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3 SENATE FINANCE AND TAXATION EDUCATION COMMITTEE AMENDMENT TO
4 HB281

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9 On page 1, lines 10 and 16, after "Sections" insert
10 the following:

11 40-9F-32,

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13 On page 1, line 10, after "1975," insert the
14 following:

15 to revise audit requirements;

16
17 On page 1, line 12, delete "commercial" and insert
18 in lieu thereof:

19 certain

20
21 On page 1, after line 17, insert the following:

22 "§40-9F-32.

23 (a) The commission shall develop standards for the
24 approval of the substantial rehabilitation of qualified
25 structures for which a tax credit is sought. The standards
26 shall take into account whether the substantial rehabilitation
27 of a qualified structure is consistent with the historic

1 character of the structure or of the Registered Historic
2 District in which the property is located and, for tax years
3 2023 through 2027, the proposed end use of the qualified
4 structure following rehabilitation.

5 (b) Prior to beginning any substantial
6 rehabilitation work on a qualified structure, the owner shall
7 submit an application and rehabilitation plan to the
8 commission and an estimate of the qualified rehabilitation
9 expenditures under the rehabilitation plan; provided, however,
10 that the owner, at its own risk, may incur qualified
11 rehabilitation expenditures no earlier than six months prior
12 to the submission of the application and rehabilitation plan
13 that are limited to architectural, engineering, and land
14 surveying fees and related soft costs and any costs related to
15 the protection of the qualified structure from deterioration.

16 (c) The commission shall review the application and
17 rehabilitation plan to determine that the information
18 contained therein is complete. If the commission determines
19 that the application and rehabilitation plan are complete, the
20 commission shall recommend the project to the committee for
21 the reservation of a tax credit. If the project is approved
22 for a tax credit by the committee, the commission shall
23 reserve, for the benefit of the owner, an allocation for a tax
24 credit as provided in Section 40-9F-33, and the commission
25 shall notify the owner in writing of the amount of the
26 reservation. The reservation of tax credits does not entitle
27 the owner to an issuance of tax credits until the owner

1 complies with all other requirements of this article for the
2 issuance of the tax credits. The reservation of tax credits
3 shall be made by the commission in the order in which the
4 committee has ranked completed applications and rehabilitation
5 plans. Reservations of tax credits shall be issued by the
6 commission within a reasonable time from the filing of a
7 completed application and rehabilitation plan. Only the
8 property for which a property address, legal description, or
9 other specific location is provided in the application shall
10 be reviewed. Ownership of an entity that is the owner of
11 property contained in the application shall not be a factor in
12 the commission's review of the application and no subsequent
13 change in the ownership structure of such entity shall result
14 in the loss or rescission of a reservation of tax credits. The
15 owner shall not be permitted to request the review of another
16 property for approval in the place of the property contained
17 in the application. Any application disapproved by the
18 commission or the committee shall be removed from the review
19 process, and the commission shall notify the owner in writing
20 of the decision to remove the application. A disapproved
21 application may be resubmitted, but shall be deemed to be a
22 new submission and may be charged a new application fee. In
23 the event the reservations of tax credits equal the total
24 amount available for reservations during the tax year, all
25 owners with applications then awaiting approval or thereafter
26 submitted shall be notified by the commission that no
27 additional tax credits shall be granted during that tax year.

1 The applications shall remain in active status from the date
2 of the original application and shall be considered for
3 recommendations of tax credits in the event that additional
4 credits become available due to rescission by the commission
5 or when a new tax year's allocation of tax credits becomes
6 available.

7 Owners receiving a reservation of tax credits shall
8 commence rehabilitation, if rehabilitation has not previously
9 begun, within 18 months of the date of issuance of the written
10 notice from the commission to the owner granting the tax
11 credits. Commencement of rehabilitation shall mean that, as of
12 the date in which actual physical work contemplated by the
13 rehabilitation plan submitted with the application has begun,
14 the owner has incurred no less than 20 percent of the
15 estimated costs of rehabilitation provided in the application.
16 Within 36 months of the date of issuance of the written notice
17 from the commission to the owner granting the tax credit
18 reservation, the owner must have incurred an additional 50
19 percent of the estimated costs of rehabilitation provided in
20 the application. Within 60 months of the date of issuance of
21 the written notice from the commission to the owner granting
22 the tax credit reservation, the project must be completed.
23 Owners receiving a reservation of tax credits shall submit
24 evidence of compliance with the provisions of this subsection.
25 If the commission determines that an owner has failed to
26 comply with the requirements provided under this section, the
27 reservation of tax credits for the owner may be rescinded and,

1 if so, the amount of tax credits shall then be included in the
2 total amount of available tax credits provided for in
3 subsection (c) of Section 40-9F-33, from which reservations
4 may be granted. Any owner whose reservation of tax credits is
5 rescinded shall be notified of the rescission from the
6 commission and, upon receipt of the notice, may submit a new
7 application but may be charged a new application fee.

