

SB313 INTRODUCED



1 SB313
2 XDYMT77-1
3 By Senators Singleton, Jones, Smitherman
4 RFD: Finance and Taxation Education
5 First Read: 17-Feb-26



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SYNOPSIS:

Under existing law, a state income tax credit is provided under certain conditions for qualified rehabilitation expenditures for the substantial rehabilitation of certified historic structures. The aggregate amount of all tax credits is limited for the tax years 2023 through 2027 and the program sunsets following tax year 2027.

This bill would extend the tax credits for qualified rehabilitation expenditures for substantial rehabilitation of certified historic structures through tax year 2032 and increase the annual limit on credits. The bill would also provide certain definitions and increase the credit amount for properties located in rural communities.

The bill would also make nonsubstantive, technical revisions to update existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to the state income tax credit for the



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29 rehabilitation of qualified historic structures; to amend
30 Sections 40-9F-31 through 40-9F-33, and Section 40-9F-36, Code
31 of Alabama 1975, to extend the income tax credit through 2032;
32 to increase the amount of tax credits that may be provided in
33 a tax year; to provide further for credit amounts and the
34 definition of "qualifying structures"; and to make
35 nonsubstantive, technical revisions to update existing code
36 language to current style.

37 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

38 Section 1. Sections 40-9F-31 through 40-9F-33 and
39 Section 40-9F-36, Code of Alabama 1975, are amended to read as
40 follows:

41 "§40-9F-31

42 As used in this article, the following terms have the
43 following meanings:

44 (1) CERTIFIED HISTORIC STRUCTURE. A property located in
45 this state which is at least 60 years of age, unless the
46 structure is a historic structure located within the
47 boundaries of a National Monument or Park as declared by the
48 United States Congress or the President of the United States,
49 in which case the federal age provisions shall apply, and is
50 certified by the Alabama Historical Commission as being
51 individually listed in the National Register of Historic
52 Places, eligible for listing in the National Register of
53 Historic Places, or certified by the commission as
54 contributing to the historic significance of a Registered
55 Historic District. For applications submitted after June 1,
56 2023, a property must be 75 years of age.



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57 (2) CERTIFIED REHABILITATION. Repairs or alterations to
58 a certified historic structure that is certified by the
59 commission as meeting the U.S. Secretary of the Interior's
60 Standards for Rehabilitation which meet the requirements of 26
61 U.S.C. § 47.

62 (3) COMMISSION. The Alabama Historical Commission or
63 its successor.

64 (4) COMMITTEE. The Historic Tax Credit Evaluating
65 Committee established by this article.

66 (5) DEPARTMENT. The Alabama Department of Revenue or
67 its successor.

68 (6) DISQUALIFYING USE. Any use of a certified historic
69 structure that is occupied by an owner and used exclusively as
70 a primary or secondary residence.

71 (7) OWNER. Any taxpayer filing a State of Alabama
72 income tax return or any entity that is exempt from federal
73 income taxation pursuant to 26 U.S.C. § 501, that owns title
74 to a qualified structure or owns a leasehold interest in a
75 qualified structure for a term of not less than 39 years. An
76 owner as defined herein shall not be considered a private user
77 as defined in Section 40-9A-1.

78 (8) QUALIFIED REHABILITATION EXPENDITURES. Any
79 expenditure as defined under 26 U.S.C. § 47, as amended, and
80 the related regulations thereunder, and other reasonable
81 expenses and costs expended in the rehabilitation of a
82 qualified structure. Qualified rehabilitation expenditures do
83 not include the cost of acquisition of the qualified
84 structure, the personal labor by the owner, or any cost



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85 associated with the rehabilitation of an outbuilding of the
86 qualified structure, unless the outbuilding is certified by
87 the commission to contribute to the historical significance of
88 the qualified structure.

89 (9) QUALIFIED STRUCTURE. Certified historic structures
90 that are certified by the commission as meeting the
91 requirements contained in 26 U.S.C. § 47.

92 (10) REGISTERED HISTORIC DISTRICT. Any district listed
93 in the National Register of Historic Places and any district
94 that is either of the following:

95 a. Designated under Alabama or local law as containing
96 criteria that substantially achieves the purpose of preserving
97 and rehabilitating buildings of historic significance to the
98 district.

