

1 HB214  
2 164932-1  
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

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8 SYNOPSIS: This bill would authorize a seven-year  
9 extension of the tax credit against the tax  
10 liability of certain taxpayers for the substantial  
11 rehabilitation of qualified structures.

12  
13 A BILL  
14 TO BE ENTITLED  
15 AN ACT  
16

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

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

25 "§40-9F-4.

26 "(a) The state portion of any tax credit against the  
27 tax imposed by Chapters 16 and 18, for the taxable year in

1 which the certified rehabilitation is placed in service, shall  
2 be equal to 25 percent of the qualified rehabilitation  
3 expenditures for certified historic structures, and shall be  
4 10 percent of the qualified rehabilitation expenditures for  
5 qualified pre-1936 non-historic structures. No tax credit  
6 claimed for any certified rehabilitation may exceed five  
7 million dollars (\$5,000,000) for all allowable property types  
8 except a certified historic residential structure, and fifty  
9 thousand dollars (\$50,000) for a certified historic  
10 residential structure.

11 "(b) The entire tax credit may be claimed by the  
12 taxpayer in the taxable year in which the certified  
13 rehabilitation is placed in service. Where the taxes owed by  
14 the taxpayer are less than the tax credit, the taxpayer shall  
15 not be entitled to claim a refund for the difference, but any  
16 unused portion of the credit may be carried forward for up to  
17 10 additional tax years.

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25 rescinded under subsection (c) of Section 40-9F-3 during the  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

1 tax credits may be utilized by the commission in awarding tax  
2 credits in subsequent years; ~~provided, however, that in no~~  
3 ~~event shall a total of more than sixty million dollars~~  
4 ~~(\$60,000,000) be reserved by the commission during the period~~  
5 ~~of May 15, 2013, through May 16, 2016.~~ For purposes of this  
6 chapter, "tax year" shall mean the calendar year.

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

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

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

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

11 "§40-9F-7.

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