

H. B. 2882

(By Mr. Speaker, Mr. Kiss, By Request)

[Introduced February 24, 1999; referred to the
Committee on Finance.]

A BILL to amend article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eight-g, relating to providing a tax credit from the personal income tax to encourage preservation of West Virginia's historic houses and neighborhoods.

Be it enacted by the Legislature of West Virginia:

That article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eight-g, to read as follows:

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-8g. Credit for qualified rehabilitated residential buildings investment.

(a) A credit against the tax imposed by the provisions of this article is allowed for residential certified historic structures. The credit is equal to twenty percent of eligible rehabilitation expenses in the rehabilitation of a certified historic structure. The credit is available for residential certified historic structures located in this state that are reviewed by the West Virginia division of culture and history and designated by the national park service, United States department of the interior as "certified historic structures" as defined in 26 U.S.C. §47.

- (b)(1) "Certified historic structure" means any building located in this state that is listed individually in the national register of historic places or located in a registered historic district, reviewed by the West Virginia division of culture and history and certified by the national park service as being of historic significance to the district.
- (2) "Certified rehabilitation" means any rehabilitation of a certified historic structure that is reviewed by the West Virginia division of culture and history, and certified by the national park service as being consistent with the historic character of the property and, where applicable, the district in which it is located.
- (3) "Eligible rehabilitation expenses" means expenses incurred in the material rehabilitation of a certified historic structure and added to the property's basis for income tax purposes.
- (4) "Historic district" means any district that is listed in the national register of historic places or designated under a state or local statute which has been certified as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of significance to the district and which is certified as substantially meeting all of the requirements for listing of districts in the national register of historic places.
- (5) "Historic preservation application" means application forms published by the national park service, United States department of the interior, Parts 1, 2 and 3, Form No. 1-168, or its successor.
- (6) "Material rehabilitation" means improvements or reconstruction consistent with the "Secretary of the Interior's Standards for Rehabilitation," the actual cost of which amounts to at least twenty percent of the assessed value of a certified historic structure for ad valorem real estate tax purposes for the year before the rehabilitation expenses were incurred, exclusive of the assessed value of the land.
- (7) "Residential certified historic structure" means any certified historic structure that is:
- (A) Classified as Class II property for levy purposes pursuant to section five, article eight, chapter eleven of this code for the year in which the rehabilitation expenses are incurred; or
- (B) Not classified as Class II property for levy purposes for the year in which the rehabilitation expenses are incurred but will satisfy the requirements for classification as Class II for real property assessment purposes pursuant to section five, article eight, chapter eleven of this code as of the first day of July of the year following the year in which the rehabilitation expenses are incurred.
- (8) "Secretary of the interior standards" means standards and guidelines adopted and

published by the national park service, United States department of the interior, for rehabilitation of historic properties.

(9) "State historic preservation officer" means the state official designated by the governor pursuant to provisions in the National Historic Preservation Act of 1966, as amended and further defined in section six, article one, chapter twenty-nine of this code.

(c)(1) Application and processing procedures for provisions of this section shall be the same or substantially similar as any required under provisions of 36 C.F.R., Part 67, and to the extent applicable, 26 C.F.R., Part 1. Obtaining historic preservation certification by proper application automatically qualifies the applicant to be considered for tax credits under this section.

(2) The state historic preservation officer's role in the application procedure shall be identical, or substantially similar, to that in 36 C.F.R., Part 67 and 26 C.F.R., Part 1, to the extent applicable.

(d) All standards including the secretary of the interior standards and provisions in 36 C.F.R., Part 67 and 26 C.F.R., Part 1 that apply to tax credits available from the United States government apply to this section, except that the property eligible for the tax credit under this article may not be income producing property or property for which depreciation is allowed under 26 U.S.C. §168.

(e) If the amount of the credit for qualified rehabilitated residential buildings investment exceeds the taxpayer's tax liability for the taxable year to which the credit applies, the amount that exceeds the tax liability for the taxable year may be carried over for credits against the income taxes of the taxpayer in each of the ensuing five tax years or until the full credit is used, whichever occurs first. In no event, may the amount of the credit taken in a taxable year exceed the tax liability due for the taxable year.

(f) The tax commissioner shall require disclosure of information regarding credits granted pursuant to this section in accordance with the provisions of section five-s, article ten of this chapter. The commissioner of the West Virginia division of culture and history may establish by rule the requirements to implement the credit for qualified rehabilitated residential buildings investment, including reasonable fees to defray the necessary expenses of administration of the credit.

(g) The credit authorized by this section shall be available for tax years beginning after the thirty-first day of December, one thousand nine hundred ninety-nine.

NOTE: The purpose of this bill is to provide a tax credit from the personal income tax to encourage preservation of West Virginia's historic houses and neighborhoods.

This section is new; therefore, strike-throughs and underscoring have been omitted.