

SENATE BILL 678

By Lundberg

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 11, Part 1; Title 4, Chapter 17; Title 56, Chapter 4; Title 66 and Title 67, relative to tax credits for the rehabilitation of historic structures.

WHEREAS, the State of Tennessee has a long and proud history encapsulated in its many historic buildings and this history should be preserved; and

WHEREAS, the renovation and preservation of the State's historic buildings expands the State's economy, creates new employment opportunities, revitalizes and renews communities, creates an environment friendly to investment and innovation, and promotes tourism and rural economic development to attract and retain residents in rural areas; and

WHEREAS, historic rehabilitation projects are labor and capital intensive and cause the hiring of local craftspersons, technical training, and the purchase of materials locally; and

WHEREAS, this General Assembly enacts this Tennessee Historic Revitalization Act to facilitate the preservation and redevelopment of the State's most important historic assets, being primarily in the State's smaller and main street communities; 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 is known and may be cited as the "Tennessee Historic Revitalization Act."

SECTION 3. Definitions.

As used in this part:

(1) "Applicable percentage" means:

(A) For any certified historic structure, twenty-five percent (25%);

and

(B) For any certified historic structure that is located in a specially designated area at the time the application is submitted to the commission, the applicable percentage set forth in subdivision (1)(A) must be increased by five percent (5%) to an aggregate of thirty percent (30%);

(2) "Certified historic structure" means a building that is located in this state and is:

(A) Listed individually in the national register of historic places; or

(B) Located in a registered historic district and is certified by the secretary of the United States department of the interior as being of historic significance to the district;

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

(4) "Department" means the department of revenue;

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

(6) "Person" means any natural person, for-profit or nonprofit corporation, general or limited partnership, limited liability company, trust, estate, or other business entity;

(7) "Placed in service" means that sufficient rehabilitation work has been completed and a certificate of occupancy or its equivalent has been issued;

(8) "Project" means the rehabilitation of a certified historic structure;

(9) "Qualifying rehabilitation expenses" has the same meaning as defined in Section 47(c)(2) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 47(c)(2));

(10) "Registered historic district" means any district that is:

(A) Listed in the national register of historic places; and

(B)

(i) Designated under a state or local statute, if such statute is certified by the secretary of the interior as containing criteria that will substantially achieve the purpose of preserving and rehabilitating buildings of significance to the district; and

(ii) Certified by the secretary of the interior as meeting substantially all of the requirements for the listing of districts in the national register of historic places;

(11) "Specially designated area" means:

(A) A Tennessee main street community or a Tennessee downtown community designated by the department of economic and community development;

(B) A certified local government approved by the national park service and located in a county or counties with a population of less than five hundred thousand (500,000), according to the 2010 census and any subsequent federal census;

(C) A federal qualified opportunity zone;

(D) A tier three (3) or four (4) county as designated by the department of economic and community development; or

(E) An area that has been declared by the governor as a state of disaster, as defined in § 58-2-101; and

(12) "State tax liability" means any liability incurred by a person for the following taxes, as applicable:

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

(B) Franchise and excise taxes under title 67, chapter 4, parts 20 and 21.

SECTION 4. Tax credit; carryforward; allocation.

(a) A person who incurs expenses for the rehabilitation of a certified historic structure shall receive a credit against state tax liability (tax credit) in an amount equal to the applicable percentage of the qualified rehabilitation expenditures incurred by such person, not to exceed five hundred thousand dollars (\$500,000) per annual allocation; provided, that:

(1) The rehabilitation meets the standards of the secretary of the United States department of the interior for rehabilitation;

(2) The project commenced construction no earlier than January 1, 2020, or begins within eighteen (18) months of application approval, and is completed within thirty-six (36) months of application approval; and

(3) The total amount of qualified rehabilitation expenditures is equal to or greater than five thousand dollars (\$5,000).

(b) The entire tax credit must be earned in the year in which the certified historic structure is placed in service.

(c) If the tax credit amount exceeds the total state tax liability for the year in which the rehabilitated property is placed in service, the excess amount may be carried

forward for the succeeding seven (7) years, or until the full tax credit is used, whichever occurs first.

(d) Persons eligible for such tax credits may transfer, sell, or assign the tax credits and such transferees are permitted to further transfer, sell, or assign the tax credits in whole or in part to an affiliate or subsidiary person.

(e) The tax credits 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 based on the partner's, member's, shareholder's, or other owner's pro rata share of the entity or in any manner agreed to by the partners, members, shareholders, or other owners without documenting an alternative distribution method.

(f) The assignee of the tax credits may use acquired tax credits to offset up to one hundred percent (100%) of the state tax liability.

(g) The department shall establish such rules as necessary to ensure that any person to whom a tax credit is assigned has only such rights to claim the tax credit under the terms that would have applied to the entity to which the tax credit was originally assigned. Such rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(h) The commission shall not approve applications for tax credits in the aggregate to exceed five million dollars (\$5,000,000) per fiscal year.

(i) Sixty-five percent (65%) of the aggregate amount set forth in subsection (h) must be reserved for projects that take place in specially designated areas.

(j) Tax credits must be reserved on a first-come, first-served basis triggered by the filing of the application. The conditional tax credit amount must be held against the aggregate cap for the year in which conditional approval is granted.

SECTION 5. Application and Certification.

(a) To obtain approval for tax credits allowed under Section 4, a person shall submit an application to the commission. Each application for approval for tax credits must be reviewed in the order of the date in which the such applications were received, with the oldest date and time receiving priority. Applications for approval for tax credits postmarked on the same day must undergo a lottery process created by the commission to determine the order in which such applications are reviewed.

(b) Each application for approval for tax credits must be reviewed by the commission for approval in a process established by the commission. If an application is removed from the review process, the commission shall notify the taxpayer in writing.

(c) If the commission approves an application, the person must be notified in writing of the amount of tax credit reservation conditionally approved by the commission.

(d) To claim the credit authorized under Section 4, the owner shall notify the commission that the certified historic structure has been placed in service and certify the qualified rehabilitation expenditures incurred with respect to the rehabilitation plan. The commission shall transmit a copy of the approved application to the department. The department shall issue a tax credit certificate no greater than the amount of the tax credit reservation.

(e) A person shall also provide to the commission any employment-related data as deemed necessary by the commission, including, but not limited to, the number of temporary construction jobs, the number of anticipated permanent jobs to be created on site, anticipated use of the completed building, and pre- and post-assessed property valuation.

(f) The commission shall educate the public on the availability of this program using communication methods as determined best by the commission.

SECTION 6. 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 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 7. Reporting

Beginning February 1, 2025, the commission shall submit a report to the governor, the speaker of the senate, the speaker of the house of representatives, the fiscal review committee, and the finance, ways and means committees of the senate and the house of representatives that details the commission's activities for the prior fiscal year. The report must also include, but not be limited to, all projects begun or completed, in addition to an accounting of revenues by source, expenditures, and project, and any recommendations for further legislative action.

SECTION 8. Sunset Date.

This part is repealed on December 31, 2025, unless this part is reenacted or extended by the general assembly prior to such date. Any person who has had an application approved under this part prior to December 31, 2025, is entitled to the full benefits of any tax credits received pursuant to Section 5, including, without limitation, any carryforward.

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. For the purposes of promulgating rules and setting up administrative functions, this act takes effect upon becoming a law, the public welfare requiring it. For the purposes of accepting applications, issuing tax credit reservations, and all other purposes, this act takes effect January 1, 2022, the public welfare requiring it.