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3 WAGGONER AMENDMENT TO HB281
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8 On Page 1, lines 10 and 16, after "Sections" insert
9 the following:

10 40-9F-31, 40-9F-32,
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12 On page 1, line 10, after "1975," insert the
13 following:

14 to provide for a disqualifying use; to revise audit
15 requirements;
16

17 On page 1, line 12, delete "commercial" and insert
18 in lieu thereof:

19 certain
20

21 On page 1, after line 17, insert the following:

22 "§40-9F-31.
23

24 As used in this article, the following terms shall
25 have the following meanings:

26 (1) CERTIFIED HISTORIC STRUCTURE. A property located
27 in Alabama which is at least sixty years old, unless the
structure is an historic structure located within the

1 boundaries of a National Monument or Park as declared by the
2 United States Congress or the President of the United States,
3 in which case the federal age provisions shall apply, and is
4 certified by the Alabama Historical Commission as being
5 individually listed in the National Register of Historic
6 Places, eligible for listing in the National Register of
7 Historic Places, or certified by the commission as
8 contributing to the historic significance of a Registered
9 Historic District.

10 (2) CERTIFIED REHABILITATION. Repairs or alterations
11 to a certified historic structure that is certified by the
12 commission as meeting the U.S. Secretary of the Interior's
13 Standards for Rehabilitation which meet the requirements
14 contained in Section 47(c) (2) (C) of the Internal Revenue Code,
15 as amended, or to a certified historic residential structure
16 as defined in subdivision (3).

17 (3) CERTIFIED HISTORIC RESIDENTIAL STRUCTURE. A
18 certified historic structure as defined in subdivision (1).

19 (4) COMMISSION. The Alabama Historical Commission
20 and or its successor.

21 (5) COMMITTEE. The Historic Tax Credit Evaluating
22 Committee established by this article.

23 (6) DEPARTMENT. The Alabama Department of Revenue or
24 its successor.

25 (7) DISQUALIFYING USE. Any use of a certified
26 historic residential structure that is occupied by an Owner
27 and used, exclusively as a primary or secondary residence.

1 ~~(7)~~ (8) OWNER. Any taxpayer filing a State of
2 Alabama income tax return or any entity that is exempt from
3 federal income taxation pursuant to Section 501(c) of the
4 Internal Revenue Code, as amended, that:

5 a. Owns title to a qualified structure, or

6 b. Owns a leasehold interest in a qualified
7 structure for a term of not less than 39 years.

8 An owner as defined herein shall not be considered a
9 private user as defined in Section 40-9A-1.

10 ~~(8)~~ (9) QUALIFIED REHABILITATION EXPENDITURES. Any
11 expenditure as defined under Section 47(c)(2)(A) of the
12 Internal Revenue Code, as amended, and the related regulations
13 thereunder, and other reasonable expenses and costs expended
14 in the rehabilitation of a qualified structure. For certified
15 historic residential structures, this term shall mean expenses
16 incurred by the taxpayer in the certified rehabilitation of a
17 certified historic residential structure, including but not
18 limited to preservation and rehabilitation work done to the
19 exterior of a certified historic residential structure, repair
20 and stabilization of historic structural systems, restoration
21 of historic plaster, energy efficiency measures except
22 insulation in frame walls, repairs or rehabilitation of
23 heating, air conditioning, or ventilation systems, repairs or
24 rehabilitation of electrical or plumbing systems exclusive of
25 new electrical appliances and electrical or plumbing fixtures,
26 and architectural, engineering, and land surveying fees.
27 Qualified rehabilitation expenditures do not include the cost

1 of acquisition of the qualified structure, the personal labor
2 by the owner, or any cost associated with the rehabilitation
3 of an outbuilding of the qualified structure, unless the
4 outbuilding is certified by the commission to contribute to
5 the historical significance of the qualified structure.

6 ~~(9)~~ (10) QUALIFIED STRUCTURE. Certified historic
7 structures which are certified by the commission as meeting
8 the requirements contained in Section 47(c)(1)(A)(i) and (ii)
9 of the Internal Revenue Code, as amended, and to certified
10 historic residential structures as defined herein.

11 ~~(10)~~ (11) REGISTERED HISTORIC DISTRICT. Any district
12 listed in the National Register of Historic Places and any
13 district which is either of the following:

14 a. Designated under Alabama or local law as
15 containing criteria which substantially achieves the purpose
16 of preserving and rehabilitating buildings of historic
17 significance to the district.

18 b. Certified by the U.S. Secretary of the Interior
19 as meeting substantially all of the requirements for the
20 listing of districts in the National Register of Historic
21 Places.

22 ~~(11)~~ (12) REHABILITATION PLAN. Construction plans
23 and specifications for the proposed rehabilitation of a
24 qualified structure in sufficient detail to enable the
25 commission to evaluate compliance with the standards developed
26 under this article.

