

By: Hilderbran

H.B. No. 3111

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a tax credit for eligible costs and expenses incurred
3 during the rehabilitation of a historic structure located in a
4 severely damaged or flooded census tract:

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

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

8 SUBCHAPTER [__]. CREDIT FOR REHABILITATION OF A HISTORIC STRUCTURE

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

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

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

17 Sec. 171.[__]. CREDIT.

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

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

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

5 Sec. 171.[__]. CERTIFICATION

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

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

12 (1) an audited cost report issued by a public
13 accountant licensed in this state itemizing and confirming the
14 amounts of eligible costs and expenses incurred during the
15 rehabilitation of the historic structure; and

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

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

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

22 (a) The total credit claimed under this subchapter for a
23 report, including the amount of any carryforward credit under
24 Section 171.[__](b), may not exceed the franchise tax due after any
25 other applicable credits.

26 (b) If total credit exceeds the limitation under Section
27 171.[__](a), such excess credit may be carried forward for not more

1 than five consecutive reports.

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

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

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

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

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

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

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

1 such partners', members', or shareholders' membership or ownership
2 interest.

3 SECTION 2. Subtitle B, Title 3, Insurance Code, is amended
4 by adding Chapter [__] to read as follows:

5 SUBCHAPTER [__]. CREDIT FOR REHABILITATION OF A HISTORIC STRUCTURE

6 Sec. [__].[__]. DEFINITIONS. In this subchapter:

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

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

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

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

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

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

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

1 Sec. [__].[__]. CERTIFICATION

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

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

8 (1) an audited cost report issued by a public
9 accountant licensed in this state itemizing and confirming the
10 amounts of eligible costs and expenses incurred during the
11 rehabilitation of the historic structure; and

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

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

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

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

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

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

26 (a) Any entity earning credits, as well as any subsequent
27 assignees of such credits, shall be permitted to sell or assign all

1 or any portion of such credit, and shall not be required to claim
2 such credits, subject to the following conditions:

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

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

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

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

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

26 Sec. [__].[__]. RETALIATORY TAX. Any entity claiming a
27 credit against state premium tax liability is not required to pay

1 any additional retaliatory tax levied under Chapter 281 as a result
2 of claiming the credit.

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