

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

HOUSE BILL 1800

5 By: Representative A. Davis  
6

## For An Act To Be Entitled

8 AN ACT TO CREATE THE ARKANSAS MAJOR HISTORIC  
9 REHABILITATION INCOME TAX CREDIT ACT; TO PROVIDE  
10 FUNDING TO OFFSET THE COST OF THE ARKANSAS MAJOR  
11 HISTORIC REHABILITATION INCOME TAX CREDIT ACT; TO  
12 CREATE THE ARKANSAS MAJOR HISTORIC REHABILITATION  
13 TRUST FUND; TO AMEND THE PROPERTY TAX RELIEF TRUST  
14 FUND; AND FOR OTHER PURPOSES.  
15

## Subtitle

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17  
18 TO CREATE THE ARKANSAS MAJOR HISTORIC  
19 REHABILITATION INCOME TAX CREDIT ACT; AND  
20 TO PROVIDE FUNDING TO OFFSET THE COST OF  
21 THE ARKANSAS MAJOR HISTORIC  
22 REHABILITATION INCOME TAX CREDIT ACT.  
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24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
26

27 SECTION 1. Arkansas Code Title 19, Chapter 5, Subchapter 11, is  
28 amended to add an additional section to read as follows:

29 19-5-1150. Arkansas Major Historic Rehabilitation Trust Fund.

30 (a) There is created on the books of the Treasurer of State, the  
31 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to  
32 be known as the "Arkansas Major Historic Rehabilitation Trust Fund".

33 (b) The Arkansas Major Historic Rehabilitation Trust Fund shall  
34 consist of:

35 (1) Grants or donations made by any person or federal government  
36 agency;



1           (2) Any remaining balances in the Arkansas Major Historic  
 2 Rehabilitation Trust Fund carried forward from year to year;

3           (3) The funds transferred under § 26-26-310(b)(2)(D); and

4           (4) Any other funds authorized or provided by law.

5           (c) The Arkansas Major Historic Rehabilitation Trust Fund shall be  
 6 used to offset the costs of the income tax credits allowed under the Arkansas  
 7 Major Historic Rehabilitation Income Tax Credit Act, § 26-51-1601 et seq., as  
 8 follows:

9           (1) By June 30 of each year, the Director of the Department of  
 10 Finance and Administration shall certify:

11           (A) To the Department of Arkansas Heritage the amount in  
 12 the Arkansas Major Historic Rehabilitation Trust Fund, which shall serve as  
 13 the maximum amount of Arkansas major historic rehabilitation income tax  
 14 credits that the department may approve for the next fiscal year; and

15           (B) To the Treasurer of State the amount of Arkansas major  
 16 historic rehabilitation income tax credits claimed during the current fiscal  
 17 year;

18           (2) On July 1 of each year, the Treasurer of State shall  
 19 transfer the amount certified under subdivision (c)(1)(B) of this section to  
 20 the General Revenue Fund Account of the State Apportionment Fund to be  
 21 distributed as authorized under § 19-5-202(b)(2)(B)(iii); and

22           (3) When the director determines that all approved Arkansas  
 23 major historic rehabilitation income tax credits have been claimed or have  
 24 expired, any amount remaining in the Arkansas Major Historic Rehabilitation  
 25 Trust Fund shall be transferred to the Property Tax Relief Trust Fund.

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 27           SECTION 2. Arkansas Code § 26-26-310(b)(2)(C), concerning the Property  
 28 Tax Relief Trust Fund and the certification of the amount of property tax  
 29 reduction, is amended to read as follows:

30           (C)(i) On or before December 31 of each year, the Chief  
 31 Fiscal Officer of the State, in cooperation with the Legislative Council and  
 32 the Legislative Auditor, shall determine that portion of the balance  
 33 remaining in the Property Tax Relief Trust Fund that is in excess of the  
 34 required reimbursement to the counties and shall certify the excess to the  
 35 Treasurer of State.

36           (ii) ~~Beginning December 31, 2005, and on~~ On December

1 31 of each ~~subsequent~~ year, the Treasurer of State shall:

2 (a) Calculate an amount equal to one percent  
 3 (1%) of the amount of the excess funds certified in subdivision (b)(2)(C)(i)  
 4 of this section;

5 (b) Calculate each county's proportionate  
 6 share of the amount calculated in subdivision (b)(2)(C)(ii)(a) of this  
 7 section based on the proportions used to reimburse the county for property  
 8 tax reductions under subsection (a) of this section; and

9 (c) Transfer the amount calculated under  
 10 subdivision (b)(2)(C)(ii)(b) of this section to the county treasurer for  
 11 allocation to the county assessor.

