

1 HB274
2 156578-1
3 By Representatives Gaston, McMillan, Clarke and Melton
4 RFD: Ways and Means Education
5 First Read: 16-JAN-14

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8 SYNOPSIS: Existing law provides a tax credit against
9 the tax liability of the taxpayer for the
10 rehabilitation, preservation, and development of
11 historic structures.

12 This bill would provide for the transfer of
13 the tax credit against the tax liability of the
14 taxpayer for the rehabilitation, preservation, and
15 development of historic structures.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 To amend Sections 2 and 4 of Act 2013-241, 2013
22 Regular Session, now appearing as Sections 40-9F-2 and 40-9F-4
23 of the Code of Alabama 1975, to provide for the transfer of
24 tax credit against the tax liability of the taxpayer for the
25 rehabilitation, preservation, and development of historic
26 structures.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 2 and 4 of Act 2013-241, 2013
2 Regular Session, now appearing as Sections 40-9F-2 and 40-9F-4
3 of the Code of Alabama 1975, are amended to read as follows:

4 "§40-9F-2.

5 "As used in this chapter, the following terms shall
6 have the following meanings:

7 "(1) CERTIFIED HISTORIC STRUCTURE. A property
8 located in Alabama which is certified by the Alabama
9 Historical Commission as being individually listed in the
10 National Register of Historic Places, eligible for listing in
11 the National Register of Historic Places, or certified by the
12 commission as contributing to the historic significance of a
13 Registered Historic District.

14 "(2) CERTIFIED REHABILITATION. Repairs or
15 alterations to a certified historic structure that is
16 certified by the commission as meeting the U.S. Secretary of
17 the Interior's Standards for Rehabilitation, or to
18 non-historic structures built before 1936 which are certified
19 by the commission as meeting the requirements contained in
20 Section 47(c)(1)(a) and (b) of the Internal Revenue Code, as
21 amended, or to a certified historic residential structure as
22 defined in subdivision (4).

23 "(3) CERTIFIED HISTORIC RESIDENTIAL STRUCTURE. A
24 certified historic structure as defined in subdivision (1) or
25 a non-historic structure built prior to 1936 which is or will
26 be owned and used as a single-family, owner-occupied
27 residential property and which is contained within a

1 single-family residential structure, either free standing or
2 supported by party walls, but not to include individual units
3 within a multi-residential structure such as a condominium or
4 cooperative.

5 "(4) COMMISSION. The Alabama Historical Commission
6 and or its successor.

7 "(5) DEPARTMENT. The Alabama Department of Revenue
8 or its successor.

9 "(6) OWNER. Any taxpayer filing a State of Alabama
10 tax return or any entity that is exempt from federal income
11 taxation pursuant to Section 501(c) of the Internal Revenue
12 Code, as amended, that: a. owns title to a qualified
13 structure, ~~or~~ b. owns prospective title to a qualified
14 structure in the form of a purchase agreement or option to
15 purchase, or c. owns a leasehold interest in a qualified
16 structure for a term of not less than 39 years.

17 "(7) QUALIFIED REHABILITATION EXPENDITURES. Any
18 expenditure as defined under Section 47(c)(2)(A) of the
19 Internal Revenue Code, as amended, and the related regulations
20 thereunder, and other reasonable expenses and costs expended
21 in the rehabilitation of a qualified structure. For certified
22 historic residential structures, this term shall mean expenses
23 incurred by the taxpayer in the certified rehabilitation of a
24 certified historic residential structure, including
25 preservation and rehabilitation work done to the exterior of a
26 certified historic residential structure, repair and
27 stabilization of historic structural systems, restoration of

1 historic plaster, energy efficiency measures except insulation
2 in frame walls, repairs or rehabilitation of heating, air
3 conditioning, or ventilation systems, repairs or
4 rehabilitation of electrical or plumbing systems exclusive of
5 new electrical appliances and electrical or plumbing fixtures,
6 and architectural, engineering, and land surveying fees.
7 Qualified rehabilitation expenditures do not include the cost
8 of acquisition of the qualified structure, the personal labor
9 by the owner, or any cost associated with the rehabilitation
10 of an outbuilding of the qualified structure, unless the
11 outbuilding is certified by the commission to contribute to
12 the historical significance of the qualified structure.

