSINESS DISTRICT.

3 The designation by a municipal corporation in the municipal  
4 zoning ordinance of the geographical area of the center or  
5 core of the municipality.

6 (5) DEPARTMENT. The Alabama Department of Revenue.

7 (6) ALABAMA HISTORIC HOME. A certified historic  
8 structure or any portion of a certified historic structure  
9 which is or will, within a reasonable period, not to exceed 12  
10 months, be owned and used as the residence of the person  
11 claiming the tax credit allowed under this act. An Alabama  
12 historic home shall include any structure or group of  
13 structures that constitute a multifamily or multipurpose  
14 structure, including a cooperative or condominium. If only a  
15 portion of a structure is used as the person's residence, only  
16 those qualified rehabilitation expenditures that are properly  
17 allocable to the portion shall be deemed to be made to an  
18 Alabama historic home.

19 (7) OWNER. Any taxpayer filing a State of Alabama  
20 tax return who possesses title to a certified historic  
21 structure or qualified pre-1936 non-historic structure, or who  
22 owns prospective title to the structure in the form of a  
23 purchase agreement or option to purchase.

24 (8) QUALIFIED REHABILITATION EXPENDITURE. Any amount  
25 paid by an owner which would be required under the Internal  
26 Revenue Code to be capitalized into the real property which is  
27 expended in the substantial rehabilitation of a certified

1 historic structure or qualified pre-1936 non-historic  
2 structure by the end of the taxable year in which the  
3 certified rehabilitation is placed in service. Qualified  
4 rehabilitation expenditure does not include the cost of  
5 acquisition of the structure, the owner's personal labor, or  
6 any cost associated with the rehabilitation of an outbuilding  
7 of the structure, unless the outbuilding is certified by the  
8 commission to contribute to the historical significance of the  
9 structure.

10 (9) QUALIFIED STRUCTURES. Where used in this act,  
11 this term shall collectively refer to both certified historic  
12 structures and qualified pre-1936 non-historic structures.

13 (10) REGISTERED HISTORIC DISTRICT. Any district  
14 listed in the U. S. National Register, and any district, which  
15 is:

16 a. Designated under a statute of the State of  
17 Alabama or local body, if the statute or ordinance is  
18 certified by the U. S. Secretary of the Interior as containing  
19 criteria which substantially achieve the purpose of preserving  
20 and rehabilitating buildings of historic significance to the  
21 district.

22 b. Certified by the Secretary of the Interior as  
23 meeting substantially all of the requirements for the listing  
24 of districts in the National Register.

25 (11) REHABILITATION PLAN. Any construction plans and  
26 specifications for the proposed rehabilitation of a qualified  
27 structure in sufficient detail to enable the commission to

1 evaluate compliance with the standards developed under the  
2 provisions of this act.

3 (12) SUBSTANTIAL REHABILITATION. Rehabilitation of a  
4 qualified structure for which the qualified rehabilitation  
5 expenditures, at least five percent of which must be allocable  
6 to the exterior, during the 24-month period selected by the  
7 taxpayer ending with the taxable year exceeds twenty-five  
8 thousand dollars (\$25,000).

9 Section 3. (a) The commission shall administer this  
10 system in accordance with the requirements and purposes of  
11 this act for owners rehabilitating qualified structures in a  
12 downtown core area or central business district or certified  
13 historic district. The commission shall develop standards for  
14 the approval of the substantial rehabilitation of qualified  
15 structures for which a tax credit is sought. The standards  
16 shall take into account whether the substantial rehabilitation  
17 of a qualified structure be consistent with the historic  
18 character of the structure or of the district in which the  
19 property is located.

20 (b) Prior to beginning any substantial  
21 rehabilitation work on a qualified structure, the owner shall  
22 submit an application and rehabilitation plan to the  
23 commission for a determination of whether the rehabilitation  
24 work meets the standards developed under the provisions of  
25 subsection (a) and shall also submit to the commission an  
26 estimate of the qualified rehabilitation expenditures. No work  
27 performed on the qualified structure prior to the submission

1 of an application and rehabilitation plan be eligible or may  
2 qualify for the tax credit under this act.

3 (c) If the commission certifies that the  
4 rehabilitation plan conforms to the standards developed under  
5 the provisions of subsection (a), the commission shall reserve  
6 for the benefit of the owner an allocation for a tax credit as  
7 provided in Section 4. The reservations of tax credits shall  
8 be made by the commission in the order in which the qualified  
9 applications and plans are received by the commission, and  
10 shall be issued by the commission within a reasonable time,  
11 not to exceed 120 days from the filing of the application.

