

115TH CONGRESS
1ST SESSION

S. 425

To amend the Internal Revenue Code of 1986 to improve the historic rehabilitation tax credit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2017

Mr. CARDIN (for himself, Ms. COLLINS, Mr. COCHRAN, Mrs. GILLIBRAND, Mr. WICKER, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to improve the historic rehabilitation tax credit, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Historic Tax Credit
5 Improvement Act of 2017”.

6 **SEC. 2. INCREASE IN THE REHABILITATION CREDIT FOR**
7 **CERTAIN SMALL PROJECTS.**

8 (a) **IN GENERAL.**—Section 47 of the Internal Rev-
9 enue Code of 1986 is amended by adding at the end the
10 following new subsection:

1 “(e) SPECIAL RULE REGARDING CERTAIN SMALL
2 PROJECTS.—

3 “(1) IN GENERAL.—In the case of any qualified
4 rehabilitated building or portion thereof—

5 “(A) which is placed in service after the
6 date of the enactment of this subsection, and

7 “(B) which is a small project,
8 subsection (a)(2) shall be applied by substituting ‘30
9 percent’ for ‘20 percent’.

10 “(2) MAXIMUM CREDIT.—The credit under this
11 section (after application of this subsection) with re-
12 spect to any project for all taxable years shall not
13 exceed \$750,000.

14 “(3) SMALL PROJECT.—

15 “(A) IN GENERAL.—For purposes of this
16 subsection, the term ‘small project’ means any
17 certified historic structure or portion thereof
18 if—

19 “(i) the total qualified rehabilitation
20 expenditures taken into account for pur-
21 poses of this section with respect to the re-
22 habilitation do not exceed \$3,750,000, and

23 “(ii) no credit was allowed under this
24 section for either of the two immediately

1 preceding taxable years with respect to
2 such building.

3 “(B) **PROGRESS EXPENDITURES.**—Credit
4 allowable by reason of subsection (d) shall not
5 be taken into account under subparagraph
6 (A)(ii).”.

7 (b) **EFFECTIVE DATE.**—The amendment made by
8 this section shall apply to periods after the date of the
9 enactment of this Act, under rules similar to the rules of
10 section 48(m) of the Internal Revenue Code of 1986 (as
11 in effect on the day before the date of the enactment of
12 the Revenue Reconciliation Act of 1990).

13 **SEC. 3. ALLOWANCE FOR THE TRANSFER OF CREDITS FOR**
14 **CERTAIN SMALL PROJECTS.**

15 (a) **IN GENERAL.**—Section 47(e) of the Internal Rev-
16 enue Code of 1986, as added by section 2, is amended
17 by adding at the end the following new paragraph:

18 “(4) **TRANSFER OF SMALL PROJECT CREDIT.**—
19 “(A) **IN GENERAL.**—Subject to subpara-
20 graph (B) and such regulations or other guid-
21 ance as the Secretary may provide, the taxpayer
22 may transfer to any other taxpayer all or a por-
23 tion of the credit allowable to the taxpayer
24 under subsection (a) for a small project.

1 “(B) CERTIFICATION.—A transfer under
2 subparagraph (A) shall be accompanied by a
3 certificate which includes—

4 “(i) the certification for the certified
5 historic structure,

6 “(ii) the taxpayer’s name, address,
7 and tax identification number,

8 “(iii) the transferee’s name, address,
9 and tax identification number,

10 “(iv) the date of project completion
11 and the amount of credit being trans-
12 ferred, and

13 “(v) such other information as may be
14 required by the Secretary.

15 “(C) CREDIT MAY ONLY BE TRANSFERRED
16 ONCE.—A credit transferred under subpara-
17 graph (A) is not transferable by the transferee
18 to any other taxpayer.

19 “(D) TAX TREATMENT OF TRANSFER.—

20 “(i) DISALLOWANCE OF DEDUC-
21 TION.—No deduction shall be allowed for
22 any amount of consideration paid or in-
23 curred by the transferee in return for the
24 transfer of any credit under this para-
25 graph.

1 “(ii) ALLOWANCE OF CREDIT.—The
2 amount of credit transferred under sub-
3 paragraph (A)—

4 “(I) shall not be allowed to the
5 transferor for any taxable year, and

6 “(II) shall be allowable to the
7 transferee as a credit under this sec-
8 tion for the taxable year of the trans-
9 feree in which such credit is trans-
10 ferred.

11 “(E) RECAPTURE AND OTHER SPECIAL
12 RULES.—For purposes of section 50, the trans-
13 feree of a credit with respect to a smaller
14 project under this paragraph shall be treated as
15 the taxpayer with respect to the smaller project.

16 “(F) INFORMATION REPORTING.—The
17 transferor and the transferee shall each make
18 such reports regarding the transfer of an
19 amount of credit under subparagraph (A), and
20 containing such information, as the Secretary
21 may require. The reports required by this sub-
22 paragraph shall be filed at such time and in
23 such manner as may be required by the Sec-
24 retary.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to periods after December 31,
 3 2016.

4 SEC. 4. INCREASING THE TYPE OF BUILDINGS ELIGIBLE
 5 FOR REHABILITATION.

6 (a) IN GENERAL.—Section 47(c)(1)(C)(i)(I) of the
 7 Internal Revenue Code of 1986 is amended by inserting
 8 “50 percent of” before “the adjusted basis”.

9 (b) EFFECTIVE DATE.—The amendment made by
 10 subsection (a) shall apply to taxable years beginning after
 11 December 31, 2016.

12 SEC. 5. REDUCTION OF BASIS ADJUSTMENT FOR REHABILI-
 13 TATION PROPERTY.

14 (a) IN GENERAL.—Section 50(c) of the Internal Rev-
 15 enue Code of 1986 is amended by adding at the end the
 16 following:

17 “(6) SPECIAL RULE RELATING TO THE REHA-
 18 BILITATION CREDIT.—In the case of any rehabilita-
 19 tion credit—

20 “(A) only 50 percent of such credit shall
 21 be taken into account under paragraph (1), and

22 “(B) only 50 percent of any recapture
 23 amount attributable to such credit shall be
 24 taken into account under paragraph (2).”.

1 (b) **COORDINATION WITH BASIS ADJUSTMENT.**—
 2 Subsection (d) of section 50 of the Internal Revenue Code
 3 of 1986 is amended by adding at the end the following
 4 new sentence: “For purposes of paragraph (5), in applying
 5 the provisions of section 48(d)(5)(B) (as so in effect) to
 6 a lease of property eligible for the credit under section 47,
 7 gross income of the lessee of such property shall include,
 8 ratably over the shortest recovery period applicable to such
 9 property under section 168, an amount equal to 50 per-
 10 cent of the amount of the credit allowable under section
 11 38 to such lessee with respect to such property.”.

12 (c) **EFFECTIVE DATE.**—The amendments made by
 13 this section shall apply to taxable years beginning after
 14 the date of the enactment of this Act.

15 **SEC. 6. MODIFICATIONS REGARDING CERTAIN TAX-EXEMPT**
 16 **USE PROPERTY.**

17 (a) **IN GENERAL.**—Section 47(c)(2)(B)(v)(I) of the
 18 Internal Revenue Code of 1986 is amended by inserting
 19 “, and subclauses (I), (II), and (III) of section
 20 168(h)(1)(B)(ii) shall not apply” after “thereof”.

21 (b) **EFFECTIVE DATE.**—The amendments made by
 22 this section shall apply to property placed in service after
 23 the date of the enactment of this Act.