

## **BILL ANALYSIS**

Senate Research Center  
87R19269 SRA-D

H.B. 3777  
By: Noble (Nelson)  
Finance  
5/12/2021  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The franchise tax credit provided for certain historic preservation efforts is administered by the Texas Historical Commission and the Comptroller of Public Accounts of the State of Texas. Since the tax credit became effective, private sector use of the tax credit has been remarkable. However, it has been noted that a recent amendment in state tax law, intended to allow for the use of the franchise tax credit by certain nonprofit corporations, inadvertently created a loophole that could allow for the inappropriate use of the credit by taxing entities such as school districts, counties, and municipalities. H.B. 3777 seeks to close this loophole.

H.B. 3777 amends current law relating to eligible costs and expenses for purposes of the franchise tax credit for the certified rehabilitation of certified historic structures.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Redesignates Section 171.901(4), Tax Code, as effective January 1, 2022, as Section 171.9015, Tax Code, and amends it, as follows:

Sec. 171.9015. ELIGIBLE COSTS AND EXPENSES. (a) Defines "eligible costs and expenses" in Subchapter S (Tax Credit for Certified Rehabilitation of Certified Historic Structures), subject to Subsections (b) and (c), to mean qualified rehabilitation expenditures as defined by Section 47(c)(2), Internal Revenue Code. Makes nonsubstantive changes.

(b) Creates this subsection from existing text. Provides that except as provided by Subsection (c), the depreciation and tax-exempt use provisions of Section 47(c)(2), Internal Revenue Code, do not apply to costs and expenses incurred by an entity exempt from the tax imposed under Chapter 171 (Franchise Tax) by Section 171.063 (Exemption-Nonprofit Corporation Exempt from Federal Income Tax), and those costs and expenses are eligible costs and expenses if the other provisions of Section 47(c)(2), Internal Revenue Code, are satisfied. Makes nonsubstantive changes.

(c) Provides that expenditures by an entity described by Subsection (b) to rehabilitate a structure that is leased to a tax-exempt entity in a disqualified lease, as those terms are defined by Section 168(h), Internal Revenue Code, are not eligible costs and expenses.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: January 1, 2022.