

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 85th General Assembly
3 Regular Session, 2005

A Bill

SENATE BILL 359

4
5 By: Senator T. Smith
6
7

For An Act To Be Entitled

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

Subtitle

12
13 TO ESTABLISH A TAX CREDIT FOR THE
14 REHABILITATION OF HISTORIC STRUCTURES
15 LOCATED IN ARKANSAS.
16
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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 26-51-2101. Short title.

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

27 26-51-2102. 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 26-51-2103. Definitions.

33 As used in this subchapter:

34 (1) "Barn" means an agriculture-related structure that is
35 traditionally used to house livestock or domestic animals, store feed or
36 crops, or store farm equipment;



1 (2)(A) "Eligibility certificate" means a certificate authorized and
 2 issued by the Department of Arkansas Heritage certifying that a given project
 3 qualifies for the Arkansas historic structures rehabilitation tax credit.

4 (B) The eligibility certificate shall specify the total amount
 5 of qualified rehabilitation expenditures allowed;

6 (3) "Eligible property" means property that is located in the State of
 7 Arkansas and that is:

8 (A) Income-producing property that qualifies as a certified
 9 historic structure under 26 U.S.C. § 47, as in effect January 1, 2005;

10 (B) Residential property listed in the National Register of
 11 Historic Places or eligible for that listing;

12 (C) Residential property designated as contributing to a
 13 district listed in the National Register of Historic Places or eligible for
 14 that designation; or

15 (D) A barn constructed prior to 1937;

16 (4) "Federal rehabilitation tax credit" means the federal tax credit
 17 as provided by 26 U.S.C. § 47 and the regulations promulgated under 26 U.S.C.
 18 § 47, as both existed on January 1, 2005;

19 (5) "Premium taxes" means taxes levied pursuant to §§ 26-57-603, 26-
 20 57-604, and 26-57-605;

21 (6) "Qualified project" means eligible property that has been approved
 22 by the Department of Arkansas Heritage for rehabilitation;

23 (7)(A) "Qualified rehabilitation expenditures" means:

24 (i) For eligible property that is income-producing, the
 25 expenditures that qualify for the federal rehabilitation tax credit and have
 26 been approved by the Department of Arkansas Heritage; and

27 (ii) For eligible property that is either residential or a
 28 barn, the cost of work for rehabilitation that retains and preserves the
 29 historic character of the property and has been approved by the Department of
 30 Arkansas Heritage.

31 (B) Qualified rehabilitation expenditures do not include:

32 (i) The cost of acquiring the property or realtor's fees
 33 associated with the property;

34 (ii) Taxes due on the property;

35 (iii) Insurance costs;

36 (iv) Costs of additions to or enlargement of the existing

1 structure;

2 (v) Paving and landscaping; or

3 (vi) Sales and marketing costs; and

4 (8) "Taxpayer" means:

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

7 (B) An insurance company paying an annual tax on its gross
8 premium receipts in this state pursuant to §§ 26-57-603, 26-57-604, and 26-
9 57-605; or

10 (C) A financial institution paying income taxes to the state.

11
12 26-51-2104. Eligibility certificate.

13 (a) To qualify for an Arkansas historic structures rehabilitation tax
14 credit, a taxpayer must first submit an application and plans for the
15 rehabilitation of the property to the Department of Arkansas Heritage before
16 beginning the rehabilitation work.

17 (b) The taxpayer shall demonstrate that the property to be
18 rehabilitated qualifies as eligible property according to the rules of the
19 Department of Arkansas Heritage before the property is designated a qualified
20 project by the Department of Arkansas Heritage.

21 (c) Upon completion of the rehabilitation work, the taxpayer shall
22 submit the documentation that is required by the Department of Arkansas
23 Heritage to verify that the qualified project has been completed.

24 (d) If the Department of Arkansas Heritage determines that the
25 qualified project has been successfully completed, it shall issue an
26 eligibility certificate specifying the total amount of the qualified
27 rehabilitation expenditures that are being allowed.

28 (e)(1) If the taxpayer is dissatisfied with the determination made by
29 the Department of Arkansas Heritage, the taxpayer may request that a review
30 of that determination be made by the State Historic Preservation Officer or
31 the officer's designee.

32 (2) The request for review shall be made in writing to the State
33 Historic Preservation Officer within thirty (30) days from the date of the
34 determination of the Department of Arkansas Heritage.

35
36 26-51-2105. Qualified rehabilitation expenditures.

1 (a) Qualified rehabilitation expenditures must occur during a
2 measuring period not to exceed two (2) years for a single phase project or
3 not to exceed five (5) years if the plan approved by the Department of
4 Arkansas Heritage authorized that the rehabilitation be completed in phases.

