

BILL ANALYSIS

C.S.H.B. 3111
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

More than half of the states encourage investment in historic structure rehabilitation through a tax credit. Interested parties assert that historic structure rehabilitation investment incentives have provided benefits for many states because they have driven economic development, created jobs and spending, brought unused and vacant buildings back into active commerce, and revitalized main streets and downtowns throughout the country. In addition, such incentives have been shown to provide more tax revenue than they originally cost the state.

The parties contend that many Texas workers and business owners would see increased employment and income opportunities because of a historic structure rehabilitation investment incentive. Without an incentive for rehabilitation, the parties assert that many Texas buildings will either continue to be neglected or eventually be demolished, destroying an important physical link to Texas' unique heritage. The goal of C.S.H.B. 3111 is to create an incentive for private capital investment in the rehabilitation of historic structures throughout the entire state.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Historical Commission and the comptroller of public accounts in SECTIONS 1 and 2 of this bill.

ANALYSIS

C.S.H.B. 3111 amends the Tax Code to make an entity eligible for a credit against the franchise tax for eligible costs and expenses incurred in the certified rehabilitation of a certified historic structure if the rehabilitated certified historic structure is placed in service on or after September 1, 2013, the entity has an ownership interest in the certified historic structure in the year during which the structure is placed in service after the rehabilitation, and the total amount of the eligible costs and expenses incurred exceeds \$5,000. The bill defines "eligible costs and expenses" as qualified rehabilitation expenditures as defined in federal law. The bill defines "certified historic structure" and "certified rehabilitation."

C.S.H.B. 3111 requires the entity that incurred the eligible costs and expenses in the rehabilitation of the certified historic structure, before claiming, selling, or assigning the tax credit, to request from the Texas Historical Commission a certificate of eligibility on which the commission certifies that the work performed meets the definition of a certified rehabilitation. The bill sets out the information that the entity must include with the entity's request for the certificate. The bill requires the commission to issue a certificate of eligibility to an entity that has incurred eligible costs and expenses and sets out the information required to be stated on the certificate and the documentation an entity must forward to the comptroller of public accounts to claim the credit. The bill authorizes the comptroller, for purposes of approving the tax credit, to rely on the audited cost report provided by the entity that requested the tax credit. The bill requires an entity that sells or assigns the tax credit to another entity to provide a copy of the certificate of eligibility, together with the audited cost report, to the purchaser or assignee.

C.S.H.B. 3111 caps the total amount of the credit that may be claimed with respect to the rehabilitation of a certified historic structure at 25 percent of the total eligible costs and expenses incurred in the certified rehabilitation of the structure and caps the amount of the total credit that may be applied for in a report, including the amount of any carryforward credit, at the amount of franchise tax due for the report after any other applicable credits. The bill authorizes eligible costs and expenses to be counted only once in determining the amount of the tax credit available and prohibits more than one entity from claiming a credit for the same eligible costs and expenses. The bill authorizes an entity that is eligible for a credit that exceeds the applicable cap to carry the unused credit forward for not more than five consecutive reports and establishes that a carryforward is considered the remaining portion of a credit that cannot be claimed in the current year because of the cap on the amount of the credit that may be claimed.

C.S.H.B. 3111 requires an entity to apply for the credit on or with the report for the period for which the credit is claimed and requires an entity to file with such a report a copy of the certificate of eligibility issued by the commission and any other information required by the comptroller to sufficiently demonstrate that the entity is eligible for the credit. The bill places the burden of establishing eligibility for and the value of the credit on the entity.

C.S.H.B. 3111 authorizes an entity that incurs eligible costs and expenses to sell or assign all or part of the credit that may be claimed for those costs and expenses to one or more entities and authorizes any entity to which all or part of the credit is sold or assigned to sell or assign all or part of the credit to another entity. The bill specifies that there is no limit on the total number of transactions for the sale or assignment of all or part of the total credit, but makes all transfers collectively subject to the caps on the total amount of the credit that may be claimed. The bill sets out requirements for the notice that an entity that sells or assigns a credit and the entity to which the credit is sold or assigned must submit to the comptroller. The bill establishes that such a sale or assignment of a credit does not extend the period for which a credit may be carried forward and does not increase the total amount of the credit that may be claimed. The bill prohibits, after an entity claims a credit for eligible costs and expenses, another entity from using the same costs and expenses as the basis for claiming a credit.

