

By: Hilderbran, Menendez,
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H.B. No. 3111

Substitute the following for H.B. No. 3111:

By: Hilderbran

C.S.H.B. No. 3111

A BILL TO BE ENTITLED

AN ACT

relating to tax credits for the certified rehabilitation of
certified historic structures.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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.

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

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

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

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

15 Sec. 171.903. QUALIFICATION. An entity is eligible for a
16 credit for eligible costs and expenses incurred in the certified
17 rehabilitation of a certified historic structure as provided by
18 this subchapter if:

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

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

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

26 Sec. 171.904. CERTIFICATION OF ELIGIBILITY. (a) Before
27 claiming, selling, or assigning a credit under this subchapter, the

1 entity that incurred the eligible costs and expenses in the
2 rehabilitation of a certified historic structure must request from
3 the commission a certificate of eligibility on which the commission
4 certifies that the work performed meets the definition of a
5 certified rehabilitation. The entity must include with the
6 entity's request:

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

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

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

18 (1) confirm that:

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

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

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

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

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

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

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

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

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

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

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

1 applicable tax credits.

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

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

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

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

16 (b) An entity shall file with any report on which the credit
17 is claimed a copy of the certificate of eligibility issued by the
18 commission under Section 171.904 and any other information required
19 by the comptroller to sufficiently demonstrate that the entity is
20 eligible for the credit.

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

23 Sec. 171.908. SALE OR ASSIGNMENT OF CREDIT. (a) An entity
24 that incurs eligible costs and expenses may sell or assign all or
25 part of the credit that may be claimed for those costs and expenses
26 to one or more entities, and any entity to which all or part of the
27 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 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:

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

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

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

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

13 (4) "Eligible costs and expenses" means qualified
14 rehabilitation expenditures as defined by Section 47(c)(2),
15 Internal Revenue Code of 1986.

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

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

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

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

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

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

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

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

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

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

25 (1) confirm that:

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

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

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

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

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

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

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

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

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

26 Sec. 232.005. AMOUNT OF CREDIT; LIMITATIONS. (a) The total
27 amount of the credit under this chapter with respect to the

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

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

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

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

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

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

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

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

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

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

19 (1) the date of the sale or assignment;
20 (2) the amount of the credit sold or assigned;
21 (3) the names and federal tax identification numbers
22 of the entity that sold or assigned the credit or part of the credit
23 and the entity to which the credit or part of the credit was sold or
24 assigned; and

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

1 assignment.

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

8 (d) Notwithstanding the requirements of this chapter, a
9 credit earned or purchased by, or assigned to, a partnership,
10 limited liability company, S corporation, or other pass-through
11 entity may be allocated to the partners, members, or shareholders
12 of that entity and claimed under this chapter in accordance with the
13 provisions of any agreement among the partners, members, or
14 shareholders and without regard to the ownership interest of the
15 partners, members, or shareholders in the rehabilitated certified
16 historic structure, provided that the entity that claims the credit
17 must be subject to the tax imposed under Chapter 221, 222, 223, or
18 224.

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

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

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

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