99 b. Certified by the U.S. Secretary of the Interior as
100 meeting substantially all of the requirements for the listing
101 of districts in the National Register of Historic Places.

102 (11) REHABILITATION PLAN. Construction plans and
103 specifications for the proposed rehabilitation of a qualified
104 structure in sufficient detail to enable the commission to
105 evaluate compliance with the standards developed under this
106 article.

107 (12) RURAL COMMUNITIES. Communities located within
108 counties of this state that have less than 175,000 in
109 population based on the most recent federal decennial census.

110 ~~(12)~~ (13) SUBSTANTIAL REHABILITATION. ~~Rehabilitation~~ For
111 tax years 2028 through 2032, rehabilitation of a qualified
112 structure for which the qualified rehabilitation expenditures



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113 exceed 50 percent of the owner's original purchase price of
114 the qualified structure or twenty-five thousand dollars
115 (\$25,000), whichever is greater. For tax years 2028 through
116 2032, rehabilitation of a qualified structure for which the
117 qualified rehabilitation expenditures exceed 50 percent of the
118 owner's original purchase price of the qualified structure or
119 twenty thousand dollars (\$20,000) for qualified structures
120 located in rural communities and twenty-five thousand dollars
121 (\$25,000) for properties located in urban communities,
122 whichever is greater.

123 (14) URBAN COMMUNITIES. Communities located within
124 counties of this state that have greater than 175,000 in
125 population based on the most recent federal decennial census."

126 "§40-9F-32

127 (a) The commission shall develop standards for the
128 approval of the substantial rehabilitation of qualified
129 structures for which a tax credit is sought. The standards
130 shall: (i) take into account whether the substantial
131 rehabilitation of a qualified structure is consistent with the
132 historic character of the structure or of the Registered
133 Historic District in which the property is located; and (ii)
134 for tax years 2023 through ~~2027~~2032, establish a mechanism to
135 require owners to confirm that the proposed use for the
136 qualified structure is not a disqualifying use in the
137 application, and prior to the commission's issuance of the tax
138 credit certificate for the qualified structure under ~~Section~~
139 ~~40-9F-32(d)~~subsection (d).

140 (b) Prior to beginning any substantial rehabilitation



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141 work on a qualified structure, the owner shall submit an
142 application and rehabilitation plan to the commission and an
143 estimate of the qualified rehabilitation expenditures under
144 the rehabilitation plan^r, provided^r, ~~however~~, that the owner,
145 at its own risk, may incur qualified rehabilitation
146 expenditures no earlier than six months prior to the
147 submission of the application and rehabilitation plan that are
148 limited to architectural, engineering, and land surveying fees
149 and related soft costs and any costs related to the protection
150 of the qualified structure from deterioration.

151 (c) (1) The commission shall review the application and
152 rehabilitation plan to determine that the information
153 contained therein is complete. If the commission determines
154 that the application and rehabilitation plan are complete, the
155 commission shall recommend the project to the committee for
156 the reservation of a tax credit. If the project is approved
157 for a tax credit by the committee, the commission shall
158 reserve, for the benefit of the owner, an allocation for a tax
159 credit as provided in Section 40-9F-33, and the commission
160 shall notify the owner in writing of the amount of the
161 reservation. The reservation of tax credits does not entitle
162 the owner to an issuance of tax credits until the owner
163 complies with all other requirements of this article for the
164 issuance of the tax credits. The reservation of tax credits
165 shall be made by the commission in the order in which the
166 committee has ranked completed applications and rehabilitation
167 plans. Reservations of tax credits shall be issued by the
168 commission within a reasonable time from the filing of a