C.S.H.B. 3111 authorizes a credit earned or purchased by, or assigned to, a partnership, limited liability company, S corporation, or other pass-through entity to be allocated to the partners, members, or shareholders of that entity and claimed in accordance with the provisions of any agreement among the partners, members, or shareholders and without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified historic structure, provided that the entity that claims the credit is subject to the franchise tax. The bill requires the commission and the comptroller to adopt rules necessary to implement the bill's provisions.

C.S.H.B. 3111 amends the Insurance Code to make an entity eligible for a credit against state premium tax liability for eligible costs and expenses incurred in the certified rehabilitation of a certified historic structure if the rehabilitated certified historic structure is placed in service on or after September 1, 2013, the entity has an ownership interest in the certified historic structure in the year during which the structure is placed in service after the rehabilitation, and the total amount of the eligible costs and expenses incurred exceeds \$5,000. The bill defines "eligible costs and expenses" as qualified rehabilitation expenditures as defined in federal law. The bill defines "certified historic structure" and "certified rehabilitation."

C.S.H.B. 3111 requires the entity that incurred the eligible costs and expenses in the rehabilitation of the certified historic structure, before claiming, selling, or assigning the credit, to request from the commission a certificate of eligibility on which the commission certifies that the work performed meets the definition of a certified rehabilitation. The bill sets out the information that the entity must include with the entity's request for the certificate. The bill requires the commission to issue a certificate of eligibility to an entity that has incurred eligible costs and expenses and sets out the information required to be stated on the certificate and the documentation an entity must forward to the comptroller to claim the credit. The bill authorizes

the comptroller, for purposes of approving the tax credit, to rely on the audited cost report provided by the entity that requested the tax credit. The bill requires an entity that sells or assigns the tax credit to another entity to provide a copy of the certificate of eligibility, together with the audited cost report, to the purchaser or assignee.

C.S.H.B. 3111 caps the total amount of the credit that may be claimed with respect to the rehabilitation of a certified historic structure at 25 percent of the total eligible costs and expenses incurred in the certified rehabilitation of the structure and caps the amount of the total credit that may be applied for in a report, including the amount of any carryforward credit, at the amount of state premium tax liability for the report after any other applicable credits. The bill authorizes eligible costs and expenses to be counted only once in determining the amount of the tax credit available and prohibits more than one entity from claiming a credit for the same eligible costs and expenses. The bill authorizes an entity that is eligible for a credit that exceeds the applicable cap to carry the unused credit forward for not more than five consecutive reports and establishes that a carryforward is considered the remaining portion of a credit that cannot be claimed in the current year because of the cap on the amount of the credit that may be claimed.

C.S.H.B. 3111 requires an entity to apply for the credit on or with the report for the period for which the credit is claimed and requires an entity to file with such a report a copy of the certificate of eligibility issued by the commission and any other information required by the comptroller to sufficiently demonstrate that the entity is eligible for the credit. The bill places the burden of establishing eligibility for and the value of the credit on the entity.

C.S.H.B. 3111 authorizes an entity that incurs eligible costs and expenses to sell or assign all or part of the credit that may be claimed for those costs and expenses to one or more entities and authorizes any entity to which all or part of the credit is sold or assigned to sell or assign all or part of the credit to another entity. The bill specifies that there is no limit on the total number of transactions for the sale or assignment of all or part of the total credit, but makes all transfers collectively subject to the caps on the total amount of the credit that may be claimed. The bill sets out requirements for the notice that an entity that sells or assigns a credit and the entity to which the credit is sold or assigned must submit to the comptroller. The bill establishes that such a sale or assignment of a credit does not extend the period for which a credit may be carried forward and does not increase the total amount of the credit that may be claimed. The bill prohibits, after an entity claims a credit for eligible costs and expenses, another entity from using the same costs and expenses as the basis for claiming a credit.

C.S.H.B. 3111 authorizes a credit earned or purchased by, or assigned to, a partnership, limited liability company, S corporation, or other pass-through entity to be allocated to the partners, members, or shareholders of that entity and claimed in accordance with the provisions of any agreement among the partners, members, or shareholders and without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified historic structure, provided that the entity that claims the credit is subject to the franchise tax. The bill exempts an entity that claims the credit from any additional retaliatory tax levied as a result of the credit. The bill requires the commission and the comptroller to adopt rules necessary to implement the bill's provisions.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3111 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 171, Tax Code, is amended by adding Subchapter [] to read as follows:

SUBCHAPTER []. CREDIT FOR REHABILITATION OF A HISTORIC STRUCTURE

Sec. 171.[]. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Historical Commission.

