

SENATE BILL 1783

By Stevens

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 11, Part 1; Title 11; Title 13, Chapter 20 and Title 67, relative to tax credits for the rehabilitation of historic structures.

WHEREAS, this General Assembly recognizes the importance of restoring and preserving the state's historic buildings and structures; and

WHEREAS, the restoration and preservation of the state's historic buildings and structures fosters civic beauty, revitalizes and renews communities, expands the state's economy, creates new employment, retains existing employment, and promotes public education, pleasure, and welfare; and

WHEREAS, this General Assembly enacts this Historic Rehabilitation Tax Credit Act to facilitate the restoration and preservation of the state's historic buildings and structures; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Historic Rehabilitation Tax Credit Act".

SECTION 2. Tennessee Code Annotated, Title 67, Chapter 4, Part 21, is amended by adding the following as a new section:

67-4-2122.

(a) As used in this section:

(1) "Best interests of the state" means a determination by the commissioner, with approval by the commissioner of economic and community development, that the rehabilitation of the certified historic structure is a result of the tax credit provided in this section;

(2) "Certified historic structure" means a property that is located in this state and is:

(A)

(i) Listed individually on the national register of historic places; or

(ii) Located in a registered historic district listed on the national register of historic places and is certified by the secretary of the United States department of the interior as contributing to the historic significance of the district; or

(B)

(i) Listed individually on the Tennessee register of historic places; or

(ii) Located in a registered historic district listed on the Tennessee register of historic places and is certified by the commission as contributing to the historic significance of the district;

(3) "Commission" means the Tennessee historical commission;

(4) "Commissioner" means the commissioner of revenue;

(5) "Owner" means the person who holds legal fee or leasehold title to a certified historic structure, or an identifiable portion of the structure;

(6) "Person" means any natural person, corporation, including any for-profit or nonprofit corporation, general or limited partnership, limited liability company, trust, estate, or other business entity;

(7) "Placed in service" means that sufficient rehabilitation work has been completed that would allow for occupancy of the entire certified historic structure or of some identifiable portion of the structure, or that the owner has commenced depreciation of the qualified rehabilitation expenses, whichever occurs first;

(8) "Qualified rehabilitation expenditures" has the same meaning as defined in Section 47(c)(2)(A) of the Internal Revenue Code of 1986 (26 U.S.C. § 47(c)(2)(A)); and

(9) "Redevelopment zone" means an area that:

(A) Is within a municipality;

(B) Comprises a vacant structure in which a supply and equipment company was operated and that is adjacent to a renovated train station;

(C) Includes a redevelopment project designated for those purposes authorized by § 13-20-202; and

(D) Is subject to a redevelopment plan containing tax increment financing provisions authorized by § 13-20-205.

(b)

(1) Subject to the requirements in subdivision (b)(2), any owner that incurs qualified rehabilitation expenditures for the rehabilitation of a certified historic structure shall earn a tax credit against the owner's combined franchise and excise tax liability in an amount equal to twenty-five percent (25%) of the qualified rehabilitation expenditures.

(2) To qualify for the tax credit, the following requirements shall be met:

(A) The certified historic structure is located within a redevelopment zone;

(B) The rehabilitation meets standards consistent with the standards of the secretary of the United States department of the interior for rehabilitation;

(C) The qualified rehabilitation expenditures associated with the certified historic structure exceed five thousand dollars (\$5,000); and

(D) The commissioner, with approval by the commissioner of economic and community development, determines that the tax credit is in the best interests of the state.

(3) The entire tax credit shall be earned in the year in which the certified historic structure, or portion of the structure, attributable to the qualified rehabilitation expenditures is placed in service; provided, that the tax credit shall be claimed in three (3) equal installments beginning with the year in which the certified historic structure, or portion of the structure, attributable to the qualified rehabilitation expenditures is placed in service. The total tax credit claimed for any taxable year, including the amount of any carryforward tax credit claimed, shall not exceed the owner's combined franchise and excise tax liability due. Any unused portion of any installment of the tax credit may be carried forward for the five (5) years following the year in which the installment could be claimed.

(4) The tax credit may be allocated among some or all of the partners, members, shareholders, or other owners of any partnership, limited liability company, S-corporation, or other similar pass-through entity in any manner agreed to by the partners, members, shareholders, or owners without regard to their sharing of other tax or economic attributes and may be allocated on an annual basis, including an allocation of the entire tax credit, or any installment of the credit, to any partner, member, shareholder, or other owner who was a partner, member, shareholder, or other owner at any time during the year in which the tax credit is allocated.

(c)

(1) Prior to applying for the tax credit pursuant to subsection (d), the owner shall submit to the commission a request for designation of a property as a certified historic structure and certification of a proposed and completed rehabilitation. The request shall be made on the following forms, which shall be prescribed by the commission:

(A) A form used to request designation of a property as a certified historic structure;

(B) A form used to request certification of a proposed rehabilitation as meeting the standards consistent with the standards of the secretary of the United States department of the interior for rehabilitation; and

(C) A form used to request certification of a completed rehabilitation.

(2) If the owner also applies for the federal historic rehabilitation tax credit pursuant to Section 47 of the Internal Revenue Code of 1986 (26 U.S.C. § 47), then in lieu of requesting the designation and certification of a proposed and completed rehabilitation on the forms required by subdivision (c)(1), the owner may request the designation and certification on parts 1, 2, and 3 of the historic preservation certification application used by the national park service, including any additional forms and certifications as may be requested by the commission.

(d)

(1) To request a tax credit, the owner shall file an application with the commissioner on a form prescribed by the commissioner, and include the following with the application:

(A) A copy of the certificate of a completed rehabilitation issued by the commission pursuant to subsection (c);

(B) An audited cost report issued by a public accountant licensed by this state confirming the amount of qualified rehabilitation expenditures incurred during the rehabilitation of the certified historic structure; and

(C) Evidence that the certified historic structure is included within the boundaries of a redevelopment zone and has been placed in service.

(2) The commissioner may conduct audits or require the filing of additional information necessary to substantiate or adjust the amount of the tax credit allowed by this section, and to determine that the owner has complied with all statutory requirements so as to be entitled to the tax credit.

(3) The commissioner may share with the municipality in which the certified historic structure is located or the commission any information necessary to effectuate the purposes of this section. The municipality and commission shall be bound by restrictions on disclosure of such information otherwise applicable to the department of revenue.

(e) If any portion of the tax credit is recaptured or disallowed, then only the owner, and not any allocatee of the tax credit or any portion of the credit, shall be liable to repay any amount of recapture or disallowance.

(f) The commission is authorized to promulgate rules to effectuate the purposes of this section. All such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(g) The commission may adopt a fee, not to exceed five thousand dollars (\$5,000), for the applications and certifications required by this section or by any rules

promulgated pursuant to this section. The fee shall be receipts of the commission to be used for performing the commission's duties under this section.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.