

ASSEMBLY BILL NO. 370—ASSEMBLYWOMEN SWANK AND COHEN

MARCH 20, 2017

Referred to Committee on Taxation

SUMMARY—Provides for transferable tax credits for the rehabilitation of historic buildings. (BDR 32-536)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxation; authorizing the Office of Historic Preservation of the State Department of Conservation and Natural Resources to approve and issue a certificate of transferable tax credits to a person who rehabilitates a historic building in this State under certain circumstances; providing for the calculation of the transferable tax credits; requiring the Office to provide notice of certain hearings concerning an application for transferable tax credits; requiring a person who rehabilitates a historic building to return any portion of transferable tax credits to which he or she is not entitled; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 7** of this bill authorizes a person who undertakes the rehabilitation of a
2 qualified historic building to apply to the Office of Historic Preservation of the
3 State Department of Conservation and Natural Resources for a certificate of
4 transferable tax credits. Under **section 5** of this bill, a building is a “qualified
5 historic building” if the building is: (1) at least 50 years of age; (2) nonresidential
6 real property as defined in certain federal laws authorizing tax credits for the
7 rehabilitation of historic buildings; and (3) eligible for the National Register of
8 Historic Places. **Section 7** requires the Office to approve an application for
9 transferable tax credits if, in addition to certain other requirements, the applicant
10 incurred certain eligible costs and expenses of at least \$20,000 in connection with
11 the rehabilitation of the building and the Office certifies that the rehabilitation of
12 the building satisfies the standards for the rehabilitation of historic buildings set
13 forth in certain federal regulations. Under **section 7**, the transferable tax credits
14 may be applied to the modified business tax, gaming license fee or the insurance
15 premium tax.



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16 **Sections 8 and 9** of this bill provide for the calculation of the amount of
17 transferable tax credits and duration for which such transferable tax credits are
18 valid. Under **section 8**, the amount of transferable tax credits issued to an applicant
19 must be equal to 20 percent of the eligible costs and expenses incurred by the
20 applicant for the rehabilitation but must not exceed \$3 million per qualified
21 rehabilitation. **Section 9** provides that the transferable tax credits expire 5 years
22 after the date on which the credits are issued.

23 **Section 10** of this bill requires the Office to meet certain notice requirements
24 before holding a hearing to approve or disapprove an application for transferable
25 tax credits. **Section 11** of this bill requires an applicant to repay any portion of
26 transferable tax credits to which the applicant is not entitled if the applicant
27 becomes ineligible for the tax credits after receiving the tax credits.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 360 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 12, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 12, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 3 to 6, inclusive, of this act have the meanings ascribed*
7 *to them in those sections.*

8 **Sec. 3. 1.** *“Eligible costs and expenses” means any amount*
9 *properly chargeable to the capital account of a qualified historic*
10 *building in connection with a qualified rehabilitation.*

11 **2.** *The term does not include:*

12 **(a)** *The costs of acquiring any building or interest therein; or*

13 **(b)** *Any expenditures attributable to the enlargement of an*
14 *existing building.*

15 **Sec. 4.** *“Office” means the Office of Historic Preservation of*
16 *the State Department of Conservation and Natural Resources.*

17 **Sec. 5.** *“Qualified historic building” means a building in this*
18 *State that is:*

19 **1.** *At least 50 years of age;*

20 **2.** *Nonresidential real property as defined in 26 U.S.C. §*
21 *168(e)(2)(B); and*

22 **3.** *Eligible for listing in the National Register of Historic*
23 *Places.*

24 **Sec. 6.** *“Qualified rehabilitation” means the rehabilitation of*
25 *a qualified historic building that the Office has certified as*
26 *meeting the standards for rehabilitation as defined in 36*
27 *C.F.R. § 67.7.*

28 **Sec. 7. 1.** *A person who undertakes a qualified*
29 *rehabilitation may apply to the Office for a certificate of eligibility*



1 *for transferable tax credits for any eligible costs and expenses.*

2 *The transferable tax credits may be applied to:*

3 *(a) Any tax imposed by chapters 363A and 363B of NRS;*

4 *(b) The gaming license fees imposed by the provisions of*
5 *NRS 463.370;*

6 *(c) Any tax imposed pursuant to chapter 680B of NRS; or*

7 *(d) Any combination of the fees and taxes described in*
8 *paragraphs (a), (b) and (c).*

9 *2. The Office shall approve an application for a certificate of*
10 *eligibility for transferable tax credits if the Office finds that the*
11 *person undertaking the qualified rehabilitation qualifies for the*
12 *transferable tax credits pursuant to subsection 3 and shall*
13 *calculate the estimated amount of the transferable tax credits*
14 *pursuant to section 8 of this act.*

