

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007

# A Bill

SENATE BILL 775

4  
5 By: Senator Altes  
6  
7

## For An Act To Be Entitled

8  
9 AN ACT TO ESTABLISH AN INCOME TAX CREDIT FOR THE  
10 REHABILITATION OF HISTORIC STRUCTURES LOCATED IN  
11 ARKANSAS; AND FOR OTHER PURPOSES.  
12

## Subtitle

13  
14 TO ESTABLISH AN INCOME TAX CREDIT FOR  
15 THE REHABILITATION OF HISTORIC  
16 STRUCTURES LOCATED IN ARKANSAS.  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. Arkansas Code Title 26, Chapter 51 is amended to add an  
22 additional subchapter to read as follows:

23 26-51-2201. Title.

24 This subchapter shall be known and may be cited as the "Arkansas  
25 Historic Structures Rehabilitation Tax Credit Act."  
26

27 26-51-2202. Purpose.

28 The purpose of this subchapter is to encourage economic development  
29 within existing infrastructure and to promote the rehabilitation of historic  
30 structures throughout Arkansas.  
31

32 26-51-2203. Definitions.

33 As used in this subchapter:

34 (1) "Arkansas historic tax credit" means the income tax credit  
35 provided for eligible property;

36 (2) "Certified rehabilitation" means a substantial



1 rehabilitation of an eligible property completed pursuant to this subchapter  
 2 and for which an eligibility certificate is issued;

3 (3) "Eligibility certificate" means a certificate issued by the  
 4 Department of Arkansas Heritage certifying that a project is a certified  
 5 rehabilitation which qualifies for the Arkansas historic tax credit;

6 (4) "Eligible property" means property that is located in the  
 7 state and that is:

8 (A) Income-producing property that qualifies as a  
 9 certified historic structure under 26 U.S.C. § 47, as in effect January 1,  
 10 2007, or that will be eligible for that designation following certified  
 11 rehabilitation; or

12 (B) Non-income producing property that is either:

13 (i) Listed in the National Register of Historic  
 14 Places;

15 (ii) Designated as contributing to a district listed  
 16 in the National Register of Historic Places; or

17 (iii) Will be eligible for designation as  
 18 contributing to a district listed in the National Register of Historic Places  
 19 following certified rehabilitation;

20 (5) "Federal rehabilitation tax credit" means the federal tax  
 21 credit as provided by 26 U.S.C. § 47, and the regulations promulgated  
 22 thereunder, as in effect on January 1, 2007;

23 (6) "Holder" means the holder of an eligibility certificate that  
 24 is:

25 (A) A person, a firm, a corporation, a financial  
 26 institution, or another legal entity subject to the income tax imposed by the  
 27 Income Tax Act of 1929, § 26-51-101 et seq.; or

28 (B) An insurance company paying an annual tax on its gross  
 29 premium receipts in this state pursuant to §§ 26-57-601 - 26-57-605;

30 (7)(A) "Owner" means any owner of eligible property that  
 31 completes the certified rehabilitation and is the initial recipient of the  
 32 eligibility certificate from the department.

33 (B) Any individual or entity empowered to own real  
 34 property in this state may qualify as an owner;

35 (8) "Premium tax" means a tax levied pursuant to §§ 26-57-601 -  
 36 26-57-605; and

1           (9)(A) "Qualified rehabilitation expense" means any cost or  
2 expense incurred to complete a certified rehabilitation which would be  
3 considered a qualified rehabilitation expense for purposes of the federal  
4 historic rehabilitation tax credit, as determined by the State Historic  
5 Preservation Officer of the department.

6           (B) For purposes of this subchapter, a qualified  
7 rehabilitation expense on a non-income producing property shall be treated  
8 the same as a qualified rehabilitation expense for income producing property.

9  
10         26-51-2204. Tax credits, establishing amount, and limitations.

