

1 HB281
2 207896-5
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

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
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8 Relating to the state income tax credit for the
9 rehabilitation of qualified historic structures; to amend
10 Sections 40-9F-33 and 40-9F-36 of the Code of Alabama 1975, to
11 extend the income tax credit through 2027; to limit the tax
12 credits for tax years 2023 through 2027 to commercial
13 properties; and to clarify the refundability of tax credits
14 for transferees.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 "§40-9F-33.

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

1 dollars (\$50,000) for a certified historic residential
2 structure.

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

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

20 "(d) For the tax years 2018 through ~~2022-2029~~ 2027,
21 the aggregate amount of all tax credits that may be reserved
22 in any one of such years by the commission and certification
23 of rehabilitation plans under subsection (c) of Section
24 40-9F-32 shall not exceed twenty million dollars
25 (\$20,000,000), plus any amount of previous reservations of tax
26 credits that were rescinded under subsection (c) of Section
27 40-9F-32 during the tax year. However, if all of the allowable

1 tax credit amount for any tax year is not requested and
2 reserved, any unreserved tax credits may be utilized by the
3 commission in awarding tax credits in subsequent years;
4 ~~provided, however, that in no event shall a total of more than~~
5 ~~one hundred million dollars (\$100,000,000) be reserved by the~~
6 ~~commission during the period from May 25, 2017, through~~
7 ~~December 31, 2022.~~ For purposes of this article, tax year
8 shall mean the calendar year.

9 For tax years 2023 through 2027 tax credits shall
10 only be reserved for rehabilitation projects that will be used
11 for a commercial or business purpose.

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

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

25 "(g) All or any portion of the income tax credits
26 under this section and Sections 40-9F-32 shall be transferable
27 and assignable, subject to any notice and verification

1 requirements to be determined by the department, without the
2 requirement of transferring any ownership interest in the
3 qualified structure or any interest in the entity which owns
4 the qualified structure. Any tax credits transferred shall be
5 at a value of at least eighty-five percent (85%) of the
6 present value of the credits. However, once a credit is
7 transferred, only the transferee may utilize such credit and
8 the credit cannot be transferred again. A transferee of the
9 tax credits may use the amount of tax credits transferred to
10 offset any income tax under Chapter 18. The entire tax credit
11 must be claimed by the transferee for the taxable year in
12 which the certified rehabilitation is placed in service. When
13 the taxes owed by the transferee are less than the tax credit,
14 the transferee shall be entitled to claim a refund for the
15 difference. The department shall ~~promulgate~~ adopt a form
16 transfer statement to be filed by the transferor with the
17 department prior to the purported transfer of any credit
18 issued under this article. The transfer statement form shall
19 include the name and federal taxpayer identification number of
20 the transferor and each transferee listed therein along with
21 the amount of the tax credit to be transferred to each
22 transferee listed on the form. The transfer statement form
23 shall also contain such other information as the department
24 may from time to time reasonably require. For each transfer,
25 the transferor shall file: (1) a completed transfer statement
26 form; (2) a copy of the tax credit certificate issued by the
27 commission documenting the amount of tax credits which the

1 transferor intends to transfer; (3) a copy of the proposed
2 written transfer agreement; and (4) a transfer fee payable to
3 the department in the amount of one thousand dollars (\$1,000)
4 per transferee listed on the transfer statement form. The
5 transferor shall file with the department a fully executed
6 copy of the written transfer agreement with each transferee
7 within 30 days after the completed transfer. Filing of the
8 written transfer agreement with the department shall perfect
9 such transfer with respect to such transferee. Within 30 days
10 after the department's receipt of the fully executed written
11 transfer agreement, the department shall issue a tax credit
12 certificate to each transferee listed in such agreement in the
13 amount of the tax credit so transferred. Such certificate
14 shall be used by the transferee in claiming the tax credit
15 pursuant to subsections (e) and (f) of Section 40-9F-32. The
16 department may ~~promulgate~~ adopt such additional rules as are
17 necessary to permit verification of the ownership of the tax
18 credits, but shall not ~~promulgate~~ adopt any rules which unduly
19 restrict or hinder the transfer of the tax credits.

20 "§40-9F-36.

21 "The tax credits authorized by this article for the
22 substantial rehabilitation of qualified structures shall not
23 be available to owners of qualified structures that submit an
24 application and rehabilitation plan after December 31, ~~2022~~
25 ~~2029~~ 2027. No action or inaction on the part of the
26 Legislature shall reduce or suspend the tax credits authorized
27 by this article in any past or future calendar year with

1 respect to a qualified structure if the owner thereof submits
2 an application and rehabilitation plan with the commission and
3 the commission reserves an allocation for a tax credit on or
4 prior to December 31, ~~2022-2029~~ 2027, even if the qualified
5 structure is placed into service after December 31, ~~2022-2029~~
6 2027, and shall not affect the owner of a qualified structure
7 if the commission has reserved an allocation for a tax credit
8 on or prior to December 31, ~~2022-2029~~ 2027. Notwithstanding
9 any other provision of this chapter, any application received
10 by the commission in active status on the ranking list of the
11 Historic Tax Credit Evaluating Committee or granted a tax
12 allocation reservation prior to the effective date of the act
13 adding this language shall remain on the ranking list or in
14 reservation status and shall receive a tax credit allocation
15 reservation or a tax credit allocation, as the case may be,
16 when additional credits become available, including in any tax
17 year commencing after 2022."

18 Section 2. This act shall become effective
19 immediately following its passage and approval by the
20 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Ways and Means
Education..... 02-FEB-21

Read for the second time and placed
on the calendar 1 amendment 24-FEB-21

Read for the third time and passed
as amended..... 25-FEB-21

Yeas 96, Nays 1, Abstains 1

Jeff Woodard
Clerk