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169 completed application and rehabilitation plan. Only the
170 property for which a property address, legal description, or
171 other specific location is provided in the application shall
172 be reviewed. Ownership of an entity that is the owner of
173 property contained in the application shall not be a factor in
174 the commission's review of the application and no subsequent
175 change in the ownership structure of such entity shall result
176 in the loss or rescission of a reservation of tax credits. The
177 owner shall not be permitted to request the review of another
178 property for approval in the place of the property contained
179 in the application. Any application disapproved by the
180 commission or the committee shall be removed from the review
181 process, and the commission shall notify the owner in writing
182 of the decision to remove the application. A disapproved
183 application may be resubmitted, but shall be deemed to be a
184 new submission and may be charged a new application fee. In
185 the event the reservations of tax credits equal the total
186 amount available for reservations during the tax year, all
187 owners with applications then awaiting approval or thereafter
188 submitted shall be notified by the commission that no
189 additional tax credits shall be granted during that tax year.
190 The applications shall remain in active status from the date
191 of the original application and shall be considered for
192 recommendations of tax credits in the event that additional
193 credits become available due to rescission by the commission
194 or when a new tax year's allocation of tax credits becomes
195 available.

196 (2) Owners receiving a reservation of tax credits shall



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197 commence rehabilitation, if rehabilitation has not previously
198 begun, within 18 months of the date of issuance of the written
199 notice from the commission to the owner granting the tax
200 credits. Commencement of rehabilitation shall mean that, as of
201 the date in which actual physical work contemplated by the
202 rehabilitation plan submitted with the application has begun,
203 the owner has incurred no less than 20 percent of the
204 estimated costs of rehabilitation provided in the application.
205 Within 36 months of the date of issuance of the written notice
206 from the commission to the owner granting the tax credit
207 reservation, the owner must have incurred an additional 50
208 percent of the estimated costs of rehabilitation provided in
209 the application. Within 60 months of the date of issuance of
210 the written notice from the commission to the owner granting
211 the tax credit reservation, the project must be completed.
212 Owners receiving a reservation of tax credits shall submit
213 evidence of compliance with this subsection. If the commission
214 determines that an owner has failed to comply with the
215 requirements provided under this section, the reservation of
216 tax credits for the owner may be rescinded and, if so, the
217 amount of tax credits shall then be included in the total
218 amount of available tax credits provided for in ~~subsection (c)~~
219 ~~of~~ Section 40-9F-33 (c), from which reservations may be
220 granted. Any owner whose reservation of tax credits are
221 rescinded shall be notified of the rescission from the
222 commission and, upon receipt of the notice, may submit a new
223 application but may be charged a new application fee.

224 (d) Following the completion of a substantial



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225 rehabilitation of a qualified structure, the owner shall
226 notify the commission that the substantial rehabilitation has
227 been completed and shall certify the qualified rehabilitation
228 expenditures incurred with respect to the rehabilitation plan.
229 In addition, the owner shall provide the commission with: (i)
230 a cost and expense certification, prepared by a licensed
231 certified public accountant that is not an affiliate of the
232 owner, certifying the total qualified rehabilitation
233 expenditures and the total amount of tax credits against any
234 state tax due that is specified in this article for which the
235 owner is eligible under Section 40-9F-33; and (ii) an
236 appraisal of the qualified structure prepared by an
237 independent MAI designated and licensed real estate appraiser.
238 The commission shall review the documentation of the
239 rehabilitation and verify its compliance with the
240 rehabilitation plan. ~~Within~~For tax years 2023 through 2027,
241 within 90 days after receipt and approval of the foregoing
242 documentation from the owner, the commission shall issue a tax
243 credit certificate in an amount equivalent to the lesser of:
244 (i) the amount of the tax credit reservation issued for the
245 project under the provisions of subsection (c); or (ii) 25
246 percent of the actual qualified rehabilitation expenditures
247 for certified historic structures. For tax years 2028 through
248 2032, within 90 days after receipt and approval of the
249 foregoing documentation from the owner, the commission shall
250 issue a tax credit certificate in an amount equivalent to the
251 lesser of: (i) the amount of the tax credit reservation issued
252 for the project under the provisions of subsection (c); (ii)



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253 30 percent of the actual qualified rehabilitation expenditures
254 for certified historic structures located in rural
255 communities; or (iii) 25 percent of the actual qualified
256 rehabilitation expenditures for certified historic structures
257 located in urban communities. In the event the amount of
258 qualified rehabilitation expenditures incurred by the owner
259 would result in the issuance of an amount of tax credits in
260 excess of the amount of tax credits reserved for the owner
261 under subsection (c), the owner may apply to the commission
262 for issuance of tax credits in an amount equal to the excess.
263 Applications for issuance of tax credits in excess of the
264 amount of tax credits reserved for the owner shall be made on
265 a form prescribed by the commission and shall represent a
266 separate certificate that shall be issued, subject to all
267 provisions regarding priority provided in Section 40-9F-38.

