

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.

INTERIM STUDY PROPOSAL 2007-044

State of Arkansas

As Engrossed: H3/5/07

86th General Assembly

A Bill

Regular Session, 2007

HOUSE BILL 2259

By: Representatives Hall, Moore, Webb, Pennartz

Referred to
Revenue & Taxation- House
by the House of Representatives
on 03/29/2007

For An Act To Be Entitled

AN ACT TO ESTABLISH A TAX CREDIT FOR THE
REHABILITATION OF HISTORIC STRUCTURES LOCATED IN
ARKANSAS; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH A TAX CREDIT FOR THE
REHABILITATION OF HISTORIC STRUCTURES
LOCATED IN ARKANSAS.

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

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

26-51-2201. Title.

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

26-51-2202. Purpose.

The purpose of this subchapter is to encourage economic development within the existing state and federal infrastructure for historic preservation and to promote the rehabilitation of historic structures throughout Arkansas by providing an income tax credit.

1
2 26-51-2203. Definitions.

3 As used in this subchapter:

4 (1) "Arkansas Historic Tax Credit" means an income tax credit
5 against the income tax imposed by the Income Tax Act of 1929, § 26-51-101 et
6 seq. provided under this subchapter that includes:

7 (A) An income tax credit for an income-producing property
8 that qualifies for a federal rehabilitation tax credit; and

9 (B) An income tax for a non-income producing property;

10 (2) "Certified rehabilitation" means a substantial
11 rehabilitation of an eligible property for which an eligibility certificate
12 is issued;

13 (3) "Eligibility certificate" means a certificate issued by the
14 Arkansas Department of Heritage certifying that a project is a certified
15 rehabilitation that qualifies for the Arkansas Historic Tax Credit;

16 (4) "Eligible property" means property that is located in the
17 state that is:

18 (A) Income-producing property that qualifies as a
19 certified historic structure under 26 U.S.C. § 47, as it existed on January
20 1, 2007, or that will qualify as a certified historic structure following
21 certified rehabilitation; or

22 (B) Non-income producing property that is:

23 (i) Listed in the National Register of Historic
24 Places;

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

27 (iii) Eligible for designation as contributing to a
28 district listed in the National Register of Historic Places following
29 certified rehabilitation; or

30 (C) A barn constructed before 1940;

31 (5) "Federal rehabilitation tax credit" means the federal tax
32 credit as provided under 26 U.S.C. § 47, as it existed on January 1, 2007.

33 (6) "Holder" means the holder of an eligibility certificate that
34 is:

35 (A) A person, firm, or corporation subject to the income
36 tax imposed by the Income Tax Act of 1929 § 26-51-101 et seq.; or

1 (B) An insurance company paying an annual premium tax on
2 its gross premium receipts under §§ 26-57-603 through 26-57-605.

3 (7) "Owner" means a person or an entity that owns eligible
4 property and is the initial recipient of the eligibility certificate from the
5 Arkansas Department of Heritage;

6 (8) "Premium tax" means a tax levied pursuant to §§ 26-57-603 -
7 26-57-605; and

8 (9) "Qualified rehabilitation expenses" means costs and expenses
9 incurred to complete a certified rehabilitation that are qualified
10 rehabilitation expenses under the federal historic rehabilitation tax or
11 under the state historic rehabilitation tax credit.

12
13 26-51-2204. Arkansas Historic Tax Credit.

14 (a) There is allowed to a holder an income tax credit up to the amount
15 of an Arkansas Historic Tax Credit against the tax imposed by the Income Tax
16 Act of 1929 § 26-51-101 et seq.

17 (b) The Arkansas Historic Tax Credit is an amount equal to twenty-five
18 percent (25%) of the total qualified rehabilitation expenses incurred by the
19 owner to complete a certified rehabilitation.

20 (c) The Arkansas Historic Tax Credit shall be available to an owner of
21 an eligible property that completes a certified rehabilitation and is placed
22 in service after January 1, 2007.

23 (d) Upon completion of a rehabilitation, the owner shall submit
24 documentation required by the Arkansas Department of Heritage to verify that
25 the completed rehabilitation qualifies as a certified rehabilitation.

