

1 HB281
2 207896-3
3 By Representatives Gaston, Faulkner, Drummond, Pringle, Rowe,
4 Jones (M), Garrett, Rafferty, Collins, South, Clouse, Coleman,
5 Bracy, Clarke, Faust, McMillan, Brown (C), Wilcox, Stringer
6 and Simpson
7 RFD: Ways and Means Education
8 First Read: 02-FEB-21

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8 SYNOPSIS: Under existing law, a state income tax
9 credit is provided under certain conditions for
10 qualified rehabilitation expenditures for the
11 substantial rehabilitation of certified historic
12 structures. The Alabama Historical Committee
13 administers the tax credit program and approves
14 rehabilitation of qualified structures that qualify
15 for the income tax credit. The aggregate amount of
16 all tax credits is limited for the tax years 2018
17 through 2022. A portion of the tax credits are
18 reserved to taxpayers with a certified
19 rehabilitation project located in a county with a
20 population that does not exceed 175,000 according
21 to the 2010 decennial census.

22 This bill would extend the tax credits for
23 qualified rehabilitation expenditures for the
24 substantial rehabilitation of certified historic
25 structures through 2029. The bill would also
26 specify that tax credits reserved to taxpayers with
27 a certified rehabilitation project located in a

1 county with a population that does not exceed
2 175,000 would be based on the most recent federal
3 decennial census.
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5 A BILL
6 TO BE ENTITLED
7 AN ACT
8

9 Relating to the state income tax credit for the
10 rehabilitation of qualified historic structures; to amend
11 Sections 40-9F-33 and 40-9F-36 of the Code of Alabama 1975, to
12 extend the income tax credit through 2029.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 40-9F-33 and 40-9F-36 of the
15 Code of Alabama 1975, are amended as follows:

16 "§40-9F-33.

17 "(a) The state portion of any tax credit against the
18 tax imposed by Chapter 18 for the taxable year in which the
19 certified rehabilitation is placed in service, shall be equal
20 to 25 percent of the qualified rehabilitation expenditures for
21 certified historic structures. No tax credit claimed for any
22 certified rehabilitation may exceed five million dollars
23 (\$5,000,000) for all allowable property types except a
24 certified historic residential structure, and fifty thousand
25 dollars (\$50,000) for a certified historic residential
26 structure.

1 "(b) There is created within the Education Trust
2 Fund a separate account named the Historic Preservation Income
3 Tax Credit Account. The Commissioner of Revenue shall certify
4 to the Comptroller the amount of income tax credits under this
5 section and the Comptroller shall transfer into the Historic
6 Preservation Income Tax Credit Account only the amount from
7 sales tax revenues within the Education Trust Fund that is
8 sufficient for the Department of Revenue to use to cover the
9 income tax credits for the applicable tax year. The
10 Commissioner of Revenue shall distribute the funds in the
11 Historic Preservation Income Tax Credit Account pursuant to
12 this section.

13 "(c) The entire tax credit must be claimed by the
14 taxpayer for the taxable year in which the certified
15 rehabilitation is placed in service. Where the taxes owed by
16 the taxpayer are less than the tax credit, the taxpayer shall
17 be entitled to claim a refund for the difference.

18 "(d) For the tax years 2018 through ~~2022~~ 2029, the
19 aggregate amount of all tax credits that may be reserved in
20 any one of such years by the commission and certification of
21 rehabilitation plans under subsection (c) of Section 40-9F-32
22 shall not exceed twenty million dollars (\$20,000,000), plus
23 any amount of previous reservations of tax credits that were
24 rescinded under subsection (c) of Section 40-9F-32 during the
25 tax year. However, if all of the allowable tax credit amount
26 for any tax year is not requested and reserved, any unreserved
27 tax credits may be utilized by the commission in awarding tax

1 credits in subsequent years, ~~provided, however, that in no~~
2 ~~event shall a total of more than one hundred million dollars~~
3 ~~(\$100,000,000) be reserved by the commission during the period~~
4 ~~from May 25, 2017, through December 31, 2022.~~ For purposes of
5 this article, tax year shall mean the calendar year.