(2) "Eligible costs and expenses" means qualified rehabilitation expenditures as defined in Section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, except that "substantially rehabilitated" shall mean that the qualified rehabilitation expenditures must exceed five thousand dollars.

Sec. 171.[]. CREDIT.

(a) There shall be allowed a credit against the tax imposed under this Chapter 171, Franchise Tax, in an amount equal to twenty-five percent (25%) of the eligible costs and expenses incurred during the rehabilitation of a historic structure.

(b) The credit is earned by the entity that owns the historic structure in the year in which the property attributable to the eligible costs and expenses is placed in service.

(c) In order to qualify for the credit, the

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 171, Tax Code, is amended by adding Subchapter S to read as follows:

SUBCHAPTER S. TAX CREDIT FOR CERTIFIED REHABILITATION OF CERTIFIED HISTORIC STRUCTURES

Sec. 171.901. DEFINITIONS. In this subchapter:

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

(A) listed individually in the National Register of Historic Places;

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

(C) certified by the commission as contributing to the historic significance of:

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

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

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

(3) "Commission" means the Texas Historical Commission.

(4) "Eligible costs and expenses" means qualified rehabilitation expenditures as defined by Section 47(c)(2), Internal Revenue Code.

Sec. 171.902. ELIGIBILITY FOR CREDIT. An entity is eligible to apply for a credit in the amount and under the conditions and limitations provided by this subchapter against the tax imposed under this chapter.

Sec. 171.903. QUALIFICATION. An

historic structure must be listed on the National Register of Historic Places or be certified by the commission as contributing to the historical significance of the census tract or the state.

Sec. 171.[__]. CERTIFICATION

(a) Prior to any credit being claimed or assigned, the commission shall have issued a tax credit certificate providing for the amount of eligible costs and expenses incurred during the rehabilitation of a historic structure.

(b) In order to issue a tax credit certificate, the commission shall, at a minimum, be provided with the following:

(1) an audited cost report issued by a public accountant licensed in this state itemizing and confirming the amounts of eligible costs

entity is eligible for a credit for eligible costs and expenses incurred in the certified rehabilitation of a certified historic structure as provided by this subchapter if:

(1) the rehabilitated certified historic structure is placed in service on or after September 1, 2013;

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

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

Sec. 171.904. CERTIFICATION OF

ELIGIBILITY. (a) Before claiming, selling, or assigning a credit under this subchapter, the entity that incurred the eligible costs and expenses in the rehabilitation of a certified historic structure must request from the commission a certificate of eligibility on which the commission certifies that the work performed meets the definition of a certified rehabilitation. The entity must include with the entity's request:

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

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

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

(1) confirm that:

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

(B) the rehabilitation qualifies as a certified rehabilitation; and

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

(c) The entity must forward the certificate of eligibility and the following documentation to the comptroller to claim the tax credit:

(1) an audited cost report issued by a certified public accountant, as defined by Section 901.002, Occupations Code, that

and expenses incurred during the rehabilitation of the historic structure; and

(2) evidence that the historic structure has been placed into service.

(c) In issuing the tax credit certificate, the commission may rely, without independent investigation, upon the audited cost report.

Sec. 171.[__]. LIMITATIONS; CARRYFORWARD.

- (a) The total credit claimed under this subchapter for a report, including the amount of any carryforward credit under Section 171.[__](b), may not exceed the franchise tax due after any other applicable credits.
- (b) If total credit exceeds the limitation under Section 171.[__](a), such excess credit may be carried forward for not more than five consecutive reports.

itemizes the eligible costs and expenses incurred in the certified rehabilitation of the certified historic structure by the entity;

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

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

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

(e) An entity that sells or assigns a credit under this subchapter to another entity shall provide a copy of the certificate of eligibility, together with the audited cost report, to the purchaser or assignee.

Sec. 171.905. AMOUNT OF CREDIT; LIMITATIONS. (a) The total amount of the credit under this subchapter with respect to the rehabilitation of a single certified historic structure that may be claimed may not exceed 25 percent of the total eligible costs and expenses incurred in the certified rehabilitation of the certified historic structure.