12 (d) Following the completion of a substantial  
13 rehabilitation of a qualified structure, the owner shall  
14 notify the commission that the substantial rehabilitation has  
15 been completed. The owner shall provide the commission with an  
16 appraisal prepared by an independent MAI designated and  
17 licensed real estate appraiser of the qualified structure and,  
18 documentation verifying the work performed on the certified  
19 historic structure, and shall certify the cost incurred in  
20 rehabilitating the qualified structure. The commission shall  
21 review the documentation of the rehabilitation and verify its  
22 compliance with the rehabilitation plan. Within a reasonable  
23 time after receipt of documentation from the owner, the  
24 commission shall issue a certificate of completed work to the  
25 owner or owner's assignee rehabilitating the qualified  
26 structure. The certification shall state the initial amount of  
27 tax credit reserved for the taxpayer under subsection (c). The

1 tax credit to which the taxpayer may be entitled shall be in  
2 an amount equivalent to the lesser of the tax credit reserved  
3 upon certification of the rehabilitation plan under the  
4 provisions of subsection (c) or 25 percent of the actual  
5 qualified rehabilitation expenditures.

6 (e) In order to obtain a credit against any state  
7 tax due that is specified in this act, the qualified taxpayer  
8 shall file the certification of completed work with the  
9 holder's Alabama state income tax return.

10 (f) The department shall grant a tax credit to a  
11 taxpayer holding the tax credit issued under subsection (d)  
12 against any tax due under Chapter 18 of Title 40, Code of  
13 Alabama 1975, in the amount allowed under this act. The  
14 department shall have the right to audit and to reassess any  
15 credit improperly claimed by the taxpayer, in accordance with  
16 the Taxpayers' Bill of Rights and the Uniform Revenue  
17 Procedures contained in Chapter 2A of Title 40, Code of  
18 Alabama 1975.

19 (g) The commission shall prescribe the regulations  
20 and may impose reasonable fees, up to one percent of the  
21 qualified rehabilitation expenses but not to exceed ten  
22 thousand dollars (\$10,000) for any application, to implement  
23 and administer this act.

24 (h) The commission shall, in consultation with the  
25 department, report to the Legislature in the third year  
26 following passage of this act, and annually thereafter, on the  
27 overall economic activity, usage, and impact to the state from



1 the substantial rehabilitation of certified historic  
2 structures for which tax credits have been allowed.

3 Section 4. (a) The tax credit against the tax  
4 imposed by Chapter 18 of Title 40, Code of Alabama 1975, for  
5 the taxable year in which the certified rehabilitation is  
6 placed in service, shall be equal to 25 percent of the  
7 qualified rehabilitation expenditures for certified historic  
8 structures, and shall be 10 percent of the qualified  
9 rehabilitation expenditures for qualified pre-1936  
10 non-historic structures. No tax credit claimed for any  
11 certified rehabilitation may exceed three million dollars  
12 (\$3,000,000) for an income producing property and fifty  
13 thousand (\$50,000) for a historic home.

14 (b) The entire tax credit may be claimed by the  
15 taxpayer in the taxable year in which the certified  
16 rehabilitation is placed in service. Where the taxpayer's  
17 taxable income is less than the credit, the taxpayer shall not  
18 be entitled to claim a refund for the difference, but any  
19 unused portion of the credit may be carried forward for up to  
20 10 additional tax years. A tax credit allowed under this  
21 section may not exceed the amount of the tax against which it  
22 is claimed for the taxable year reduced by the sum of all  
23 credits allowed, except payments of tax made by or on behalf  
24 of the taxpayer.

25 (c) The aggregate amount of all tax credits in any  
26 tax year that may be reserved by the commission upon  
27 certification of rehabilitation plans under subsection (2) of

1 Section 2 shall not exceed twenty-five million dollars  
2 (\$25,000,000) for all income producing properties and five  
3 million dollars (\$5,000,000) for all historic homes.

4 (d) Tax credits under this act shall be freely  
5 transferable and assignable, subject to any notice and  
6 verification requirements to be determined by the commission  
7 or the department, or both.

8 Section 5. (a) If a credit is determined under this  
9 act with respect to any property, the basis of the property  
10 shall be reduced by the amount of the credit so determined.  
11 Recapture of any of the credit, and any required adjustments  
12 to basis due to recapture, shall be governed by Section 50 of  
13 the Internal Revenue Code.

14 (b) In the taxable year the certified rehabilitation  
15 is placed in service for any structure for which a tax credit  
16 has been issued, the commission shall provide notice of the  
17 certified rehabilitation and a copy of an appraisal prepared  
18 by an independent MAI designated and licensed real estate  
19 appraiser to the taxing authority responsible for the  
20 assessment of ad valorem taxes. Upon notification, the taxing  
21 authority responsible for the assessment of ad valorem taxes  
22 shall complete a new assessment for the structure to be used  
23 in the assessment of ad valorem taxes for the tax year in  
24 which the certified rehabilitation was placed in service.

25 Section 6. The provisions of this act are severable.  
26 If any part of this act is declared invalid or

1 unconstitutional, that declaration shall not affect the part  
2 which remains.

3 Section 7. This act shall become effective for the  
4 taxable year beginning January 1, 2013, and continuing  
5 thereafter, following its passage and approval by the  
6 Governor, or its otherwise becoming law.