

SENATE BILL 1723

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 11, Part 1; Title 56, Chapter 4 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. Tennessee Code Annotated, Title 56, Chapter 4, is amended by adding Sections 2 through 8 as a new part.

SECTION 2. This part shall be known and may be cited as the "Historic Rehabilitation Tax Credit Act".

SECTION 3. As used in this part:

(1) "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 state register of historic places and is certified by the commission as contributing to the historic significance of the district;

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

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

(4) "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;

(5) "Placed in service" means that sufficient rehabilitation work has been completed which 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;

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

(7) "State premium tax liability" means any liability incurred by an insurance company for the following taxes, as applicable:

(A) Premium taxes under title 56, chapter 4, part 2; title 50, chapter 6, part 4; § 56-13-114; § 56-14-113; § 56-22-114; and § 56-45-110;

(B) Retaliatory tax under § 56-4-218; and

(C) Any other premium taxes and retaliatory taxes imposed upon an insurance company by this state under any other law.

SECTION 4. Tax credit; carryforward; allocation.

(a) Any owner that incurs qualified rehabilitation expenditures for the rehabilitation of a certified historic structure shall earn a tax credit against any state premium tax liability in an amount equal to twenty-five percent (25%) of the qualified rehabilitation expenditures; provided, that the rehabilitation shall meet standards consistent with the standards of the secretary of the United States department of the interior for rehabilitation, as certified by the commission, and the qualified rehabilitation expenditures associated with the certified historic structure shall exceed five thousand dollars (\$5,000).

(b) 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 claimant's state premium 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.

(c) 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.

SECTION 5. Application and Certification.

(a) Requests for designation of a property as a certified historic structure and of a proposed rehabilitation shall be made on the following forms, which shall be promulgated by the commission:

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

(2) 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

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

(b) 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 tax credit provided in this part on the forms required by subsection (a), the owner may request the tax credit 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.

(c) Concurrently with the certificate of a completed rehabilitation, the commission shall issue to the owner a tax credit certificate providing the amount of tax credit generated by the qualified rehabilitation expenditures incurred during the rehabilitation. To issue a tax credit certificate, the owner shall provide the commission with the following:

(1) 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

(2) Evidence that the certified historic structure has been placed in service.

SECTION 6. Recapture. 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.

SECTION 7. Retaliatory Tax. A claimant of a tax credit shall not be required to pay any retaliatory tax levied under § 56-4-218 as a result of claiming the tax credit.

SECTION 8. Rules; fees.

(a) Within one hundred eighty (180) days of the effective date of this act, the commission shall promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5 and adopt the forms necessary or convenient to implement this part.

(b) The commission may adopt a fee, not to exceed five thousand dollars (\$5,000), for the applications and certifications required by this part or by any rules promulgated pursuant to this part. The fees shall be receipts of the commission to be used for performing its duties under this part.

SECTION 9. The headings to sections, chapters, and parts in this act are for reference purposes only and do not constitute part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 10. This act shall take effect upon becoming a law, the public welfare requiring it.