(b) The total credit claimed for a report, including the amount of any carryforward under Section 171.906, may not exceed the amount of franchise tax due for the report after any other applicable tax credits.

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

Sec. 171.906. CARRYFORWARD. (a) If an entity is eligible for a credit that exceeds the limitation under Section 171.905(b), the entity may carry the unused credit forward for not more than five consecutive reports.

(b) A carryforward is considered the remaining portion of a credit that cannot be claimed in the current year because of the limitation under Section 171.905(b).

Sec. 171.907. APPLICATION FOR CREDIT. (a) An entity must apply for a credit under this subchapter on or with the report for the period for which the credit is claimed.

(b) An entity shall file with any report on which the credit is claimed a copy of the

Sec. 171.[__]. ASSIGNMENT; ALLOCATION.

(a) Any entity earning credits, as well as any subsequent assignees of such credits, shall be permitted to sell or assign all or any portion of such credit, and shall not be required to claim such credits, subject to the following conditions:

(1) A sale or assignment may involve one or more transferees and may take place on one or more dates.

(2) The credits may only be sold or assigned three times.

(3) The sale or assignment of the credit does not extend the carryforward period of the credit.

(4) Assignors and assignees shall submit to the commission a written notification of any sale or assignment of credits within thirty days after the sale or assignment of such credits, which notification shall include: the date of the sale or assignment; the amount of credits sold or assigned; the name and federal tax identification number of the assignor and each assignee; the assignor's credit balance with respect to a particular historic structure prior to the sale or assignment, and the assignor's remaining credit balance with respect to a particular historic structure after the sale or assignment.

(b) Credits earned by, or assigned to, a partnership, limited liability company, S-corporation, or other similar pass-through

certificate of eligibility issued by the commission under Section 171.904 and any other information required by the comptroller to sufficiently demonstrate that the entity is eligible for the credit.

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

Sec. 171.908. SALE OR ASSIGNMENT OF CREDIT.

(a) An entity that incurs eligible costs and expenses may sell or assign all or part of the credit that may be claimed for those costs and expenses to one or more entities, and any entity to which all or part of the credit is sold or assigned may sell or assign all or part of the credit to another entity. There is no limit on the total number of transactions for the sale or assignment of all or part of the total credit authorized under this subchapter, however, collectively all transfers are subject to the maximum total limits provided by Section 171.905.

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

(1) the date of the sale or assignment;

(2) the amount of the credit sold or assigned;

(3) the names and federal tax identification numbers of the entity that sold or assigned the credit or part of the credit and the entity to which the credit or part of the credit was sold or assigned; and

(4) the amount of the credit owned by the selling or assigning entity before the sale or assignment, and the amount the selling or assigning entity retained, if any, after the sale or assignment.

(c) The sale or assignment of a credit in accordance with this section does not extend the period for which a credit may be carried forward and does not increase the total amount of the credit that may be claimed. After an entity claims a credit for eligible costs and expenses, another entity may not use the same costs and expenses as the basis for claiming a credit.

(d) Notwithstanding the requirements of this subchapter, a credit earned or purchased by, or assigned to, a partnership, limited

entity shall be allocated among some or all of the partners, members, or shareholders in any manner agreed to by such partners, members, or shareholders which can be without regard to such partners', members', or shareholders' membership or ownership interest.

SECTION 2. Subtitle B, Title 3, Insurance Code, is amended by adding Chapter [] to read as follows:
SUBCHAPTER []. CREDIT FOR REHABILITATION OF A HISTORIC STRUCTURE
Sec. [].[]. DEFINITIONS. In this subchapter:

- (1) "Commission" means the Texas Historical Commission.
- (2) "Eligible costs and expenses" means qualified rehabilitation expenditures as defined in Section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, except that "substantially rehabilitated" shall mean that the qualified

liability company, S corporation, or other pass-through entity may be allocated to the partners, members, or shareholders of that entity and claimed under this subchapter in accordance with the provisions of any agreement among the partners, members, or shareholders and without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified historic structure, provided that the entity that claims the credit must be subject to the tax imposed under this chapter.
Sec. 171.909. RULES. The commission and the comptroller shall adopt rules necessary to implement this subchapter.