12 (iii)(a) These funds shall be used by the county  
 13 assessor for the costs of administering Arkansas Constitution, Amendment 79.

14 (b) These costs include personnel, equipment,  
 15 services, and postage used in the administration of Arkansas Constitution,  
 16 Amendment 79.

17 (D)(i)(a) For calendar year 2019, by the last business day  
 18 of each month following the effective date of this act, the Chief Fiscal  
 19 Officer of the State shall certify to the Treasurer of State the total amount  
 20 of moneys credited to the Property Tax Relief Trust Fund since the effective  
 21 date of this act.

22 (b) For calendar years after 2019, by the last  
 23 business day of each month, the Chief Fiscal Officer of the State shall  
 24 certify to the Treasurer of State the total amount of moneys credited to the  
 25 Property Tax Relief Trust Fund for the year.

26 (ii) By December 31 of each year, the Chief Fiscal  
 27 Officer of the State shall determine annually the estimated amount needed to  
 28 fund the distributions required under subdivision (b)(2)(C) of this section  
 29 for the next year.

30 (iii) When the amount certified by the Chief Fiscal  
 31 Officer of the State under subdivision (b)(2)(D)(i) of this section exceeds  
 32 the amount determined under subdivision (b)(2)(D)(ii) of this section for the  
 33 year, the revenues credited to the Property Tax Relief Trust Fund in excess  
 34 of the amount determined under subdivision (b)(2)(D)(ii) of this section  
 35 shall be transferred from the Property Tax Relief Trust Fund to the Arkansas  
 36 Major Historic Rehabilitation Trust Fund.

1                   ~~(iv)~~(E) The Any remaining excess funds after the  
 2 transfers provided for in subdivisions (b)(2)(C) and (D) of this section may  
 3 be used in accordance with subsequent legislation to provide additional tax  
 4 relief or financial assistance to school districts that incur a reduction in  
 5 revenue as a direct result of Arkansas Constitution, Amendment 79.

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 7           SECTION 3. Arkansas Code Title 26, Chapter 51, is amended to add an  
 8 additional subchapter to read as follows:

9       Subchapter 26 – Arkansas Major Historic Rehabilitation Income Tax Credit Act

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 11           26-51-2601. Title.

12           This subchapter shall be known and may be cited as the “Arkansas Major  
 13 Historic Rehabilitation Income Tax Credit Act”.

14  
 15           26-51-2602. Definitions.

16           As used in this subchapter:

17                   (1) “Arkansas major historic rehabilitation income tax credit”  
 18 means the income tax credit allowed under this subchapter against the income  
 19 tax imposed by this chapter and the premium tax levied under §§ 26-57-601 –  
 20 26-57-605;

21                   (2) “Certification of completion” means a certificate issued by  
 22 the Department of Arkansas Heritage certifying that a project is a certified  
 23 rehabilitation of an eligible property that qualifies for the Arkansas major  
 24 historic rehabilitation income tax credit;

25                   (3) “Certified rehabilitation” means the total of appropriate  
 26 and approved rehabilitation work on an eligible property that results in a  
 27 substantial rehabilitation of an eligible property that has been issued an  
 28 eligibility certificate;

29                   (4) “Eligible property” means property that is located in the  
 30 state that:

31                           (A) Qualifies as a certified historic structure under 26  
 32 U.S.C. § 47, as it existed on January 1, 2019;

33                           (B) Will qualify as a certified historic structure  
 34 following certified rehabilitation;

35                           (C) Is listed in the National Register of Historic Places;

36                           (D) Is designated as contributing to a district listed in

1 the National Register of Historic Places; or

2 (E) Is eligible for designation as contributing to a  
 3 district listed in the National Register of Historic Places following  
 4 certified rehabilitation;

5 (5) "Federal rehabilitation tax credit" means the federal tax  
 6 credit provided under 26 U.S.C. § 47, as it existed on January 1, 2009;

7 (6) "Holder" means the holder of a certification of completion  
 8 that is:

9 (A) A person, firm, or corporation subject to the income  
 10 tax imposed by this chapter; or

11 (B) An insurance company paying the premium tax on its  
 12 gross premium receipts;

13 (7) "Owner" means a person or an entity that owns eligible  
 14 property and is the initial recipient of the certification of completion from  
 15 the department;

16 (8) "Premium tax" means a tax levied under §§ 26-57-603 – 26-57-  
 17 605; and

18 (9) "Qualified rehabilitation expenses" means costs and expenses  
 19 incurred to complete a certified rehabilitation that are qualified  
 20 rehabilitation expenses under the federal rehabilitation tax credit or under  
 21 the Arkansas major historic rehabilitation income tax credit.