268 (e) In order to obtain a credit against any state tax
269 due that is specified in this article, a taxpayer shall file
270 the tax credit certificate with the taxpayer's Alabama state
271 tax return.

272 (f) The department shall grant a tax credit against any
273 state tax due that is specified in this article to a taxpayer
274 holding the tax credit certificate issued under subsection (d)
275 or, in the case of a transferee, issued by the department
276 pursuant to Section 40-9F-33 against any tax due under Chapter
277 18 in the amount stated on the tax credit certificate. The
278 department shall have the right to audit and to reassess any
279 credit improperly obtained by the owner, in accordance with
280 the Taxpayers' Bill of Rights and the Uniform Revenue



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281 Procedures contained in Chapter 2A~~r~~_L provided~~, however~~ that
282 only the owner initially awarded the tax credit certificate,
283 and not any subsequent transferee of the tax credit
284 certificate or person to whom tax credits have been passed
285 through pursuant to Section 40-9F-33, shall be liable for any
286 credit improperly obtained by the owner.

287 (g) For processing the taxpayer's application for a tax
288 credit, the commission may impose the following application
289 fees:

290 (1) For qualified rehabilitation expenses of one
291 million dollars (\$1,000,000) or less, a fee equal to 1 percent
292 of the qualified rehabilitation expenditures.

293 (2) For qualified rehabilitation expenses from one
294 million and one dollars (\$1,000,001) to ten million dollars
295 (\$10,000,000), a fee equal to fifteen thousand dollars
296 (\$15,000).

297 (3) For qualified rehabilitation expenses over ten
298 million dollars (\$10,000,000), a fee equal to twenty thousand
299 dollars (\$20,000).

300 (h) Any fees collected by the commission under this
301 section shall be deposited in the State Treasury to the credit
302 of the commission and all such funds are to be appropriated to
303 the commission to defray the expenses incurred in carrying out
304 this article.

305 (i) The commission shall report to the Legislature in
306 the third year following passage of this article, and annually
307 thereafter, on the overall economic activity, usage, and
308 impact to the state from the substantial rehabilitation of



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309 qualified structures for which tax credits have been allowed.
310 The information in the reports shall be consistent with the
311 information required by the Legislature pursuant to, and shall
312 be provided by the commission to the Legislature in accordance
313 with, Section 40-1-50, and rules adopted thereunder.
314 Information provided pursuant to this section is exempt from
315 the confidentiality provisions of Section 40-2A-10."

316 "§40-9F-33

317 (a) ~~The state portion of~~ For tax years 2023 through
318 2027, any tax credit against the tax imposed by Chapter 18 for
319 the taxable year in which the reservation is allocated to a
320 project or the certified rehabilitation is placed in service
321 shall be equal to 25 percent of the qualified rehabilitation
322 expenditures for certified historic structures. For tax years
323 2028 through 2032, any tax credit against the tax imposed by
324 Chapter 18 for the taxable year in which the reservation is
325 allocated to a project or the certified rehabilitation is
326 placed in service shall be equal to: (i) 30 percent of the
327 qualified rehabilitation expenditures for certified historic
328 structures located in rural communities; or (ii) 25 percent of
329 the qualified rehabilitation expenditures for certified
330 historic structures located in urban communities. No tax
331 credit claimed for any certified rehabilitation may exceed
332 five million dollars (\$5,000,000) for all allowable property
333 types.

334 (b) There is created within the Education Trust Fund a
335 separate account named the Historic Preservation Income Tax
336 Credit Account. The Commissioner of Revenue shall certify to



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337 the Comptroller the amount of income tax credits under this
338 section and the Comptroller shall transfer into the Historic
339 Preservation Income Tax Credit Account only the amount from
340 sales tax revenues within the Education Trust Fund that is
341 sufficient for the Department of Revenue to use to cover the
342 income tax credits for the applicable tax year. The
343 Commissioner of Revenue shall distribute the funds in the
344 Historic Preservation Income Tax Credit Account pursuant to
345 this section.

