

1 HB214
2 164932-2
3 By Representatives Gaston, Buskey, McMillan, Boothe, Poole,
4 Garrett, Collins, Todd, Tuggle, Chesteen, Henry, Rogers,
5 Williams (P), Ford and Baker
6 RFD: Ways and Means Education
7 First Read: 10-MAR-15

1 thousand dollars (\$50,000) for a certified historic
2 residential structure.

3 "(b) The entire tax credit may be claimed by the
4 taxpayer in the taxable year in which the certified
5 rehabilitation is placed in service. Where the taxes owed by
6 the taxpayer are less than the tax credit, the taxpayer shall
7 not be entitled to claim a refund for the difference, but any
8 unused portion of the credit may be carried forward for up to
9 10 additional tax years.

10 Each recipient of this tax credit program shall
11 submit a report to the House Ways and Means Education
12 Committee in the year the credit was received and subsequent
13 annual reports for the life of this act. At a minimum, the
14 report shall outline the following: The amount of credit that
15 was received and the address of the property for which this
16 credit was granted. If the tax credit was sold to a third
17 party, the report shall also include the price at which the
18 credit was sold.

19 "(c) For the calendar years 2013, 2014, ~~and~~ 2015,
20 2016, 2017, 2018, 2019, 2020, 2021, and 2022, the aggregate
21 amount of all tax credits that may be reserved in any one of
22 such years by the commission upon certification of
23 rehabilitation plans under subsection (c) of Section 40-9F-3
24 shall not exceed twenty million dollars (\$20,000,000) plus any
25 amount of previous reservations of tax credits that were
26 rescinded under subsection (c) of Section 40-9F-3 during the
27 tax year. However, if all of the allowable tax credit amount

1 for any tax year is not requested and reserved, any unreserved
2 tax credits may be utilized by the commission in awarding tax
3 credits in subsequent years; ~~provided, however, that in no~~
4 ~~event shall a total of more than sixty million dollars~~
5 ~~(\$60,000,000) be reserved by the commission during the period~~
6 ~~of May 15, 2013, through May 16, 2016.~~ For purposes of this
7 chapter, "tax year" shall mean the calendar year.

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

23 "(e) All or any portion of the tax credits under
24 this section and Sections 40-9F-3 and 40-9F-5 shall be
25 transferable and assignable, subject to any notice and
26 verification requirements to be determined by the department,
27 without the requirement of transferring any ownership interest

1 in the qualified structure or any interest in the entity which
2 owns the qualified structure. However, once a credit is
3 transferred, only the transferee may utilize such credit and
4 the credit cannot be transferred again. A transferee of the
5 tax credits may use the amount of tax credits transferred to
6 offset any state tax due under Chapters 16 and 18 of Title 40.
7 The department shall promulgate a form transfer statement to
8 be filed by the transferor with the department prior to the
9 purported transfer of any credit issued under this chapter.
10 The transfer statement form shall include the name and federal
11 taxpayer identification number of the transferor and each
12 transferee listed therein along with the amount of the tax
13 credit to be transferred to each transferee listed on the
14 form. The transfer statement form shall also contain such
15 other information as the department may from time to time
16 reasonably require. For each transfer, the transferor shall
17 file (1) a completed transfer statement form; (2) a copy of
18 the tax credit certificate issued by the commission
19 documenting the amount of tax credits which the transferor
20 intends to transfer; (3) a copy of the proposed written
21 transfer agreement; and (4) a transfer fee payable to the
22 department in the amount of one thousand dollars (\$1,000) per
23 transferee listed on the transfer statement form. The
24 transferor shall file with the department a fully executed
25 copy of the written transfer agreement with each transferee
26 within 30 days after the completed transfer. Filing of the
27 written transfer agreement with the department shall perfect

1 such transfer with respect to such transferee. Within 30 days
2 after the department's receipt of the fully executed written
3 transfer agreement, the department shall issue a tax credit
4 certificate to each transferee listed in such agreement in the
5 amount of the tax credit so transferred. Such certificate
6 shall be used by the transferee in claiming the tax credit
7 pursuant to Section 40-9F-3(e) and (f). The department may
8 promulgate such additional rules as are necessary to permit
9 verification of the ownership of the tax credits but shall not
10 promulgate any rules which unduly restrict or hinder the
11 transfer of the tax credits.

12 "§40-9F-7.

13 "The tax credits authorized by this chapter for the
14 substantial rehabilitation of qualified structures shall not
15 be available to owners of qualified structures that submit an
16 application and rehabilitation plan after May 15, ~~2016~~ 2023.
17 No action or inaction on the part of the Legislature shall
18 reduce or suspend the tax credits authorized by this chapter
19 in any past or future calendar year with respect to a
20 qualified structure if the owner thereof submits an
21 application and rehabilitation plan with the commission and
22 the commission reserves an allocation for a tax credit on or
23 prior to May 15, ~~2016~~ 2023, even if the qualified structure is
24 placed into service after May 15, ~~2016~~ 2023, and shall not
25 affect the owner of a qualified structure if the commission
26 has reserved an allocation for a tax credit on or prior to May
27 15, ~~2016~~ 2023."

1 Section 2. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law and shall be effective
4 for tax years beginning on or after January 1, 2016.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Ways and Means
Education..... 10-MAR-15

Read for the second time and placed
on the calendar 1 amendment 09-APR-15

Read for the third time and passed
as amended..... 28-APR-15

Yeas 98, Nays 0, Abstains 0

Jeff Woodard
Clerk