22  
 23 26-51-2603. Arkansas major historic rehabilitation income tax credit.

24 (a)(1) There is allowed an income tax credit up to the amount of tax  
 25 imposed by this chapter or the premium tax to a holder of an Arkansas major  
 26 historic rehabilitation income tax credit.

27 (2) The income tax credit allowed under subdivision (a)(1) of  
 28 this section is allowed only one (1) time in a two-year period for each  
 29 eligible property.

30 (b) The Arkansas major historic rehabilitation income tax credit shall  
 31 be in an amount equal to twenty-five percent (25%) of the total qualified  
 32 rehabilitation expenses incurred by the owner to complete a certified  
 33 rehabilitation.

34 (c)(1) The Department of Arkansas Heritage shall not issue Arkansas  
 35 major historic rehabilitation income tax credits for more than the amount  
 36 certified under § 19-5-1150(c)(1)(A).

1           (2) Any unused Arkansas major historic rehabilitation income tax  
2 credits shall not be carried over to the following fiscal year for use by the  
3 department.

4           (3) Any certification of completion that would cause the  
5 Arkansas major historic rehabilitation income tax credit to exceed the  
6 amounts listed in subdivision (c)(1) of this section during the fiscal year  
7 shall be carried forward for consideration during the following fiscal year.

8           (d) The Arkansas major historic rehabilitation income tax credit shall  
9 be available to an owner of an eligible property that:

10           (1) Completes a certified rehabilitation that is placed in  
11 service after January 1, 2019;

12           (2) Has a minimum investment of one million five hundred  
13 thousand dollars (\$1,500,000) in qualified rehabilitation expenses; and

14           (3) Is not receiving a tax credit under any other state law for  
15 the same eligible property.

16           (e) Upon completion of a rehabilitation, the owner shall submit  
17 documentation required by the department to verify that the completed  
18 rehabilitation qualifies as a certified rehabilitation.

19           (f) If the department determines that a rehabilitation qualifies as a  
20 certified rehabilitation and that the certified rehabilitation is complete,  
21 the department shall issue a freely transferable certification of completion  
22 specifying the total amount of the qualified rehabilitation expenses and  
23 Arkansas major historic rehabilitation income tax credit allowed.

24           (g)(1) If the owner requests a review of the department's  
25 determination under subsection (f) of this section, the owner shall submit a  
26 written request for review of the determination.

27           (2) The owner shall submit the request in writing to the  
28 department within thirty (30) days of the date of notification to the owner  
29 of the determination.

30           (h)(1) The owner shall certify to the department the validity of the  
31 costs and expenses claimed as qualified rehabilitation expenses and shall  
32 maintain a record supporting the claim for at least five (5) years after the  
33 issuance of the certification of completion.

34           (2) An owner's record supporting a claim for qualified  
35 rehabilitation expenses may be reviewed by the department, the appropriate  
36 tax collection authority, or a holder.

1  
2 26-51-2604. Procedure to claim tax credit – Transferring credit.

3 (a)(1) A holder shall submit the certification of completion and  
4 documents proving an assignment, if any, with the appropriate tax collection  
5 authority at the time of filing the holder's income tax return or premium tax  
6 return.

7 (2) The appropriate tax collection authority may refuse to  
8 recognize the Arkansas major historic rehabilitation income tax credit  
9 claimed if the holder fails to submit the certification of completion and any  
10 assignment documents.

11 (b) The amount of the Arkansas major historic rehabilitation income  
12 tax credit that may be used by a holder for a taxable year may equal but  
13 shall not exceed the amount of income tax or premium tax due.

14 (c) A holder of an unused Arkansas major historic rehabilitation  
15 income tax credit may carry forward part or all of an Arkansas major historic  
16 rehabilitation income tax credit for five (5) consecutive taxable years to  
17 apply against the holder's income taxes due or the holder's premium tax due.

18 (d)(1) An owner of an Arkansas major historic rehabilitation income  
19 tax credit may freely transfer, sell, or assign part or all of the Arkansas  
20 major historic rehabilitation income tax credit amount identified in the  
21 certification of completion.

22 (2) A subsequent holder may transfer, sell, or assign part or  
23 all of the remaining Arkansas major historic rehabilitation income tax  
24 credit.

25 (e) An owner may sell the owner's eligible property after the issuance  
26 of the certification of completion.