1 ~~(12)~~ (13) SUBSTANTIAL REHABILITATION. Rehabilitation
2 of a qualified structure for which the qualified
3 rehabilitation expenditures exceed 50 percent of the owner's
4 original purchase price of the qualified structure or
5 twenty-five thousand dollars (\$25,000), whichever is greater.

6 "40-9F-32.

7 (a) The commission shall develop standards for the
8 approval of the substantial rehabilitation of qualified
9 structures for which a tax credit is sought. The standards
10 shall (i) take into account whether the substantial
11 rehabilitation of a qualified structure is consistent with the
12 historic character of the structure or of the Registered
13 Historic District in which the property is located and (ii)
14 for tax years 2023 through 2027, establish a mechanism to
15 require owners to confirm that the proposed use for the
16 qualified structure is not a Disqualifying Use (a) in the
17 application, and (b) prior to the commission's issuance of the
18 tax credit certificate for the qualified structure under
19 40-9F-32(d).

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 and an estimate of the qualified rehabilitation
24 expenditures under the rehabilitation plan; provided, however,
25 that the owner, at its own risk, may incur qualified
26 rehabilitation expenditures no earlier than six months prior
27 to the submission of the application and rehabilitation plan

1 that are limited to architectural, engineering, and land
2 surveying fees and related soft costs and any costs related to
3 the protection of the qualified structure from deterioration.

4 (c) The commission shall review the application and
5 rehabilitation plan to determine that the information
6 contained therein is complete. If the commission determines
7 that the application and rehabilitation plan are complete, the
8 commission shall recommend the project to the committee for
9 the reservation of a tax credit. If the project is approved
10 for a tax credit by the committee, the commission shall
11 reserve, for the benefit of the owner, an allocation for a tax
12 credit as provided in Section 40-9F-33, and the commission
13 shall notify the owner in writing of the amount of the
14 reservation. The reservation of tax credits does not entitle
15 the owner to an issuance of tax credits until the owner
16 complies with all other requirements of this article for the
17 issuance of the tax credits. The reservation of tax credits
18 shall be made by the commission in the order in which the
19 committee has ranked completed applications and rehabilitation
20 plans. Reservations of tax credits shall be issued by the
21 commission within a reasonable time from the filing of a
22 completed application and rehabilitation plan. Only the
23 property for which a property address, legal description, or
24 other specific location is provided in the application shall
25 be reviewed. Ownership of an entity that is the owner of
26 property contained in the application shall not be a factor in
27 the commission's review of the application and no subsequent

1 change in the ownership structure of such entity shall result
2 in the loss or rescission of a reservation of tax credits. The
3 owner shall not be permitted to request the review of another
4 property for approval in the place of the property contained
5 in the application. Any application disapproved by the
6 commission or the committee shall be removed from the review
7 process, and the commission shall notify the owner in writing
8 of the decision to remove the application. A disapproved
9 application may be resubmitted, but shall be deemed to be a
10 new submission and may be charged a new application fee. In
11 the event the reservations of tax credits equal the total
12 amount available for reservations during the tax year, all
13 owners with applications then awaiting approval or thereafter
14 submitted shall be notified by the commission that no
15 additional tax credits shall be granted during that tax year.
16 The applications shall remain in active status from the date
17 of the original application and shall be considered for
18 recommendations of tax credits in the event that additional
19 credits become available due to rescission by the commission
20 or when a new tax year's allocation of tax credits becomes
21 available.

22 Owners receiving a reservation of tax credits shall
23 commence rehabilitation, if rehabilitation has not previously
24 begun, within 18 months of the date of issuance of the written
25 notice from the commission to the owner granting the tax
26 credits. Commencement of rehabilitation shall mean that, as of
27 the date in which actual physical work contemplated by the

1 rehabilitation plan submitted with the application has begun,
2 the owner has incurred no less than 20 percent of the
3 estimated costs of rehabilitation provided in the application.
4 Within 36 months of the date of issuance of the written notice
5 from the commission to the owner granting the tax credit
6 reservation, the owner must have incurred an additional 50
7 percent of the estimated costs of rehabilitation provided in
8 the application. Within 60 months of the date of issuance of
9 the written notice from the commission to the owner granting
10 the tax credit reservation, the project must be completed.
11 Owners receiving a reservation of tax credits shall submit
12 evidence of compliance with the provisions of this subsection.
13 If the commission determines that an owner has failed to
14 comply with the requirements provided under this section, the
15 reservation of tax credits for the owner may be rescinded and,
16 if so, the amount of tax credits shall then be included in the
17 total amount of available tax credits provided for in
18 subsection (c) of Section 40-9F-33, from which reservations
19 may be granted. Any owner whose reservation of tax credits are
20 rescinded shall be notified of the rescission from the
21 commission and, upon receipt of the notice, may submit a new
22 application but may be charged a new application fee.