11         (a) There is allowed an Arkansas historic tax credit against the  
12 income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., or the  
13 premium tax levied under §§ 26-57-601 – 26-57-605, for any holder of an  
14 eligibility certificate, up to the amount of the Arkansas historic tax credit  
15 allocable to that holder.

16         (b) The Arkansas historic tax credit shall be in an amount equal to  
17 twenty-five percent (25%) of the total qualified rehabilitation expenses  
18 incurred by the owner to complete a certified rehabilitation.

19         (c) The Arkansas historic tax credit is available for eligible  
20 property with a completed certified rehabilitation that was placed in service  
21 after January 1, 2007.

22         (d) Upon completion of the rehabilitation work, the owner shall submit  
23 the documentation that is required by the Department of Arkansas Heritage to  
24 verify that a certified rehabilitation has been successfully completed.

25         (e) If the department determines that a certified rehabilitation has  
26 been successfully completed, it shall issue a freely transferable eligibility  
27 certificate specifying the total amount of the Arkansas historic tax credit  
28 allowed.

29         (f) If the owner is dissatisfied with the determination made by the  
30 department under subsection (e) of this section, the owner may request that a  
31 review of that determination be made by the State Historic Preservation  
32 Officer or the officer's designee.

33         (g) The request for review under subsection (f) of this section shall  
34 be made in writing to the State Historic Preservation Officer within thirty  
35 (30) days from the date of the determination under subsection (e) of this  
36 section by the department.

1       (h)(1) The owner shall certify to the department the correctness of  
2 any cost and expense claimed as a qualified rehabilitation expense and shall  
3 maintain the records supporting the claim for at least five (5) years after  
4 the issuance of the eligibility certificate.

5               (2) The owner's records supporting the claim for a qualified  
6 rehabilitation expense may be reviewed at any time requested by the  
7 department, the appropriate tax collection authority, or any holder.

8  
9       26-51-2205. Procedure to claim tax credit and transfer of credit.

10       (a)(1) The holder shall submit the eligibility certificate and  
11 documents proving the assignment, if any, with the appropriate tax collection  
12 authority at the time of filing the holder's income tax return or premium tax  
13 return.

14               (2) The appropriate tax collection authority may refuse to  
15 recognize the Arkansas historic tax credit claimed if the holder fails to  
16 submit the eligibility certificate and any assignment document.

17       (b) The amount of the Arkansas historic tax credit that may be used by  
18 a holder for a taxable year may equal but shall not exceed the amount of  
19 income tax or premium tax due from the holder.

20       (c) Any unused Arkansas historic tax credit may be carried back two  
21 (2) taxable years and carried over for a maximum of five (5) consecutive  
22 taxable years for credit against the income tax due or premium tax due.

23       (d)(1) An owner may freely transfer, sell, or assign part or all of  
24 the Arkansas historic tax credit amount identified in the eligibility  
25 certificate.

26               (2) A later holder may freely transfer, sell, or assign part or  
27 all of the remaining Arkansas historic tax credit.

28       (3) An owner is free to sell his or her eligible property after  
29 the issuance of the eligibility certificate.

30       (e) An Arkansas historic tax credit granted to a partnership or to a  
31 limited liability company taxed as a partnership, or multiple owners of  
32 property shall be passed through to the partners, members, or owners  
33 respectively on a pro rata basis or pursuant to an executed agreement among  
34 the partners, members, or owners documenting an alternate distribution  
35 method.

36       (f)(1) Any holder may use the Arkansas historic tax credit to offset

1 up to one hundred percent (100%) of the income tax or premium tax due from  
2 the taxpayer.

3 (2) The holder is not required to have any ownership or other  
4 interest in the eligible property for which the Arkansas historic tax credit  
5 is claimed.

6 (3) The Arkansas historic tax credit may be used up to the full  
7 amount by any holder without limitation and without regard to limitations  
8 imposed by federal law or regulation on the use of a federal rehabilitation  
9 tax credit, such as an alternative minimum tax, at risk rule, or passive  
10 income restriction.