6 "(e) Of the annual amount of the tax credits
7 provided for in subsection (d), 40 percent shall be reserved
8 to taxpayers with a certified rehabilitation project located
9 in a county in which the population does not exceed 175,000
10 according to the ~~2010~~ most recent federal decennial census. In
11 the event applications are not received and credits are not
12 allocated for projects in these areas by the close of the
13 second quarter of the program year, the funds may revert for
14 allocations of other project applications.

15 "(f) Tax credits granted to a partnership, a limited
16 liability company, S Coporations, trusts, or estates, shall be
17 claimed at the entity level and shall not pass through to the
18 partners, members, or owners.

19 "(g) All or any portion of the income tax credits
20 under this section and Sections 40-9F-32 shall be transferable
21 and assignable, subject to any notice and verification
22 requirements to be determined by the department, without the
23 requirement of transferring any ownership interest in the
24 qualified structure or any interest in the entity which owns
25 the qualified structure. Any tax credits transferred shall be
26 at a value of at least eighty-five percent (85%) of the
27 present value of the credits. However, once a credit is

1 transferred, only the transferee may utilize such credit and
2 the credit cannot be transferred again. A transferee of the
3 tax credits may use the amount of tax credits transferred to
4 offset any income tax under Chapter 18. The department shall
5 ~~promulgate~~ adopt a form transfer statement to be filed by the
6 transferor with the department prior to the purported transfer
7 of any credit issued under this article. The transfer
8 statement form shall include the name and federal taxpayer
9 identification number of the transferor and each transferee
10 listed therein along with the amount of the tax credit to be
11 transferred to each transferee listed on the form. The
12 transfer statement form shall also contain such other
13 information as the department may from time to time reasonably
14 require. For each transfer, the transferor shall file: (1) a
15 completed transfer statement form; (2) a copy of the tax
16 credit certificate issued by the commission documenting the
17 amount of tax credits which the transferor intends to
18 transfer; (3) a copy of the proposed written transfer
19 agreement; and (4) a transfer fee payable to the department in
20 the amount of one thousand dollars (\$1,000) per transferee
21 listed on the transfer statement form. The transferor shall
22 file with the department a fully executed copy of the written
23 transfer agreement with each transferee within 30 days after
24 the completed transfer. Filing of the written transfer
25 agreement with the department shall perfect such transfer with
26 respect to such transferee. Within 30 days after the
27 department's receipt of the fully executed written transfer

1 agreement, the department shall issue a tax credit certificate
2 to each transferee listed in such agreement in the amount of
3 the tax credit so transferred. Such certificate shall be used
4 by the transferee in claiming the tax credit pursuant to
5 subsections (e) and (f) of Section 40-9F-32. The department
6 may ~~promulgate~~ adopt such additional rules as are necessary to
7 permit verification of the ownership of the tax credits, but
8 shall not ~~promulgate~~ adopt any rules which unduly restrict or
9 hinder the transfer of the tax credits.

10 "§40-9F-36.

11 "The tax credits authorized by this article for the
12 substantial rehabilitation of qualified structures shall not
13 be available to owners of qualified structures that submit an
14 application and rehabilitation plan after December 31, ~~2022~~
15 2029. No action or inaction on the part of the Legislature
16 shall reduce or suspend the tax credits authorized by this
17 article in any past or future calendar year with respect to a
18 qualified structure if the owner thereof submits an
19 application and rehabilitation plan with the commission and
20 the commission reserves an allocation for a tax credit on or
21 prior to December 31, ~~2022~~ 2029, even if the qualified
22 structure is placed into service after December 31, ~~2022~~ 2029,
23 and shall not affect the owner of a qualified structure if the
24 commission has reserved an allocation for a tax credit on or
25 prior to December 31, ~~2022~~ 2029. Notwithstanding any other
26 provision of this chapter, any application received by the
27 commission in active status on the ranking list of the

1 Historic Tax Credit Evaluating Committee or granted a tax
2 allocation reservation prior to the effective date of the act
3 adding this language shall remain on the ranking list or in
4 reservation status and shall receive a tax credit allocation
5 reservation or a tax credit allocation, as the case may be,
6 when additional credits become available, including in any tax
7 year commencing after 2022."

8 Section 2. This act shall become effective
9 immediately following its passage and approval by the
10 Governor, or its otherwise becoming law.