23 (d) Following the completion of a substantial
24 rehabilitation of a qualified structure, the owner shall
25 notify the commission that the substantial rehabilitation has
26 been completed and shall certify the qualified rehabilitation
27 expenditures incurred with respect to the rehabilitation plan.

1 In addition, the owner shall provide the commission with: (i)
2 a cost and expense certification, prepared by a licensed
3 certified public accountant that is not an affiliate of the
4 owner, certifying the total qualified rehabilitation
5 expenditures and the total amount of tax credits against any
6 state tax due that is specified in this article for which the
7 owner is eligible under Section 40-9F-33 ~~and, if the qualified~~
8 ~~rehabilitation expenditures exceed two hundred thousand~~
9 ~~dollars (\$200,000), the cost and expense certification must be~~
10 ~~audited by the licensed certified public accountant; and (ii)~~
11 an appraisal of the qualified structure prepared by an
12 independent MAI designated and licensed real estate appraiser.
13 The commission shall review the documentation of the
14 rehabilitation and verify its compliance with the
15 rehabilitation plan. ~~The commission shall also review the~~
16 ~~content of the cost and expense certification as well as the~~
17 ~~appraisal to ensure compliance with standards adopted by rule~~
18 ~~of the commission.~~ Within 90 days after receipt and approval
19 of the foregoing documentation from the owner, the commission
20 shall issue a tax credit certificate in an amount equivalent
21 to the lesser of: (i) the amount of the tax credit reservation
22 issued for the project under the provisions of subsection (c),
23 or (ii) 25 percent of the actual qualified rehabilitation
24 expenditures for certified historic structures. In the event
25 the amount of qualified rehabilitation expenditures incurred
26 by the owner would result in the issuance of an amount of tax
27 credits in excess of the amount of tax credits reserved for

1 the owner under subsection (c), the owner may apply to the
2 commission for issuance of tax credits in an amount equal to
3 the excess. Applications for issuance of tax credits in excess
4 of the amount of tax credits reserved for the owner shall be
5 made on a form prescribed by the commission and shall
6 represent a separate certificate that shall be issued, subject
7 to all provisions regarding priority provided in Section
8 40-9F-38.

9 (e) In order to obtain a credit against any state
10 tax due that is specified in this article, a taxpayer shall
11 file the tax credit certificate with the taxpayer's Alabama
12 state tax return.

13 (f) The department shall grant a tax credit against
14 any state tax due that is specified in this article to a
15 taxpayer holding the tax credit certificate issued under
16 subsection (d) or, in the case of a transferee, issued by the
17 department pursuant to Section 40-9F-33 against any tax due
18 under Chapter 18 in the amount stated on the tax credit
19 certificate. The department shall have the right to audit and
20 to reassess any credit improperly obtained by the owner, in
21 accordance with the Taxpayers' Bill of Rights and the Uniform
22 Revenue Procedures contained in Chapter 2A; provided, however
23 that only the owner initially awarded the tax credit
24 certificate, and not any subsequent transferee of the tax
25 credit certificate or person to whom tax credits have been
26 passed through pursuant to Section 40-9F-33, shall be liable
27 for any credit improperly obtained by the owner.

1 (g) For processing the taxpayer's application for a
2 tax credit, the commission may impose the following
3 application fees:

4 (i) For qualified rehabilitation expenses of one
5 million dollars (\$1,000,000) or less, a fee equal to one
6 percent (1%) of the qualified rehabilitation expenditures.

7 (ii) For qualified rehabilitation expenses from one
8 million and one dollars (\$1,000,001) to ten million dollars
9 (\$10,000,000), a fee equal to fifteen thousand dollars
10 (\$15,000).

11 (iii) For qualified rehabilitation expenses over ten
12 million dollars (\$10,000,000), a fee equal to twenty thousand
13 dollars (\$20,000).

14 (iv) Any fees collected by the commission under this
15 section shall be deposited in the State Treasury to the credit
16 of the commission and all such funds are to be appropriated to
17 the commission to defray the expenses incurred in carrying out
18 this article.

19 (h) The commission shall report to the Legislature
20 in the third year following passage of this article, and
21 annually thereafter, on the overall economic activity, usage,
22 and impact to the state from the substantial rehabilitation of
23 qualified structures for which tax credits have been allowed.
24 The information in the reports shall be consistent with the
25 information required by the Legislature pursuant to, and shall
26 be provided by the commission to the Legislature in accordance
27 with, Section 40-1-50, and rules adopted thereunder.

1 Information provided pursuant to this section is exempt from
2 the confidentiality provisions of Section 40-2A-10.

3
4 On page 3, delete lines 9-11 and insert in lieu
5 thereof:

6 For tax years 2023 through 2027, no tax credits
7 shall be reserved for qualified structures the end use of
8 which is proposed to be a Disqualifying Use.

9
10 On page 6, line 10 before "in active status" insert
11 the following:

12 (other than an application for a qualified structure
13 the end use of which is proposed to be a Disqualifying Use)