LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 4, 2017

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2393** by Guillen (Relating to insurance premium tax credits for the certified rehabilitation of certified historic structures.), **As Introduced**

The bill would result in a loss of Insurance Premium Tax Revenue if the Franchise Tax expired, was repealed, or became inapplicable.

The bill would amend Subtitle B of Title 3 of the Insurance Code, to add new Chapter 232, regarding an insurance premium tax credit for certified rehabilitation of certified historic structures.

An entity could apply for a credit under this chapter only on or after the date the franchise tax under Chapter 171 of the Tax Code expires, is repealed, or becomes inapplicable to all taxable entities under that chapter; because the provisions of the bill would only apply on or after the date the franchise tax expires, is repealed, or becomes inapplicable, the fiscal impact of the bill cannot be determined.

The bill would define "certified historic structure," and define "certified rehabilitation" and "eligible costs and expenses" by reference to federal law for a similar federal tax credit. To be eligible for the credit an entity would be required to have 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 eligible costs and expenses would be required to exceed $5,000. The entity would be required to obtain certification from the Texas Historical Commission and provide information sufficient to determine if the property meets the definition of a certified historic structure and information on the rehabilitation sufficient to determine if it meets federal standards. The certification would be required to confirm the qualification of the structure and the rehabilitation and specify the date the structure was first placed in service after the rehabilitation. The entity would forward the certification of eligibility to the Comptroller along with an audited cost report and an attestation of the total eligible costs and expenses incurred.

The amount of credit would be limited to no more than 25 percent of the eligible costs and expenses incurred during the rehabilitation. The total amount of credit including any carryforward credit could not exceed the insurance premium tax due after any other applicable credits. Credits that could not be used because of the limitation could be carried forward for not more than five consecutive reports. The entity would apply for the credit on the report for the period for which the credit is claimed and provide a copy of the certificate of eligibility and any other information required by the Comptroller.

The bill would provide that an entity earning a credit could sell or assign all or part of the credit to one or more entities. The acquiring entities could resell the credit. The seller and buyer of a credit would be required to submit to the Comptroller written notice within thirty day after the transaction and include information about the seller and the buyer. The sale or assignment of the credit would not extend the carryforward period of the credit.

The bill would provide that any entity claiming a credit would not be required to pay any additional retaliatory tax.

An entity could apply for a credit under this chapter only on or after the date the franchise tax under Chapter 171 of the Tax Code expires, is repealed, or becomes inapplicable to all taxable entities under that chapter. The Comptroller would publish notice in the Texas Register of the date that condition is satisfied.

This bill would take effect September 1, 2017.

Because the provisions of the bill would only apply on or after the date the franchise tax expires, is repealed, or becomes inapplicable, the fiscal impact of the bill cannot be determined. However, and for purposes of illustration, if the franchise tax were to be repealed or become inapplicable beginning in fiscal 2018, the following loss of Insurance Premium tax (which is deposited 75% to General Revenue and 25% to the Foundation School account) would apply:

Fiscal Year	GR (Loss)	Foundation School Account (Loss)
2018	($26,259,000)	($8,754,000)
2019	($27,084,000)	($9,027,000)
2020	($27,834,000)	($9,279,000)
2021	($28,608,000)	($9,537,000)
2022	($29,484,000)	($9,828,000)

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD