

1-1 By: Hughes S.B. No. 813
 1-2 (In the Senate - Filed February 25, 2021; March 11, 2021,
 1-3 read first time and referred to Committee on Finance;
 1-4 March 30, 2021, reported favorably by the following vote: Yeas 15,
 1-5 Nays 0; March 30, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Nelson	X			
1-8 Lucio	X			
1-9 Bettencourt	X			
1-10 Buckingham	X			
1-11 Campbell	X			
1-12 Creighton	X			
1-13 Hancock	X			
1-14 Huffman	X			
1-15 Kolthorst	X			
1-16 Nichols	X			
1-17 Perry	X			
1-18 Schwertner	X			
1-19 Taylor	X			
1-20 West	X			
1-21 Whitmire	X			

1-23 A BILL TO BE ENTITLED
 1-24 AN ACT

1-25 relating to the insurance premium tax credit for the certified
 1-26 rehabilitation of certified historic structures.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Subtitle B, Title 3, Insurance Code, is amended
 1-29 by adding Chapter 231 to read as follows:

1-30 CHAPTER 231. PREMIUM TAX CREDIT FOR CERTIFIED REHABILITATION OF
 1-31 CERTIFIED HISTORIC STRUCTURES

1-32 Sec. 231.0001. DEFINITIONS. In this chapter:

1-33 (1) "Certified historic structure" means a property in
 1-34 this state that is:

1-35 (A) listed individually in the National Register
 1-36 of Historic Places;

1-37 (B) designated as a Recorded Texas Historic
 1-38 Landmark under Section 442.006, Government Code, or as a state
 1-39 archeological landmark under Chapter 191, Natural Resources Code;
 1-40 or

1-41 (C) certified by the commission as contributing
 1-42 to the historic significance of:

1-43 (i) a historic district listed in the
 1-44 National Register of Historic Places; or

1-45 (ii) a local district certified by the
 1-46 United States Department of the Interior in accordance with 36
 1-47 C.F.R. Section 67.9.

1-48 (2) "Certified rehabilitation" means the
 1-49 rehabilitation of a certified historic structure that the
 1-50 commission has certified as meeting the United States secretary of
 1-51 the interior's Standards for Rehabilitation as defined in 36 C.F.R.
 1-52 Section 67.7.

1-53 (3) "Commission" means the Texas Historical
 1-54 Commission.

1-55 (4) "Eligible costs and expenses" means qualified
 1-56 rehabilitation expenditures as defined by Section 47(c)(2),
 1-57 Internal Revenue Code of 1986, except that the depreciation and
 1-58 tax-exempt use provisions of that section do not apply to costs and
 1-59 expenses incurred by a federal tax-exempt organization, and those
 1-60 costs and expenses are eligible costs and expenses if the other
 1-61 provisions of Section 47(c)(2), Internal Revenue Code of 1986, are

2-1 satisfied.

2-2 (5) "Federal tax-exempt organization" means an entity
 2-3 exempted from the federal income tax under Section 501(a), Internal
 2-4 Revenue Code of 1986.

2-5 (6) "State premium tax liability" means any liability
 2-6 incurred by an entity under Chapter 221, 222, 223, or 224.

2-7 Sec. 231.0002. ELIGIBILITY FOR CREDIT. An entity is
 2-8 eligible to apply for a credit against state premium tax liability
 2-9 in the amount and under the conditions provided by this chapter.

2-10 Sec. 231.0003. QUALIFICATION. An entity is eligible for a
 2-11 credit for eligible costs and expenses incurred in the certified
 2-12 rehabilitation of a certified historic structure as provided by
 2-13 this chapter if:

2-14 (1) the rehabilitated certified historic structure is
 2-15 placed in service on or after September 1, 2021;

2-16 (2) the entity has an ownership interest in the
 2-17 certified historic structure in the year during which the structure
 2-18 is placed in service after the rehabilitation; and

2-19 (3) the total amount of the eligible costs and
 2-20 expenses incurred exceeds \$5,000.