26 (e) If the Arkansas Department of Heritage determines that a certified
27 rehabilitation is complete, the Arkansas Department of Heritage shall issue a
28 freely transferable eligibility certificate specifying the total amount of
29 the qualified rehabilitation expenses and Arkansas Historic Tax Credit
30 allowed.

31 (f)(1) If the owner requests a review of the Arkansas Department of
32 Heritage's determination under subsection (e) of this section, the owner
33 shall submit a written request for review of a determination made by the
34 Arkansas Department of Heritage under subsection (e) of this section.

35 (2) The owner shall submit the request in writing to the
36 Arkansas Department of Heritage within thirty (30) days of the date of

1 notification to the owner of the determination.

2 (g)(1) The owner shall certify to the Arkansas Department of Heritage
3 the validity of costs and expenses claimed as qualified rehabilitation
4 expenses and shall maintain a record supporting the claim for at least five
5 (5) years after the issuance of the eligibility certificate.

6 (2) An owner's record supporting a claim for qualified
7 rehabilitation expenses may be reviewed by the Arkansas Department of
8 Heritage, the appropriate tax collection authority, or a holder.

9
10 26-51-2205. Procedure to claim tax credit – Transferring credit.

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

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 documents.

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.

20 (c) An unused Arkansas Historic Tax Credit may be carried back two (2)
21 taxable years and carried forward five (5) consecutive taxable years for
22 Arkansas Historic Tax Credit against the income taxes due or premium.

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 subsequent holder may transfer, sell or assign part or all
27 of the remaining Arkansas Historic Tax Credit.

28 (3) An owner may sell the owner's eligible property after the
29 issuance of the eligibility certificate.

30 (e) An Arkansas Historic Tax Credit granted to a partnership, 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) A holder may use the Arkansas Historic Tax Credit to offset up

1 to one hundred percent (100%) of the state income taxes due or premium due
2 from the holder.

3 (2) A holder is not required to have any ownership or other
4 interest in the eligible property for which a Arkansas Historic Tax Credit is
5 claimed.

6 (3) An Arkansas Historic Tax Credit may be used up to its total
7 amount by any holder without limitation, and is not subject to limits imposed
8 by federal law or regulation on the use of federal rehabilitation tax
9 credits.

10 (g) An owner or holder that assigns part or all of an Arkansas
11 Historic Tax Credit shall perfect the transfer by notifying the Arkansas
12 Department of Heritage in writing within thirty (30) calendar days following
13 the effective date of the transfer and shall provide any information as may
14 be required by the Arkansas Department of Heritage to administer and carry
15 out this subchapter, and ensure proper tracking of the ownership of
16 outstanding Arkansas Historic Tax Credit.

17 (h) 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. Any consideration paid for the transfer of the Arkansas Historic
20 Tax Credit shall not be deducted from income taxable by the State of
21 Arkansas.

22
23 26-51-2206. Fees.

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

26 (A) An application for an Arkansas Historic Tax Credit;
27 and

28 (B) A request to record transfers of interests in Arkansas
29 Historic Tax Credits to other holders.

30 (2) The fee for processing an application for an Arkansas
31 Historic Tax Credit shall not exceed two and one-half percent (2.5%) of the
32 amount of Arkansas Historic Tax Credit applied for, or three-fourths of one
33 percent (0.75%) of the amount of the Arkansas Historic Tax Credit
34 transferred.

35 (b) A fee collected under this subchapter by the Arkansas Department
36 of Heritage shall be deposited into the State Treasury as cash funds of the

1 Arkansas Department of Heritage.

2

3 26-51-2207. Rules.

4 (a) The Arkansas Department of Heritage shall promulgate rules to
5 implement this subchapter.

6 (b) The Arkansas Department of Heritage shall consult with the
7 Department of Finance and Administration and the State Insurance Department
8 in promulgating rules under this subchapter.

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10 SECTION 2. This act is effective for tax years beginning on and after
11 January 1, 2007.

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13 */s/ Hall, et al*

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