346 (c) The entire tax credit must be claimed by the
347 taxpayer for the taxable year in which the reservation is
348 allocated to a project or the certified rehabilitation is
349 placed in service. Tax credits shall not be claimed prior to
350 the taxable year in which the certified rehabilitation is
351 placed in service. Where the taxes owed by the taxpayer are
352 less than the tax credit, the taxpayer shall be entitled to
353 claim a refund for the difference. In the event that any
354 additional credit is allocated to the taxpayer for a given
355 project, the additional credit must be claimed in the taxable
356 year the additional credit is allocated to the taxpayer.

357 (d) (1) For the tax years 2018 through 2022, the
358 aggregate amount of all tax credits that may be reserved in
359 any one of such years by the commission and certification of
360 rehabilitation plans under Section 40-9F-32(c) shall not
361 exceed twenty million dollars (\$20,000,000), plus any amount
362 of previous reservations of tax credits that were rescinded
363 under Section 40-9F-32(c) during the tax year. However, if all
364 of the allowable tax credit amount for any tax year is not



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365 requested and reserved, any unreserved tax credits may be
366 utilized by the commission in awarding tax credits in
367 subsequent years; provided, however, that in no event shall a
368 total of more than two hundred million dollars (\$200,000,000)
369 be reserved by the commission during the period from May 25,
370 2017, through December 31, 2022, pursuant to this article.
371 Applications shall not be received by the commission after the
372 Historic Tax Credit Evaluating Committee has ranked projects
373 with a total amount exceeding two hundred million dollars
374 (\$200,000,000).

375 (2) For the tax years 2023 through 2027, the aggregate
376 amount of all tax credits that may be reserved in any one of
377 such years by the commission and certification of
378 rehabilitation plans under Section 40-9F-32(c) shall not
379 exceed twenty million dollars (\$20,000,000), plus any amount
380 of previous reservations of tax credits that were rescinded
381 under Section 40-9F-32(c) during the tax year. However, if all
382 of the allowable tax credit amount for any tax year is not
383 requested and reserved, any unreserved tax credits may be
384 utilized by the commission in awarding tax credits in
385 subsequent years~~;~~, provided~~, however,~~ that in no event shall a
386 total of more than two hundred million dollars (\$200,000,000)
387 be reserved by the commission during the period from May 25,
388 2017, through December 31, 2027, pursuant to this article.

389 (3) For the tax years 2028 through 2032, the aggregate
390 amount of all tax credits that may be reserved in any one of
391 such years by the commission and certification of
392 rehabilitation plans under Section 40-9F-32(c) shall not



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393 exceed twenty-five million dollars (\$25,000,000), plus any
394 amount of previous reservations of tax credits that were
395 rescinded under Section 40-9F-32(c) during the tax year.
396 However, if all of the allowable tax credit amount for any tax
397 year is not requested and reserved, any unreserved tax credits
398 may be utilized by the commission in awarding tax credits in
399 subsequent years, provided that in no event shall a total of
400 more than three hundred twenty-five million dollars
401 (\$325,000,000) be reserved by the commission during the period
402 from May 25, 2017, through December 31, 2032, pursuant to this
403 article.

404 ~~(3)~~ (4) For tax years 2023 through ~~2027~~2032, no tax
405 credits shall be reserved for qualified structures the end use
406 of which is proposed to be a disqualifying use.

407 ~~(4)~~ (5) For purposes of this article, "tax year" shall
408 mean calendar year.

409 ~~(5)~~ (6) In addition to the limits in subdivision (2),
410 for tax years 2024 through ~~2027~~2032, the commission may
411 utilize an additional amount up to a total of five million
412 dollars (\$5,000,000) to reduce the backlog of qualified
413 applications.

414 (e) Of the annual amount of the tax credits provided
415 for in subsection (d), 40 percent shall be reserved to
416 taxpayers with a certified rehabilitation project located in a
417 county in which the population does not exceed 175,000
418 according to the most recent federal decennial census. In the
419 event applications are not received and credits are not
420 allocated for projects in these areas by the close of the



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421 third quarter of the program year, the funds may revert for
422 allocations of other project applications.

