

BILL ANALYSIS

Senate Research Center
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S.B. 1013
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas historic tax credit was enacted by the legislature in 2013 and is administered by the Texas Historical Commission and the Comptroller of Public Accounts of the State of Texas. The Texas historic tax credit is worth 25 percent of eligible rehabilitation costs and is available for buildings that are designated historic under state or federal law. In 2015, the legislature amended the law to allow this tax credit to also be used by private sector nonprofit organizations.

The Texas historic tax credit can be taken against either of two state business taxes: the franchise tax or insurance premium tax. Because it is found in the same chapter as the franchise tax, there is concern that if the franchise tax is ever repealed this tax credit would be swept away with it. S.B. 1013 simply provides long-term protection in law by moving key provisions from the historic tax credit into another chapter in the Tax Code.

As proposed, S.B. 1013 amends current law relating to the franchise and insurance premium 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. Amends the heading to Subtitle F, Title 2, Tax Code, to read as follows:

SUBTITLE F. FRANCHISE TAX; CREDITS

SECTION 2. Transfers Subchapter S, Chapter 171, Tax Code, to Subtitle F, Title 2, Tax Code, redesignates it as Chapter 172, Tax Code, and amends it, as follows:

CHAPTER 172. TAX CREDIT FOR CERTIFIED REHABILITATION OF CERTIFIED HISTORIC STRUCTURES

Sec. 172.101. DEFINITIONS. (a) Provides that terms used in this chapter and defined by Chapter 171 (Franchise Tax) have the meanings assigned by Chapter 171.

(b) Provides that in this chapter, rather than subchapter:

(1)-(3) makes no changes to these subdivisions.

Sec. 172.102. ELIGIBLE COSTS AND EXPENSES. (a) Makes a conforming change to this subsection.

(b) Provides that the depreciation and tax-exempt use provisions of Section 47(c)(2), Internal Revenue Code, except as provided by Subsection (c) (relating to providing that expenditures by certain entities to rehabilitate a structure that is leased to a tax-exempt entity in a disqualified lease are not eligible costs and expenses), do not apply to costs and expenses incurred by an entity exempted

from the federal income tax under Section 501(a), Internal Revenue Code, rather than exempt from the tax imposed under this chapter 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.

(c) Makes no changes to this subsection.

Sec. 172.103. ELIGIBILITY FOR CREDIT. Provides that an entity is eligible to apply for a credit in the amount and under the conditions and limitations provided by this chapter, rather than subchapter, against the taxes imposed under Chapter 171 of this code and, as provided by Section 172.109(e), Chapters 221 (Property and Casualty Insurance Premium Tax), 222 (Life, Health, and Accident Insurance Premium Tax), 223 (Title Insurance Premium Tax), and 224 (Reciprocal and Interinsurance Exchange Premium Tax), Insurance Code, rather than the tax imposed under this chapter.

Sec. 172.104. QUALIFICATION. Makes a conforming change to this section.

Sec. 172.105. CERTIFICATION OF ELIGIBILITY. Makes conforming changes to this section.

Sec. 172.106. AMOUNT OF CREDIT; LIMITATIONS. Makes conforming changes to this section.

Sec. 172.107. CARRYFORWARD. Makes conforming changes to this section.

Sec. 172.108. APPLICATION FOR CREDIT. Makes conforming changes to this section.

Sec. 172.109. SALE OR ASSIGNMENT OF CREDIT. (a)-(d) Makes conforming changes to these subsections.

(e) Authorizes an entity that incurs eligible costs and expenses or to which all or part of a credit is sold or assigned and that is subject to a premium tax imposed under Chapter 221, 222, 223, or 224, Insurance Code, to claim all or part of the credit against that tax. Makes conforming changes.

Sec. 172.110. RULES. Makes conforming changes to this section.

SECTION 3. Provides that the changes in law made by this Act do not affect the validity of a credit that accrued under Subchapter S (Tax Credit for Certified Rehabilitation of Certified Historic Structures), Chapter 171, Tax Code, before the effective date of this Act. Provides that the credit continues in effect as a credit under Chapter 172, Tax Code, as transferred, redesignated, and amended by this Act.

SECTION 4. Effective date: September 1, 2023.