13 "(8) QUALIFIED STRUCTURE. Certified historic
14 structures and non-historic structures built before 1936 which
15 are certified by the commission as meeting the requirements
16 contained in Section 47(c)(1)(a) and (b) of the Internal
17 Revenue Code, as amended, and to certified historic
18 residential structures as defined herein.

19 "(9) REGISTERED HISTORIC DISTRICT. Any district
20 listed in the National Register of Historic Places and any
21 district which is either of the following:

22 "a. Designated under Alabama or local law certified
23 by the U.S. Secretary of the Interior as containing criteria
24 which substantially achieves the purpose of preserving and
25 rehabilitating buildings of historic significance to the
26 district.

1 "b. Certified by the U.S. Secretary of the Interior
2 as meeting substantially all of the requirements for the
3 listing of districts in the National Register of Historic
4 Places.

5 "(10) REHABILITATION PLAN. Construction plans and
6 specifications for the proposed rehabilitation of a qualified
7 structure in sufficient detail to enable the commission to
8 evaluate compliance with the standards developed under this
9 chapter.

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

15 "§40-9F-4.

16 "(a) The state portion of any taxes credit against
17 the tax imposed by Chapters 16 and 18, for the taxable year in
18 which the certified rehabilitation is placed in service, shall
19 be equal to 25 percent of the qualified rehabilitation
20 expenditures for certified historic structures, and shall be
21 10 percent of the qualified rehabilitation expenditures for
22 qualified pre-1936 non-historic structures. No tax credit
23 claimed for any certified rehabilitation may exceed five
24 million dollars (\$5,000,000) for all allowable property types
25 except a certified historic residential structure, and fifty
26 thousand dollars (\$50,000) for a certified historic
27 residential structure.

1 "(b) The entire tax credit may be claimed by the
2 taxpayer in the taxable year in which the certified
3 rehabilitation is placed in service. Where the taxes owed by
4 the taxpayer are less than the tax credit, the taxpayer shall
5 not be entitled to claim a refund for the difference, but any
6 unused portion of the credit may be carried forward for up to
7 10 additional tax years.

8 "(c) The aggregate amount of all tax credits in any
9 tax year that may be reserved by the commission upon
10 certification of rehabilitation plans under subsection (c) of
11 Section 40-9F-3 shall not exceed ~~twenty million dollars~~
12 ~~(\$20,000,000)~~ thirty million dollars (\$30,000,000) plus any
13 amount of previous reservations of tax credits that were
14 rescinded under subsection (c) of Section 40-9F-3 during the
15 tax year. However, if all of the allowable tax credit amount
16 for any tax year is not requested and reserved, any unreserved
17 tax credits may be utilized by the commission in awarding tax
18 credits in subsequent years.

19 "(d) Tax credits granted to a partnership, a limited
20 liability company taxed as a partnership or multiple owners of
21 a property shall be passed through to the partners, members,
22 or owners (including any not-for-profit entity that is a
23 partner, member, or owner) respectively pro rata or pursuant
24 to an executed agreement among the partners, members, or
25 owners documenting an alternate distribution method.

26 "(e) All or any portion of the tax credits under
27 this act shall be freely transferable and assignable, subject

1 to any notice and verification requirements to be determined
2 by the commission or the department, or both. Any transferee
3 of the tax credits may use the amount of tax credits
4 transferred to offset against any tax due under Chapters 16
5 and 18, or the transferee may freely transfer and assign all
6 or any portion of the tax credits to any other person or
7 entity, including an entity that is exempt from federal income
8 taxation pursuant to Section 501(c) of the Internal Revenue
9 Code, as amended, and the other person or entity may freely
10 transfer and assign all or any portion of the tax credits to
11 any other person or entity. The tax credits may be transferred
12 or assigned until the time that the credit is claimed on a
13 State of Alabama tax return by any taxpayer."

14 Section 2. Section 7 of Act 2013-241, 2013 Regular
15 Session, now appearing as Section 40-9F-7 of the Code of
16 Alabama 1975, is repealed.

17 Section 3. This act shall become effective on the
18 first day of the third month following its passage and
19 approval by the Governor, or its otherwise becoming law.