423 (f) Tax credits granted to a partnership, a limited
424 liability company, S corporations, trusts, or estates, shall
425 be claimed at the entity level and shall not pass through to
426 the partners, members, or owners.

427 (g) All or any portion of the income tax credits under
428 this section and Section 40-9F-32 shall be transferable and
429 assignable, subject to any notice and verification
430 requirements to be determined by the department, without the
431 requirement of transferring any ownership interest in the
432 qualified structure or any interest in the entity which owns
433 the qualified structure. Any tax credits transferred shall be
434 at a value of at least 85 percent of the present value of the
435 credits. However, once a credit is transferred, only the
436 transferee may utilize the credit and the credit may not be
437 transferred again. A transferee of the tax credits may use the
438 amount of tax credits transferred to offset any income tax
439 under Chapter 18. The entire tax credit must be claimed by the
440 transferee for the taxable year in which the reservation is
441 allocated to a project or the certified rehabilitation is
442 placed in service. When the taxes owed by the transferee are
443 less than the tax credit, the transferee shall be entitled to
444 claim a refund for the difference. The department shall adopt
445 a form transfer statement to be filed by the transferor with
446 the department prior to the purported transfer of any credit
447 issued under this article. The transfer statement form shall
448 include the name and federal taxpayer identification number of



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449 the transferor and each transferee listed therein along with
450 the amount of the tax credit to be transferred to each
451 transferee listed on the form. The transfer statement form
452 shall also contain any other information as the department may
453 from time to time reasonably require. For each transfer, the
454 transferor shall file: ~~(1)~~ (i) a completed transfer statement
455 form; ~~(2)~~ (ii) a copy of the tax credit certificate issued by
456 the commission documenting the amount of tax credits which the
457 transferor intends to transfer; ~~(3)~~ (iii) a copy of the
458 proposed written transfer agreement; and ~~(4)~~ (iv) a transfer
459 fee payable to the department in the amount of one thousand
460 dollars (\$1,000) per transferee listed on the transfer
461 statement form. The transferor shall file with the department
462 a fully executed copy of the written transfer agreement with
463 each transferee within 30 days after the completed transfer.
464 Filing of the written transfer agreement with the department
465 shall perfect the transfer with respect to the transferee.
466 Within 30 days after the department's receipt of the fully
467 executed written transfer agreement, the department shall
468 issue a tax credit certificate to each transferee listed in
469 the agreement in the amount of the tax credit so transferred.
470 The certificate shall be used by the transferee in claiming
471 the tax credit pursuant to ~~subsections (e) and (f) of~~ Section
472 40-9F-32 (e) and (f). The department may adopt additional rules
473 as are necessary to permit verification of the ownership of
474 the tax credits, but shall not adopt any rules which unduly
475 restrict or hinder the transfer of the tax credits."

476 "§40-9F-36



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477 The tax credits authorized by this article for the
478 substantial rehabilitation of qualified structures shall not
479 be available to owners of qualified structures that submit an
480 application and rehabilitation plan after December 31,
481 ~~2027~~2032. No action or inaction on the part of the Legislature
482 shall reduce or suspend the tax credits authorized by this
483 article in any past or future calendar year with respect to a
484 qualified structure if the owner thereof submits an
485 application and rehabilitation plan with the commission and
486 the commission reserves an allocation for a tax credit on or
487 prior to December 31, ~~2027~~2032, even if the qualified
488 structure is placed into service after December 31, ~~2027~~2032,
489 and shall not affect the owner of a qualified structure if the
490 commission has reserved an allocation for a tax credit on or
491 prior to December 31, ~~2027~~2032. Notwithstanding any other
492 provision of this chapter, any application received by the
493 commission, other than an application for a qualified
494 structure the end use of which is proposed to be a
495 disqualifying use, in active status on the ranking list of the
496 Historic Tax Credit Evaluating Committee or granted a tax
497 allocation reservation prior to ~~May 14, 2021~~the effective date
498 of this article, shall remain on the ranking list or in
499 reservation status and shall receive a tax credit allocation
500 reservation or a tax credit allocation, as the case may be,
501 when additional credits become available, ~~including in any tax~~
502 ~~year commencing after 2022.~~"

503 Section 2. This act shall become effective on October
504 1, 2026.