2-21 Sec. 231.0004. CERTIFICATION OF ELIGIBILITY. (a) Before
 2-22 claiming, selling, or assigning a credit under this chapter, the
 2-23 entity that incurred the eligible costs and expenses in the
 2-24 rehabilitation of a certified historic structure must request from
 2-25 the commission a certificate of eligibility on which the commission
 2-26 certifies that the work performed meets the definition of a
 2-27 certified rehabilitation. The entity must include with the
 2-28 entity's request:

2-29 (1) information on the property that is sufficient for
 2-30 the commission to determine whether the property meets the
 2-31 definition of a certified historic structure; and

2-32 (2) information on the rehabilitation, and
 2-33 photographs before and after work is performed, sufficient for the
 2-34 commission to determine whether the rehabilitation meets the United
 2-35 States secretary of the interior's Standards for Rehabilitation as
 2-36 defined in 36 C.F.R. Section 67.7.

2-37 (b) The commission shall issue a certificate of eligibility
 2-38 to an entity that has incurred eligible costs and expenses as
 2-39 provided by this chapter. The certificate must:

2-40 (1) confirm that:

2-41 (A) the property to which the eligible costs and
 2-42 expenses relate is a certified historic structure; and

2-43 (B) the rehabilitation qualifies as a certified
 2-44 rehabilitation; and

2-45 (2) specify the date the certified historic structure
 2-46 was first placed in service after the rehabilitation.

2-47 (c) The entity must forward the certificate of eligibility
 2-48 and the following documentation to the comptroller to claim the
 2-49 credit:

2-50 (1) an audited cost report issued by a certified
 2-51 public accountant, as defined by Section 901.002, Occupations Code,
 2-52 that itemizes the eligible costs and expenses incurred in the
 2-53 certified rehabilitation of the certified historic structure by the
 2-54 entity;

2-55 (2) the date the certified historic structure was
 2-56 first placed in service after the rehabilitation and evidence of
 2-57 that placement in service; and

2-58 (3) an attestation of the total eligible costs and
 2-59 expenses incurred by the entity on the rehabilitation of the
 2-60 certified historic structure.

2-61 (d) For purposes of approving the credit under Subsection
 2-62 (c), the comptroller may rely on the audited cost report provided by
 2-63 the entity that requested the credit.

2-64 (e) An entity that sells or assigns a credit under this
 2-65 chapter to another entity shall provide a copy of the certificate of
 2-66 eligibility, together with the audited cost report, to the
 2-67 purchaser or assignee.

2-68 Sec. 231.0005. AMOUNT OF CREDIT; LIMITATIONS. (a) The
 2-69 total amount of the credit under this chapter with respect to the

3-1 rehabilitation of a single certified historic structure that may be
 3-2 claimed may not exceed 25 percent of the total eligible costs and
 3-3 expenses incurred in the certified rehabilitation of the certified
 3-4 historic structure.

3-5 (b) The total credit that may be claimed on a tax report,
 3-6 including the amount of any carryforward under Section 231.0006,
 3-7 may not exceed the amount of state premium tax liability due for the
 3-8 report after any other applicable credits.

3-9 (c) Eligible costs and expenses may be counted only once in
 3-10 determining the amount of the credit available, and more than one
 3-11 entity may not claim a credit for the same eligible costs and
 3-12 expenses.

3-13 Sec. 231.0006. CARRYFORWARD. (a) If an entity is eligible
 3-14 for a credit that exceeds the limitation under Section 231.0005(b),
 3-15 the entity may carry the unused credit forward for not more than
 3-16 five consecutive tax reports.

3-17 (b) A carryforward is considered the remaining portion of a
 3-18 credit that cannot be claimed in the current year because of the
 3-19 limitation under Section 231.0005(b).

3-20 Sec. 231.0007. APPLICATION FOR CREDIT. (a) An entity must
 3-21 apply for a credit under this chapter on or with the tax report for
 3-22 the period for which the credit is claimed.

3-23 (b) An entity shall file with any tax report on which the
 3-24 credit is claimed a copy of the certificate of eligibility issued by
 3-25 the commission under Section 231.0004 and any other information
 3-26 required by the comptroller to sufficiently demonstrate that the
 3-27 entity is eligible for the credit.

3-28 (c) The burden of establishing eligibility for and the value
 3-29 of the credit is on the entity.