27 (f) An Arkansas major historic rehabilitation income tax credit  
28 granted to a partnership, Subchapter S corporation, a limited liability  
29 company taxed as a partnership, or multiple owners of property shall be  
30 passed through to the partners, members, or owners respectively on a pro rata  
31 basis or pursuant to an executed agreement among the partners, members, or  
32 owners documenting an alternate distribution method.

33 (g)(1) A holder may use the Arkansas major historic rehabilitation  
34 income tax credit to offset up to one hundred percent (100%) of the state  
35 income taxes due or premium tax due from the holder.

36 (2) A holder is not required to have any ownership or other

1 interest in the eligible property for which an Arkansas major historic  
2 rehabilitation income tax credit is claimed.

3 (3) An Arkansas major historic rehabilitation income tax credit  
4 may be used up to its total amount by any holder without limitation and is  
5 not subject to limits imposed by federal law or regulation on the use of  
6 federal rehabilitation tax credits.

7 (h) An owner or holder that assigns part or all of an Arkansas major  
8 historic rehabilitation income tax credit shall perfect the transfer by  
9 notifying the Department of Arkansas Heritage and the appropriate tax  
10 collection authority in writing within thirty (30) calendar days following  
11 the effective date of the transfer and shall provide any information as may  
12 be required by the department and the appropriate tax collection authority to  
13 administer and carry out this subchapter and to ensure proper tracking of the  
14 ownership of the unused Arkansas major historic rehabilitation income tax  
15 credit.

16 (i)(1) Any consideration received for the transfer of an Arkansas  
17 major historic rehabilitation income tax credit shall not be included as  
18 income taxable by the State of Arkansas.

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

22  
23 26-51-2605. Fees.

24 (a)(1) The Department of Arkansas Heritage may charge a fee to  
25 process:

26 (A) An application for an Arkansas major historic  
27 rehabilitation income tax credit; and

28 (B) A request to record transfers of interests in an  
29 Arkansas major historic rehabilitation income tax credit to other holders.

30 (2) The fee for processing an application for an Arkansas  
31 historic rehabilitation income tax credit shall not exceed the lesser of one  
32 percent (1%) of the amount of the Arkansas major historic rehabilitation  
33 income tax credit applied for or seventy-five hundredths percent (0.75%) of  
34 the amount of the Arkansas major historic rehabilitation income tax credit  
35 transferred.

36 (b) A fee collected under this subchapter by the department shall be



1 considered cash funds of the department and shall be used for the  
2 administration of this subchapter.

3  
4 26-51-2606. Rules.

5 (a) The Department of Arkansas Heritage shall promulgate rules to  
6 implement this subchapter that shall include criteria for the prioritizing of  
7 the rehabilitation applications and that will stimulate the local economy  
8 where the property is located, including without limitation the criteria that  
9 the rehabilitation project will be prioritized in the following order:

10 (1) Result in the creation of a new business;

11 (2) Result in the expansion of an existing business;

12 (3) Establish or contribute to the establishment of a tourism  
13 attraction as defined by the Department of Parks and Tourism;

14 (4) Contribute to the revitalization of a specific business  
15 district; or

16 (5) Be a key property in the revitalization of a specific  
17 neighborhood.

18 (b) The Department of Arkansas Heritage shall consult with the  
19 Department of Finance and Administration, the Arkansas Economic Development  
20 Commission, and the State Insurance Department in promulgating rules under  
21 this subchapter.

22 (c) The Department of Parks and Tourism shall promulgate rules to  
23 define a "tourism attraction" as provided in subdivision (a)(3) of this  
24 section.

25  
26 26-51-2607. Application period.

27 (a) The Department of Arkansas Heritage shall accept applications for  
28 Arkansas major historic rehabilitation income tax credits under this  
29 subchapter beginning July 1, 2020, and ending June 30, 2025.

30 (b) An Arkansas major historic rehabilitation income tax credit  
31 approved under an application that was submitted on or before June 30, 2025,  
32 may be claimed until it is exhausted or it expires.

33  
34 SECTION 4. DO NOT CODIFY. Rules.

35 (a) When adopting the initial rules required under this act, the  
36 Department of Arkansas Heritage shall file the final rules with the Secretary

1 of State for adoption under § 25-15-204(f):

2 (1) On or before January 1, 2020; or

3 (2) If approval under § 10-3-309 has not occurred by January 1,  
4 2020, as soon as practicable after approval under § 10-3-309.

5 (b) The department shall file the proposed rules with the Legislative  
6 Council under § 10-3-309(c) sufficiently in advance of January 1, 2020, so  
7 that the Legislative Council may consider the rules for approval before  
8 January 1, 2020.

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