SECTION 2. Subtitle B, Title 3, Insurance Code, is amended by adding Chapter 232 to read as follows:
CHAPTER 232. PREMIUM TAX CREDIT FOR CERTIFIED REHABILITATION OF CERTIFIED HISTORIC STRUCTURES
Sec. 232.001. DEFINITIONS. In this chapter:
(1) "Certified historic structure" means a property in this state that is:
(A) listed individually in the National Register of Historic Places;
(B) designated as a Recorded Texas Historic Landmark under Section 442.006, Government Code, or as a state archeological landmark under Chapter 191, Natural Resources Code; or
(C) certified by the commission as contributing to the historic significance of:
(i) a historic district listed in the National Register of Historic Places; or
(ii) a local district certified by the United States Department of the Interior in accordance with 36 C.F.R. Section 67.9.
(2) "Certified rehabilitation" means the rehabilitation of a certified historic structure that the commission has certified as meeting the United States secretary of the interior's Standards for Rehabilitation as defined in 36 C.F.R. Section 67.7.
(3) "Commission" means the Texas Historical Commission.
(4) "Eligible costs and expenses" means qualified rehabilitation expenditures as defined by Section 47(c)(2), Internal Revenue Code of 1986.

rehabilitation expenditures must exceed five thousand dollars.

(3) "State premium tax liability" means any liability incurred by an entity under Chapters 221 through 226.

Sec. [__].[__]. CREDIT.

(a) There shall be allowed a credit against state premium tax liability in an amount equal to twenty-five percent (25%) of the eligible costs and expenses incurred during the rehabilitation of a historic structure.

(b) The credit is earned by the entity that owns the historic structure in the year in which the property attributable to the eligible costs and expenses is placed in service.

(c) In order to qualify for the credit, the historic structure must be listed on the National Register of Historic Places or be certified by the commission as contributing to the historical significance of the census tract or the state.

Sec. [__].[__]. CERTIFICATION

(a) Prior to any credit being claimed or assigned, the commission shall have issued a tax credit certificate providing for the amount of eligible costs and expenses incurred during the rehabilitation of a historic structure.

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

Sec. 232.002. ELIGIBILITY FOR CREDIT. An entity is eligible to apply for a credit against state premium tax liability on a report in the amount and under the conditions and limitations provided by this chapter.

Sec. 232.003. QUALIFICATION. An entity is eligible to apply for a credit for eligible costs and expenses incurred in the certified rehabilitation of a certified historic structure as provided by this chapter if:

(1) the rehabilitated certified historic structure is placed in service on or after September 1, 2013;

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

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

Sec. 232.004. CERTIFICATION OF ELIGIBILITY. (a) Before claiming, selling, or assigning a credit under this chapter, the entity that incurred the eligible costs and expenses in the rehabilitation of a certified historic structure must request from the commission a certificate of eligibility on which the commission certifies that the work performed meets the definition of a certified rehabilitation. The entity must include with the entity's request:

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

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

(b) The commission shall issue a certificate of eligibility to an entity that has incurred eligible costs and expenses as provided by

(b) In order to issue a tax credit certificate, the commission shall, at a minimum, be provided with the following:

- (1) an audited cost report issued by a public accountant licensed in this state itemizing and confirming the amounts of eligible costs and expenses incurred during the rehabilitation of the historic structure; and
- (2) evidence that the historic structure has been placed into service.

(c) In issuing the tax credit certificate, the commission may rely, without independent investigation, upon the audited cost report.

Sec. [].[]. LIMITATIONS;
CARRYFORWARD.

(a) The total credit claimed under this subchapter for a report, including the amount of any carryforward credit under Section [].[](b), may not exceed the state premium tax liability due after any other applicable credits.

this subchapter. The certificate must:

(1) confirm that:

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

(B) the rehabilitation qualifies as a certified rehabilitation; and

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

(c) The entity must forward the certificate of eligibility and the following documentation to the comptroller to claim the tax credit:

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

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

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

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

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

Sec. 232.005. AMOUNT OF CREDIT; LIMITATIONS. (a) The total amount of the credit under this chapter with respect to the rehabilitation of a single certified historic structure that may be claimed may not exceed 25 percent of the total eligible costs and expenses incurred in the certified rehabilitation of the certified historic structure.

(b) The total credit that may be applied for in a report, including the amount of any carryforward under Section 232.006, may not exceed the amount of state premium tax liability for the report after any other applicable tax credits.

