HB62

164932-1

By Representatives Gaston and Faulkner

RFD: Ways and Means Education

First Read: 02-FEB-16
SYNOPSIS: This bill would authorize a seven-year extension of the tax credit against the tax liability of certain taxpayers for the substantial rehabilitation of qualified structures.

A BILL TO BE ENTITLED
AN ACT

To amend Sections 40-9F-4 and 40-9F-7, Code of Alabama 1975, relating to the tax credit against the tax liability of certain taxpayers for the substantial rehabilitation of qualified structures; to authorize a seven-year extension of the tax credit.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-9F-4 and 40-9F-7, Code of Alabama 1975, are amended to read as follows:

"§40-9F-4.

"(a) The state portion of any tax credit against the tax imposed by Chapters 16 and 18, for the taxable year in
which the certified rehabilitation is placed in service, shall be equal to 25 percent of the qualified rehabilitation expenditures for certified historic structures, and shall be 10 percent of the qualified rehabilitation expenditures for qualified pre-1936 non-historic structures. No tax credit claimed for any certified rehabilitation may exceed five million dollars ($5,000,000) for all allowable property types except a certified historic residential structure, and fifty thousand dollars ($50,000) for a certified historic residential structure.

"(b) The entire tax credit may be claimed by the taxpayer in the taxable year in which the certified rehabilitation is placed in service. Where the taxes owed by the taxpayer are less than the tax credit, the taxpayer shall not be entitled to claim a refund for the difference, but any unused portion of the credit may be carried forward for up to 10 additional tax years.

"(c) For the calendar years 2013, 2014, and 2015, 2016, 2017, 2018, 2019, 2020, 2021, and 2022, the aggregate amount of all tax credits that may be reserved in any one of such years by the commission upon certification of rehabilitation plans under subsection (c) of Section 40-9F-3 shall not exceed twenty million dollars ($20,000,000) plus any amount of previous reservations of tax credits that were rescinded under subsection (c) of Section 40-9F-3 during the tax year. However, if all of the allowable tax credit amount for any tax year is not requested and reserved, any unreserved
tax credits may be utilized by the commission in awarding tax
credits in subsequent years; provided, however, that in no
event shall a total of more than sixty million dollars
($60,000,000) be reserved by the commission during the period
of May 15, 2013, through May 16, 2016. For purposes of this
chapter, "tax year" shall mean the calendar year.

"(d) Tax credits granted to a partnership, a limited
liability company or multiple owners of a property shall be
passed through to the partners, members, or owners (including
any not-for-profit entity that is a partner, member, or owner)
respectively pro rata or pursuant to an executed agreement
among the partners, members, or owners documenting an
alternate distribution method without regard to their sharing
of other tax or economic attributes of the entity. The tax
credit certificate shall contain a section to be completed by
the owner that provides the percentage or amount of credit
that will be allocated to each partner, member, or owner, and
such completed certificate may be provided to the department
to transfer all or any portion of the tax credits passed
through to the partner, member, or owner in accordance with
subsection (e).

"(e) All or any portion of the tax credits under
this section and Sections 40-9F-3 and 40-9F-5 shall be
transferable and assignable, subject to any notice and
verification requirements to be determined by the department,
without the requirement of transferring any ownership interest
in the qualified structure or any interest in the entity which
owns the qualified structure. However, once a credit is transferred, only the transferee may utilize such credit and the credit cannot be transferred again. A transferee of the tax credits may use the amount of tax credits transferred to offset any state tax due under Chapters 16 and 18 of Title 40. The department shall promulgate a form transfer statement to be filed by the transferor with the department prior to the purported transfer of any credit issued under this chapter. The transfer statement form shall include the name and federal taxpayer identification number of the transferor and each transferee listed therein along with the amount of the tax credit to be transferred to each transferee listed on the form. The transfer statement form shall also contain such other information as the department may from time to time reasonably require. For each transfer, the transferor shall file (1) a completed transfer statement form; (2) a copy of the tax credit certificate issued by the commission documenting the amount of tax credits which the transferor intends to transfer; (3) a copy of the proposed written transfer agreement; and (4) a transfer fee payable to the department in the amount of one thousand dollars ($1,000) per transferee listed on the transfer statement form. The transferor shall file with the department a fully executed copy of the written transfer agreement with each transferee within 30 days after the completed transfer. Filing of the written transfer agreement with the department shall perfect such transfer with respect to such transferee. Within 30 days
after the department's receipt of the fully executed written
transfer agreement, the department shall issue a tax credit
certificate to each transferee listed in such agreement in the
amount of the tax credit so transferred. Such certificate
shall be used by the transferee in claiming the tax credit
pursuant to Section 40-9F-3(e) and (f). The department may
promulgate such additional rules as are necessary to permit
verification of the ownership of the tax credits but shall not
promulgate any rules which unduly restrict or hinder the
transfer of the tax credits.

"§40-9F-7.

"The tax credits authorized by this chapter for the
substantial rehabilitation of qualified structures shall not
be available to owners of qualified structures that submit an
application and rehabilitation plan after May 15, 2016 2023.
No action or inaction on the part of the Legislature shall
reduce or suspend the tax credits authorized by this chapter
in any past or future calendar year with respect to a
qualified structure if the owner thereof submits an
application and rehabilitation plan with the commission and
the commission reserves an allocation for a tax credit on or
prior to May 15, 2016 2023, even if the qualified structure is
placed into service after May 15, 2016 2023, and shall not
affect the owner of a qualified structure if the commission
has reserved an allocation for a tax credit on or prior to May
15, 2016 2023."
Section 2. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law and shall be effective for tax years beginning on or after January 1, 2016.