

(A229, R270, H3163)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-6-3535 SO AS TO ENACT THE “SOUTH CAROLINA HISTORIC REHABILITATION INCENTIVES ACT” TO PROVIDE AN INCOME TAX CREDIT OF TEN PERCENT OF THE EXPENDITURES THAT QUALIFY FOR A FEDERAL TAX CREDIT TO REHABILITATE A HISTORIC STRUCTURE; TO PROVIDE AN INCOME TAX CREDIT OF TWENTY-FIVE PERCENT OF THE EXPENDITURES TO REHABILITATE A HISTORIC STRUCTURE THAT DOES NOT QUALIFY FOR A FEDERAL TAX CREDIT; TO REQUIRE THE CREDIT TO BE TAKEN OVER A FIVE-YEAR PERIOD BEGINNING WITH THE YEAR THE REHABILITATION OF THE STRUCTURE IS COMPLETE; TO AUTHORIZE THE DEPARTMENT OF REVENUE TO PROMULGATE REGULATIONS FOR THE ADMINISTRATION OF THIS SECTION; AND TO PROVIDE FOR APPEALS.

Be it enacted by the General Assembly of the State of South Carolina:

Citation to act

SECTION 1. This act may be cited as the “South Carolina Historic Rehabilitation Incentives Act”.

Income tax credits created

SECTION 2. The 1976 Code is amended by adding:

“Section 12-6-3535. (A) A taxpayer who is allowed a federal income tax credit under Section 47 of the Internal Revenue Code for making qualified rehabilitation expenditures for a certified historic structure located in this State is allowed to claim a credit against the tax imposed by this chapter. For the purposes of this section, ‘taxpayer’, ‘qualified rehabilitation expenditures’, and ‘certified historic structure’ are defined as provided in Internal Revenue Code Section 47 and the applicable treasury regulations. The amount of the credit is ten percent of the expenditures that qualify for the federal credit. To claim the credit allowed by this subsection, the taxpayer must attach to the return a copy of the section of the federal income tax return showing the credit claimed, along with any other information that the Department of

Revenue determines is necessary for the calculation of the credit provided by this subsection.

(B) A taxpayer who is not eligible for a federal income tax credit under Section 47 of the Internal Revenue Code and who makes rehabilitation expenses for a certified historic residential structure located in this State is allowed to claim a credit against the tax imposed by this chapter. The amount of the credit is twenty-five percent of the rehabilitation expenses. To claim the credit allowed by this subsection, the taxpayer must attach to the return a copy of the certification obtained from the State Historic Preservation Officer verifying that the historic structure has been rehabilitated in accordance with this subsection, along with all information that the Department of Revenue determines is necessary for the calculation of the credit provided by this subsection.

For the purposes of this subsection:

(1) 'Certified historic residential structure' means a structure or portion of a structure that is an owner-occupied personal residence if the residence is not actively used in a trade or business, held for the production of income, or held for sale or disposition in the ordinary course of the taxpayer's trade or business; and that is:

(a) listed individually in the National Register of Historic Places;

(b) considered by the State Historic Preservation Officer to contribute to the historic significance of a National Register Historic District;

(c) considered by the State Historic Preservation Officer to meet the criteria for individual listing in the National Register of Historic Places; or

(d) an outbuilding of an otherwise eligible property considered by the State Historic Preservation Officer to contribute to the historic significance of the property.

(2) 'Certified rehabilitation' means repairs or alterations consistent with the Secretary of the Interior's Standards for Rehabilitation and certified as such by the State Historic Preservation Officer before commencement of the work. The review by the State Historic Preservation Officer shall include all repairs, alterations, rehabilitation, and new construction on the certified historic residential structure and the property on which it is located. The rehabilitation expenses must, within a thirty-six-month period, exceed fifteen thousand dollars. A taxpayer shall not take more than one credit on the same certified historic residential structure within ten years.

(3) 'Rehabilitation expenses' means expenses incurred in the certified rehabilitation of a certified historic residential structure,

including preservation and rehabilitation work done to the exterior of a historic structure, repair and stabilization of historic structural systems, restoration of historic plaster, energy efficiency measures except insulation in frame walls, repairs or rehabilitation of heating, air-conditioning, or ventilating systems, repairs or rehabilitation of electrical or plumbing systems exclusive of new electrical appliances and electrical or plumbing fixtures, and architectural and engineering fees.

‘Rehabilitation expenses’ do not include the cost of acquiring or marketing the property, the cost of new construction beyond the volume of the existing building, the value of an owner’s personal labor, or the cost of personal property.

(4) ‘State Historic Preservation Officer’ means the Director of the Department of Archives and History or the director’s designee who administers the historic preservation programs within the State.

(C)(1) The entire credit may not be taken for the taxable year in which the property is placed in service, but must be taken in equal installments over a five-year period beginning with the year in which the property is placed in service. For a certified rehabilitation of a certified historic residential structure ‘placed in service’ is defined as the taxable year the certified rehabilitation is completed. Any unused portion of any credit installment may be carried forward for the succeeding five years.

(2) A ‘S’ corporation, limited liability company, or partnership that qualifies for a credit under this section may pass through the credit earned to each shareholder of the ‘S’ corporation, member of the limited liability company, or partner of the partnership. For purposes of this subsection, limited liability company means a limited liability company taxed as a partnership. The amount of the credit allowed a shareholder, member, or partner by this subsection is equal to the shareholder’s percentage of stock ownership, member’s interest in the limited liability company, or the partner’s interest in the partnership for the taxable year multiplied by the amount of the credit earned by the entity. The credit earned pursuant to this section by a ‘S’ corporation owing corporate level income tax must be used first at the entity level. Only the remaining credit passes through to each shareholder.

(D) Additional work done by the taxpayer while the credit is being claimed, for a period of up to five years, must be consistent with the Secretary of the Interior’s Standards for Rehabilitation. During this period the State Historic Preservation Officer may review additional work to the certified historic structure or certified historic residential structure and has the right to inspect certified historic structures and certified historic residential structures. If additional work is not

consistent with the Standards for Rehabilitation, the taxpayer and Department of Revenue must be notified in writing and any unused portion of the credit, including carry forward, is forfeited.

(E) The South Carolina Department of Archives and History shall develop an application and may promulgate regulations, including the establishment of fees, needed to administer the certification process. The Department of Revenue may promulgate regulations, including the establishment of fees, to administer the tax credit.

(F) A taxpayer may appeal a decision of the State Historic Preservation Officer to a committee of the State Review Board appointed by the chairperson.”

Time effective

SECTION 3. Upon approval by the Governor, this act is effective for taxable years beginning after 2002 for property placed in service after June 30, 2003.

Ratified the 25th day of April, 2002.

Approved the 1st day of May, 2002.