15 *3. To be eligible for transferable tax credits pursuant to this*
16 *section, a person must:*

17 *(a) Submit an application that meets the requirements of*
18 *subsection 4;*

19 *(b) Provide proof satisfactory to the Office that the building is*
20 *a qualified historic building;*

21 *(c) Provide proof satisfactory to the Office that the*
22 *rehabilitation of the qualified historic building is a qualified*
23 *rehabilitation;*

24 *(d) Provide proof satisfactory to the Office that the applicant*
25 *has incurred eligible costs and expenses of \$20,000 or more in*
26 *undertaking the qualified rehabilitation;*

27 *(e) Not later than 90 days after the date on which the qualified*
28 *historic building was first placed in service after the qualified*
29 *rehabilitation, provide the Office with an itemized report of*
30 *eligible costs and expenses incurred by the applicant and*
31 *documentation to establish the amount of the eligible costs and*
32 *expenses incurred by the applicant; and*

33 *(f) Meet any other requirements prescribed by regulation*
34 *pursuant to this section.*

35 *4. An application submitted pursuant to subsection 3 must*
36 *contain:*

37 *(a) The name of the applicant;*

38 *(b) A description of the qualified historic building for which*
39 *the applicant will undertake a qualified rehabilitation;*

40 *(c) A summary of the budgeted expenditures for the qualified*
41 *rehabilitation;*

42 *(d) A summary of the eligible costs and expenses; and*

43 *(e) Any other information required by regulations adopted by*
44 *the Office pursuant to subsection 8.*



1 5. *If the Office approves an application for a certificate of*
2 *eligibility for transferable tax credits pursuant to this section, the*
3 *Office shall immediately forward a copy of the certificate of*
4 *eligibility which identifies the estimated amount of the tax credits*
5 *available pursuant to section 8 of this act, to:*

- 6 (a) *The applicant;*
- 7 (b) *The Department; and*
- 8 (c) *The Nevada Gaming Control Board.*

9 6. *Within 60 business days after receipt of the report and*
10 *documentation provided pursuant to paragraph (e) of subsection 3*
11 *and any other accountings or other information required by the*
12 *Office, the Office shall make a final determination of whether a*
13 *certificate of transferable tax credits will be issued. If the Office*
14 *determines that all other requirements for the transferable tax*
15 *credits have been met, the Office shall notify the applicant that the*
16 *transferable tax credits will be issued. Within 30 days after the*
17 *receipt of the notice, the applicant shall make an irrevocable*
18 *declaration of the amount of transferable tax credits that will be*
19 *applied to each fee or tax set forth in subsection 1, thereby*
20 *accounting for all of the credits which will be issued. Upon receipt*
21 *of the declaration, the Office shall issue to the applicant a*
22 *certificate of transferable tax credits in the amount approved by*
23 *the Office for the fees or taxes included in the declaration of the*
24 *applicant. The applicant shall notify the Office upon transferring*
25 *any of the transferable tax credits. The Office shall notify the*
26 *Department and the Nevada Gaming Control Board of all*
27 *transferable tax credits issued, segregated by each fee or tax set*
28 *forth in subsection 1, the amount of any transferable tax credits*
29 *transferred and the person or entity to whom the tax credits were*
30 *transferred.*

31 7. *An applicant for transferable tax credits pursuant to this*
32 *section shall, upon request of the Administrator of the Office,*
33 *furnish the Administrator with copies of all records necessary to*
34 *verify that the applicant meets the requirements of subsection 3.*

35 8. *The Office:*

36 (a) *Shall adopt regulations prescribing:*

37 (1) *Any additional requirements to receive transferable tax*
38 *credits;*

39 (2) *Any additional information that must be included with*
40 *an application;*

41 (3) *The application review process; and*

42 (4) *The requirements for notice pursuant to section 10 of*
43 *this act; and*

44 (b) *May adopt any other regulations that are necessary to*
45 *carry out the provisions of sections 2 to 12, inclusive, of this act.*



1 **9. The Nevada Tax Commission and the Nevada Gaming**
2 **Commission:**

3 (a) *Shall adopt regulations prescribing the manner in which*
4 *the transferable tax credits will be administered.*

5 (b) *May adopt any other regulations that are necessary to*
6 *carry out the provisions of sections 2 to 12, inclusive, of this act.*

7 **Sec. 8. 1.** *Except as otherwise provided in subsection 2 and*
8 *section 9 of this act, the amount of transferable tax credits issued*
9 *to a person who applies for a transferable tax credit pursuant to*
10 *section 7 of this act must equal 20 percent of the eligible costs and*
11 *expenses incurred by the person for a qualified rehabilitation but*
12 *must not exceed \$3,000,000 per qualified rehabilitation.*

