

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

HOUSE BILL 2259

4
5 By: Representatives Hall, Moore, Webb
6
7

For An Act To Be Entitled

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

Subtitle

13
14 TO ESTABLISH A TAX CREDIT FOR THE
15 REHABILITATION OF HISTORIC STRUCTURES
16 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 Income Tax Credit Act."
26

27 26-51-2202. Purpose.

28 The purpose of this subchapter is to encourage economic development
29 within the existing state and federal infrastructure for historic
30 preservation and to promote the rehabilitation of historic structures
31 throughout Arkansas by providing an income tax credit.
32

33 26-51-2203. Definitions.

34 As used in this subchapter:

35 (1) "Arkansas Historic Tax Credit" means an income tax credit
36 against the income tax imposed by the Income Tax Act of 1929, § 26-51-101 et



1 seq. provided under this subchapter that includes:

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

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

5 (2) "Certified rehabilitation" means a substantial
6 rehabilitation of an eligible property for which an eligibility certificate
7 is issued;

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

11 (4) "Eligible property" means property that is located in the
12 state that is:

13 (A) Income-producing property that qualifies as a
14 certified historic structure under 26 U.S.C. § 47, as it existed on January
15 1, 2007, or that will qualify as a certified historic structure following
16 certified rehabilitation; or

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

18 (i) Listed in the National Register of Historic
19 Places;

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

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

25 (C) A barn constructed before 1940;

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

28 (6) "Holder" means the holder of an eligibility certificate that
29 is:

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

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

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

1 (8) "Premium tax" means a tax levied pursuant to §§ 26-57-603 -
 2 26-57-605; and

3 (9) "Qualified rehabilitation expenses" means costs and expenses
 4 incurred to complete a certified rehabilitation that are qualified
 5 rehabilitation expenses under the federal historic rehabilitation tax or
 6 under the state historic rehabilitation tax credit.

7
 8 26-51-2204. Arkansas Historic Tax Credit.

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

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

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

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

21 (e) If the Arkansas Department of Heritage determines that a certified
 22 rehabilitation is complete, the Arkansas Department of Heritage shall issue a
 23 freely transferable eligibility certificate specifying the total amount of
 24 the qualified rehabilitation expenses and Arkansas Historic Tax Credit
 25 allowed.

26 (f)(1) If the owner requests a review of the Arkansas Department of
 27 Heritage's determination under subsection (e) of this section, the owner
 28 shall submit a written request for review of a determination made by the
 29 Arkansas Department of Heritage under subsection (e) of this section.

30 (2) The owner shall submit the request in writing to the
 31 Arkansas Department of Heritage within thirty (30) days of the date of
 32 notification to the owner of the determination.

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

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

4
5 26-51-2205. Procedure to claim tax credit – Transferring credit.

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

9 (2) The appropriate tax collection authority may refuse to
10 recognize the Arkansas Historic Tax Credit claimed if the holder fails to
11 submit the eligibility certificate and any assignment documents.

12 (b) The amount of the Arkansas Historic Tax Credit that may be used by
13 a holder for a taxable year may equal but shall not exceed the amount of
14 income tax or premium tax due.

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

18 (d)(1) An owner may freely transfer, sell, or assign part or all of
19 the Arkansas Historic Tax Credit amount identified in the eligibility
20 certificate.

21 (2) A subsequent holder may transfer, sell or assign part or all
22 of the remaining Arkansas Historic Tax Credit.

23 (3) An owner may sell the owner’s eligible property after the
24 issuance of the eligibility certificate.

25 (e) An Arkansas Historic Tax Credit granted to a partnership, a
26 limited liability company taxed as a partnership, or multiple owners of
27 property shall be passed through to the partners, members, or owners
28 respectively on a pro rata basis or pursuant to an executed agreement among
29 the partners, members, or owners documenting an alternate distribution
30 method.

31 (f)(1) A holder may use the Arkansas Historic Tax Credit to offset up
32 to one hundred percent (100%) of the state income taxes due or premium due
33 from the holder.

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

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

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

12 (h) Any consideration received for the transfer of the Arkansas
 13 Historic Tax Credit shall not be included as income taxable by the State of
 14 Arkansas. Any consideration paid for the transfer of the Arkansas Historic
 15 Tax Credit shall not be deducted from income taxable by the State of
 16 Arkansas.

17
 18 26-51-2206. Fees.

19 (a)(1) The Arkansas Department of Heritage may charge a fee to
 20 process:

21 (A) An application for an Arkansas Historic Tax Credit;
 22 and

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

25 (2) The fee for processing an application for an Arkansas
 26 Historic Tax Credit shall not exceed two and one-half percent (2.5%) of the
 27 amount of Arkansas Historic Tax Credit applied for, or three-fourths of one
 28 percent (0.75%) of the amount of the Arkansas Historic Tax Credit
 29 transferred.

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

33
 34 26-51-2207. Rules.

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

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

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