5 (b) Qualified rehabilitation expenditures must equal or exceed the
6 adjusted basis of the structure, excluding the land, before the qualified
7 rehabilitation work begins.

8
9 26-51-2106. Tax credits.

10 (a) There shall be allowed a credit against the tax imposed by the
11 Income Tax Act of 1929, § 26-51-101 et seq., or insurance premium taxes
12 imposed by § 26-57-601 et seq., for any taxpayer incurring costs and expenses
13 that are qualified rehabilitation expenditures of eligible property.

14 (b) The credit shall be in an amount equal to twenty-five percent
15 (25%) of the total qualified rehabilitation expenditures incurred by
16 qualified projects as determined by the Department of Arkansas Heritage.

17 (c)(1) The credit for qualified projects covering income-producing
18 property shall be taken as follows:

19 (A) For property that has not been approved to be
20 completed in phases by the Department of Arkansas Heritage, the credit shall
21 be taken in the tax year in which the property is placed in service; or

22 (B) For property that has been approved to be completed in
23 phases by the Department of Arkansas Heritage, the tax credit shall be taken
24 in the tax year each phase is completed.

25 (2) The credit for qualified projects covering residential
26 property and barns shall be taken as follows:

27 (A) For property that has not been approved to be
28 completed in phases by the Department of Arkansas Heritage, the credit shall
29 be taken in the tax year the project is completed; or

30 (B) For property that has been approved to be completed in
31 phases by the Department of Arkansas Heritage, the tax credit shall be taken
32 in the tax year each phase is completed.

33 (d) A taxpayer who receives a credit under this section shall not be
34 entitled to claim any other state or local tax credit or deduction based on
35 the qualified rehabilitation expenditures, except for the deduction for
36 normal depreciation.

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2 26-51-2107. Procedure to claim tax credit.

3 (a) To claim the credit provided by § 26-51-2106 the taxpayer shall
4 apply to the Department of Finance and Administration or, if applicable, the
5 Insurance Commissioner.

6 (b)(1) The taxpayer shall submit an eligibility certificate issued by
7 the Department of Arkansas Heritage at the time of filing the taxpayer's
8 income or premium tax return.

9 (2) If the taxpayer fails to attach the eligibility certificate,
10 no tax credit established under this section shall be allowed with respect to
11 the qualified project for that tax year until the eligibility certificate is
12 provided to the appropriate tax collection authority.

13
14 26-51-2108. Credits exceeding tax liability – Assignment - Recapture.

15 (a)(1) The amount of the credit provided by § 26-51-2106 that may be
16 used by a taxpayer for a taxable year shall not exceed the amount of income
17 tax or premium tax due.

18 (2) Any unused credit may be carried over for a maximum of five
19 (5) consecutive taxable years for credit against the state income or premium
20 taxes due.

21 (3) Taxpayers eligible for the tax credits may transfer, sell,
22 or assign the credits.

23 (4) Credits granted to a partnership, a limited liability
24 company taxed as a partnership, or multiple owners of property shall be
25 passed through to the partners, members, or owners respectively on a pro rata
26 basis or pursuant to an executed agreement among the partners, members, or
27 owners documenting an alternate distribution method.

28 (b)(1) Any assignee of the tax credits may use acquired credits to
29 offset up to one hundred percent (100%) of the state income or premium taxes
30 due from the assignee, but shall not exceed the amount of income tax or
31 premium tax due for the taxable year.

32 (2) The assignor shall perfect the transfer by notifying the
33 Department of Finance and Administration and, if applicable, the Insurance
34 Commissioner in writing within thirty (30) calendar days following the
35 effective date of the transfer and shall provide any information as may be
36 required by the department or commissioner to administer and carry out the

1 provisions of this subchapter.

2 (c) The tax credit may be recaptured from the taxpayer or the assignee
3 if the property is transferred within five (5) years after completion of the
4 qualified project or if additional modifications to the property that do not
5 meet the standards of the Department of Arkansas Heritage are undertaken less
6 than five (5) years after the completion of the qualified project.

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8 26-51-2109. Rules for enforcement.

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

11 (b) The Director of the Department of Arkansas Heritage may charge a
12 reasonable application fee for the processing of the Arkansas historic
13 structures rehabilitation tax credits.

14 (c) All fees collected under subsection (b) of this section by the
15 Director of the Department of Arkansas Heritage shall be deposited into the
16 Department of Arkansas Heritage Fund Account.

17 (d) The Director of the Department of Finance and Administration may
18 promulgate rules and prescribe forms for the proper enforcement of this
19 subchapter.

20 (e) The Insurance Commissioner may promulgate rules and prescribe
21 forms for the proper enforcement of this subchapter.

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23 SECTION 2. This act applies to tax years beginning on and after
24 January 1, 2006.