13 **2.** *The Office may:*

14 (a) *Reduce the cumulative amount of transferable tax credits*
15 *that are calculated pursuant to this section by an amount equal to*
16 *any damages incurred by the State or any political subdivision of*
17 *the State as a result of the qualified rehabilitation; or*

18 (b) *Withhold the transferable tax credits, in whole or in part,*
19 *until any pending legal action in this State against the applicant or*
20 *involving the qualified rehabilitation is resolved.*

21 **Sec. 9.** *The transferable tax credits issued to any applicant*
22 *for a qualified rehabilitation pursuant to section 7 of this act*
23 *expire 5 years after the date on which the transferable tax credits*
24 *are issued.*

25 **Sec. 10. 1.** *If the Office receives an application for*
26 *transferable tax credits pursuant to section 7 of this act, the Office*
27 *shall, not later than 10 days before a hearing on the application,*
28 *provide notice of the hearing to:*

29 (a) *The applicant;*

30 (b) *The Department; and*

31 (c) *The Nevada Gaming Control Board.*

32 **2.** *The notice required by this section must set forth the date,*
33 *time and location of the hearing on the application. The date of*
34 *the hearing must be not later than 60 days after the Office receives*
35 *the completed application.*

36 **3.** *The Office shall issue a decision on the application not*
37 *later than 30 days after the conclusion of the hearing on the*
38 *application.*

39 **4.** *Except as otherwise provided in this subsection, if the*
40 *application is approved, the qualified rehabilitation must begin not*
41 *more than 90 days after the date on which the decision on the*
42 *application is issued. The Office may extend by not more than 90*
43 *days the period otherwise prescribed by this subsection.*

44 **5.** *An applicant that undertakes a qualified rehabilitation*
45 *shall submit the report and documentation required by section 7 of*



1 *this act and all other required information to the Office and the*
2 *Department within the time required by paragraph (e) of*
3 *subsection 3 of section 7 of this act. If the Office or the*
4 *Department determines that information submitted pursuant to*
5 *this subsection is incomplete, the applicant shall, not later than 30*
6 *days after receiving notice that the information is incomplete,*
7 *provide to the Office or the Department, as applicable, all*
8 *additional information required by the Office or the Department.*

9 *6. The Office shall give priority to the approval and*
10 *processing of an application relating to a qualified rehabilitation*
11 *that promotes tourism in the State of Nevada.*

12 **Sec. 11.** *1. A person who applied for a transferable tax*
13 *credit pursuant to section 7 of this act who is found to have*
14 *submitted any false statement, representation or certification in*
15 *any document submitted for the purpose of obtaining transferable*
16 *tax credits or who otherwise becomes ineligible for transferable*
17 *tax credits after receiving the transferable tax credits pursuant to*
18 *section 7 of this act shall repay to the Department or the Nevada*
19 *Gaming Control Board, as applicable, any portion of the*
20 *transferable tax credits to which the applicant is not entitled.*

21 *2. Transferable tax credits purchased in good faith are not*
22 *subject to forfeiture or repayment by the transferee unless the*
23 *transferee submitted fraudulent information in connection with*
24 *the purchase.*

25 **Sec. 12.** *The Office shall, on or before October 1 of each*
26 *year, prepare and submit to the Governor and to the Director of*
27 *the Legislative Counsel Bureau for transmittal to the Legislature*
28 *an annual report which includes, for the immediately preceding*
29 *fiscal year:*

30 *1. The number of applications submitted for transferable tax*
31 *credits pursuant to section 7 of this act;*

32 *2. The number of qualified rehabilitations for which*
33 *transferable tax credits were approved;*

34 *3. The amount of transferable tax credits approved;*

35 *4. The amount of transferable tax credits used;*

36 *5. The amount of transferable tax credits transferred and the*
37 *person or entity to whom the tax credits were transferred;*

38 *6. The amount of transferable tax credits taken against each*
39 *allowable fee or tax, including the actual amount used and*
40 *outstanding, in total and for each qualified rehabilitation;*

41 *7. The total amount of the eligible costs and expenses*
42 *incurred by each qualified rehabilitation;*

43 *8. The number of persons in Nevada employed by each*
44 *qualified rehabilitation and the amount of wages paid to those*
45 *persons; and*



1 ***9. The period during which each qualified rehabilitation***
2 ***employed persons in Nevada.***

3 **Sec. 13.** The provisions of subsection 1 of NRS 218D.380 do
4 not apply to any provision of this act that adds or revises a
5 requirement to submit a report to the Legislature.

6 **Sec. 14.** This act becomes effective upon passage and approval
7 for the purpose of adopting regulations and performing any other
8 preparatory administrative tasks that are necessary to carry out the
9 provisions of this act and on July 1, 2017, for all other purposes.

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