11 (g) An owner or holder wishing to assign part or all of an Arkansas  
12 historic tax credit shall perfect the transfer by notifying the department in  
13 writing within thirty (30) calendar days following the effective date of the  
14 transfer and shall provide any information as may be required by the  
15 department to administer and carry out this subchapter and ensure proper  
16 tracking of the ownership of the outstanding Arkansas historic tax credit.

17 (h)(1) Any consideration received for the transfer of the Arkansas  
18 historic tax credit shall not be included as income taxable by the State of  
19 Arkansas.

20 (2) Any consideration paid for the transfer of the Arkansas  
21 historic tax credit shall not be deducted from income taxable by the State of  
22 Arkansas.

23  
24 26-51-2206. Rules for enforcement.

25 (a) The Department of Arkansas Heritage may promulgate rules and  
26 prescribe forms for the proper enforcement of this subchapter.

27 (b)(1) The department may charge a fee for the processing of an  
28 application and review for an Arkansas historic tax credit and may charge a  
29 fee to process a request to record a transfer of interest in an Arkansas  
30 historic tax credit to another holder.

31 (2) The fee for processing and reviewing an application for an  
32 Arkansas historic tax credit shall not exceed two and one-half percent (2.5%)  
33 of the amount of Arkansas historic tax credit requested, or three-fourths of  
34 one percent (.75%) of the amount of the Arkansas historic tax credit  
35 transferred.

36 (c) Any fee collected under subsection (b) of this section by the

1 department shall be deposited into the State Treasury cash fund of the  
2 department.

3

4 SECTION 2. Arkansas Code Title 26, Chapter 51, Subchapter 5 is amended  
5 to add an additional section to read as follows:

6 26-51-513. Rehabilitation of historic structure tax credit.

7 (a) In addition to any income tax credit for which a taxpayer  
8 qualifies for under this subchapter, the taxpayer is allowed an income tax  
9 credit for the amount of the Arkansas historic tax credit allowed pursuant to  
10 the eligibility certificate issued by the Department of Arkansas Heritage  
11 under the Arkansas Historic Structures Rehabilitation Tax Credit Act, § 26-  
12 51-2201 et seq.

13 (b) The amount of the income tax credit under this section that may be  
14 claimed by the taxpayer in a tax year shall not exceed the amount of state  
15 income tax due by the taxpayer.

16 (c) Any unused income tax credit under this section may be carried  
17 back two (2) tax years and carried over for a maximum of five (5) consecutive  
18 tax years for credit against the state income tax.

19 (d) The Director of the Department of Finance and Administration shall  
20 promulgate rules to implement this section.

21

22 SECTION 3. Arkansas Code § 26-57-604, concerning the remittance of  
23 premium taxes, is amended to add an additional subsection as follows:

24 (c)(1) In addition to any premium tax credit that an insurer qualifies  
25 for under subsection (a) of this section, there is allowed a premium tax  
26 credit for the amount of the Arkansas historic tax credit allowed pursuant to  
27 the eligibility certificate issued by the Department of Arkansas Heritage  
28 under the Arkansas Historic Structures Rehabilitation Tax Credit Act, § 26-  
29 51-2201 et seq.

30 (2) This premium tax credit under this subsection may be used to  
31 offset the premium tax imposed by §§ 26-57-603 - 26-57-605.

32 (3) The amount of the premium tax credit under this section that  
33 may be claimed by the taxpayer in a tax year shall not exceed the amount of  
34 premium tax due by the taxpayer.

35 (4) Any unused premium tax credit may be carried back two (2)  
36 taxable years and carried over for a maximum of five (5) consecutive taxable

1 years for credit against the premium tax.

2 (5) The Insurance Commissioner shall promulgate rules to  
3 implement this section.

4

5 SECTION 4. This act shall apply to tax years beginning on and after  
6 January 1, 2007.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36