(c) Eligible costs and expenses may only be counted once in determining the amount of the tax credit available, and more than

(b) If total credit exceeds the limitation under Section [].[](a), such excess credit may be carried forward for not more than five consecutive reports.

Sec. [].[]. ASSIGNMENT; ALLOCATION.

(a) Any entity earning credits, as well as any subsequent assignees of such credits, shall be permitted to sell or assign all or any portion of such credit, and shall not be required to claim such credits, subject to the following conditions:

(1) A sale or assignment may involve one or more transferees and may take place on one or more dates.

(2) The credits may only be sold or assigned three times.

(3) The sale or assignment of the credit does not extend the carryforward period of the credit.

(4) Assignors and assignees shall submit to the commission a written notification of any sale or assignment of credits within thirty days after the sale or assignment of such credits, which notification shall include: the date of the sale or assignment; the amount of credits sold or assigned; the name and federal tax identification number of the assignor and each assignee; the assignor's credit balance with respect to a particular historic structure prior to the sale or assignment, and the assignor's remaining credit balance with respect to a particular historic structure after the sale or

one entity may not claim a credit for the same eligible costs and expenses.

Sec. 232.006. CARRYFORWARD. (a) If an entity is eligible for a credit that exceeds the limitation under Section 232.005(b), the entity may carry the unused credit forward for not more than five consecutive reports.

(b) A carryforward is considered the remaining portion of a credit that cannot be claimed in the current year because of the limitation under Section 232.005(b).

Sec. 232.007. APPLICATION FOR CREDIT. (a) An entity must apply for a credit under this chapter on or with the report for the period for which the credit is claimed.

(b) An entity shall file with any report on which the credit is claimed a copy of the certificate of eligibility issued by the commission under Section 232.004 and any other information required by the comptroller to sufficiently demonstrate that the entity is eligible for the credit.

(c) The burden of establishing entitlement to and the value of the credit is on the entity.

Sec. 232.008. SALE OR ASSIGNMENT OF CREDIT. (a) An entity that incurs eligible costs and expenses may sell or assign all or part of the credit that may be claimed for those costs and expenses to one or more entities, and any entity to which all or part of the credit is sold or assigned may sell or assign all or part of the credit to another entity. There is no limit on the total number of transactions for the sale or assignment of all or part of the total credit authorized under this chapter, however, collectively all transfers are subject to the maximum total limits provided by Section 232.005.

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

(1) the date of the sale or assignment;

(2) the amount of the credit sold or assigned;

(3) the names and federal tax identification numbers of the entity that sold or assigned the credit or part of the credit and the entity to which the credit or part of the credit was

assignment.

(b) Credits earned by, or assigned to, a partnership, limited liability company, S-corporation, or other similar pass-through entity shall be allocated among some or all of the partners, members, or shareholders in any manner agreed to by such partners, members, or shareholders which can be without regard to such partners', members', or shareholders' membership or ownership interest.

Sec. [__].[__]. RETALIATORY TAX. Any entity claiming a credit against state premium tax liability is not required to pay any additional retaliatory tax levied under Chapter 281 as a result of claiming the credit.

No equivalent provision.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

sold or assigned; and

(4) the amount of the credit owned by the selling or assigning entity before the sale or assignment, and the amount the selling or assigning entity retained, if any, after the sale or assignment.

(c) The sale or assignment of a credit in accordance with this section does not extend the period for which a credit may be carried forward and does not increase the total amount of the credit that may be claimed. After an entity claims a credit for eligible costs and expenses, another entity may not use the same costs and expenses as the basis for claiming a credit.

(d) Notwithstanding the requirements of this chapter, a credit earned or purchased by, or assigned to, a partnership, limited liability company, S corporation, or other pass-through entity may be allocated to the partners, members, or shareholders of that entity and claimed under this chapter in accordance with the provisions of any agreement among the partners, members, or shareholders and without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified historic structure, provided that the entity that claims the credit must be subject to the tax imposed under Chapter 221, 222, 223, or 224.

Sec. 232.009. RETALIATORY TAX. An entity that claims a credit under this chapter is not required to pay any additional retaliatory tax levied under Chapter 281 as a result of the credit.

Sec. 232.010. RULES. The commission and the comptroller shall adopt rules necessary to implement this chapter.

SECTION 3. This Act applies only to a report originally due on or after the effective date of this Act.

SECTION 4. This Act takes effect September 1, 2013.