3-30 Sec. 231.0008. SALE OR ASSIGNMENT OF CREDIT. (a) An entity
 3-31 that incurs eligible costs and expenses may sell or assign all or
 3-32 part of the credit that may be claimed for those costs and expenses
 3-33 to one or more entities, and any entity to which all or part of the
 3-34 credit is sold or assigned may sell or assign all or part of the
 3-35 credit to another entity. There is no limit on the total number of
 3-36 transactions for the sale or assignment of all or part of the total
 3-37 credit authorized under this chapter, however, collectively all
 3-38 transfers are subject to the maximum total limits provided by
 3-39 Section 231.0005.

3-40 (b) An entity that sells or assigns a credit under this
 3-41 section and the entity to which the credit is sold or assigned shall
 3-42 jointly submit written notice of the sale or assignment to the
 3-43 comptroller on a form promulgated by the comptroller not later than
 3-44 the 30th day after the date of the sale or assignment. The notice
 3-45 must include:

3-46 (1) the date of the sale or assignment;
 3-47 (2) the amount of the credit sold or assigned;
 3-48 (3) the names and federal tax identification numbers
 3-49 of the entity that sold or assigned the credit or part of the credit
 3-50 and the entity to which the credit or part of the credit was sold or
 3-51 assigned; and

3-52 (4) the amount of the credit owned by the selling or
 3-53 assigning entity before the sale or assignment, and the amount the
 3-54 selling or assigning entity retained, if any, after the sale or
 3-55 assignment.

3-56 (c) The sale or assignment of a credit in accordance with
 3-57 this section does not extend the period for which a credit may be
 3-58 carried forward and does not increase the total amount of the credit
 3-59 that may be claimed. After an entity claims a credit under this
 3-60 chapter for eligible costs and expenses, another entity may not use
 3-61 the same costs and expenses as the basis for claiming a credit under
 3-62 this chapter or Subchapter S, Chapter 171, Tax Code.

3-63 (d) Notwithstanding the requirements of this chapter, a
 3-64 credit earned or purchased by, or assigned to, a partnership,
 3-65 limited liability company, S corporation, or other pass-through
 3-66 entity may be allocated to the partners, members, or shareholders
 3-67 of that entity and claimed under this chapter in accordance with the
 3-68 provisions of any agreement among the partners, members, or
 3-69 shareholders and without regard to the ownership interest of the

4-1 partners, members, or shareholders in the rehabilitated certified
4-2 historic structure, provided that the entity that claims the credit
4-3 must be subject to the tax imposed under Chapter 221, 222, 223, or
4-4 224.

4-5 Sec. 231.0009. RETALIATORY TAX. An entity that claims a
4-6 credit under this chapter is not required to pay any additional
4-7 retaliatory tax levied under Chapter 281 as a result of the credit.

4-8 Sec. 231.0010. RULES. The commission and the comptroller
4-9 shall adopt rules necessary to implement this chapter.

4-10 SECTION 2. Section 171.908(c), Tax Code, is amended to read
4-11 as follows:

4-12 (c) The sale or assignment of a credit in accordance with
4-13 this section does not extend the period for which a credit may be
4-14 carried forward and does not increase the total amount of the credit
4-15 that may be claimed. After an entity claims a credit under this
4-16 subchapter for eligible costs and expenses, another entity may not
4-17 use the same costs and expenses as the basis for claiming a credit
4-18 under this subchapter or Chapter 231, Insurance Code.

4-19 SECTION 3. (a) Section 171.908(e), Tax Code, is repealed.

4-20 (b) The repeal of Section 171.908(e), Tax Code, by this
4-21 section does not affect a credit that accrued under Subchapter S,
4-22 Chapter 171, Tax Code, before the effective date of this Act. The
4-23 provisions of that subchapter as they existed immediately before
4-24 the effective date of this Act are continued in effect for purposes
4-25 of determining the amount of the credit an entity may claim and the
4-26 manner in which the entity may claim, sell, or assign the credit or
4-27 claim any carryforward of the credit.

4-28 SECTION 4. Chapter 231, Insurance Code, as added by this
4-29 Act, applies only to a report originally due on or after January 1,
4-30 2022.

4-31 SECTION 5. This Act takes effect January 1, 2022.

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