SB230

164932-1

By Senators Waggoner, Smitherman, Allen, Coleman-Madison, Blackwell, Sanford, Marsh, Livingston, Ward, Scofield, Dial, Chambliss, Albritton, Melson, Glover, Reed, Brewbaker, Whatley, Holley, Figures, Williams, Stutts, Holtzclaw, Dunn, Hightower, Smith, Beasley, Ross, Bussman, McClendon, Singleton and Sanders

RFD: Finance and Taxation Education

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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shall not exceed twenty million dollars ($20,000,000) plus any amount of previous reservations of tax credits that were rescinded under subsection (c) of Section 40-9F-3 during the tax year.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.