8 (d) Following the completion of a substantial
9 rehabilitation of a qualified structure, the owner shall
10 notify the commission that the substantial rehabilitation has
11 been completed and shall certify the qualified rehabilitation
12 expenditures incurred with respect to the rehabilitation plan.
13 In addition, the owner shall provide the commission with: (i)
14 a cost and expense certification, prepared by a licensed
15 certified public accountant that is not an affiliate of the
16 owner, certifying the total qualified rehabilitation
17 expenditures and the total amount of tax credits against any
18 state tax due that is specified in this article for which the
19 owner is eligible under Section 40-9F-33 and, if the qualified
20 rehabilitation expenditures exceed two hundred thousand
21 dollars (\$200,000), the cost and expense certification must be
22 audited by the licensed certified public accountant; and (ii)
23 an appraisal of the qualified structure prepared by an
24 independent MAI designated and licensed real estate appraiser.
25 The commission shall review the documentation of the
26 rehabilitation and verify its compliance with the
27 rehabilitation plan. The commission shall also review the

1 content of the cost and expense certification as well as the
2 appraisal to ensure compliance with standards adopted by rule
3 of the commission. Within 90 days after receipt and approval
4 of the foregoing documentation from the owner, the commission
5 shall issue a tax credit certificate in an amount equivalent
6 to the lesser of: (i) the amount of the tax credit reservation
7 issued for the project under the provisions of subsection (c),
8 or (ii) 25 percent of the actual qualified rehabilitation
9 expenditures for certified historic structures. In the event
10 the amount of qualified rehabilitation expenditures incurred
11 by the owner would result in the issuance of an amount of tax
12 credits in excess of the amount of tax credits reserved for
13 the owner under subsection (c), the owner may apply to the
14 commission for issuance of tax credits in an amount equal to
15 the excess. Applications for issuance of tax credits in excess
16 of the amount of tax credits reserved for the owner shall be
17 made on a form prescribed by the commission and shall
18 represent a separate certificate that shall be issued, subject
19 to all provisions regarding priority provided in Section
20 40-9F-38.

21 (e) In order to obtain a credit against any state
22 tax due that is specified in this article, a taxpayer shall
23 file the tax credit certificate with the taxpayer's Alabama
24 state tax return.

25 (f) The department shall grant a tax credit against
26 any state tax due that is specified in this article to a
27 taxpayer holding the tax credit certificate issued under

1 subsection (d) or, in the case of a transferee, issued by the
2 department pursuant to Section 40-9F-33 against any tax due
3 under Chapter 18 in the amount stated on the tax credit
4 certificate. The department shall have the right to audit and
5 to reassess any credit improperly obtained by the owner, in
6 accordance with the Taxpayers' Bill of Rights and the Uniform
7 Revenue Procedures contained in Chapter 2A; provided, however
8 that only the owner initially awarded the tax credit
9 certificate, and not any subsequent transferee of the tax
10 credit certificate or person to whom tax credits have been
11 passed through pursuant to Section 40-9F-33, shall be liable
12 for any credit improperly obtained by the owner.

13 (g) For processing the taxpayer's application for a
14 tax credit, the commission may impose the following
15 application fees:

16 (i) For qualified rehabilitation expenses of one
17 million dollars (\$1,000,000) or less, a fee equal to one
18 percent (1%) of the qualified rehabilitation expenditures.

19 (ii) For qualified rehabilitation expenses from one
20 million and one dollars (\$1,000,001) to ten million dollars
21 (\$10,000,000), a fee equal to fifteen thousand dollars
22 (\$15,000).

23 (iii) For qualified rehabilitation expenses over ten
24 million dollars (\$10,000,000), a fee equal to twenty thousand
25 dollars (\$20,000).

26 (iv) Any fees collected by the commission under this
27 section shall be deposited in the State Treasury to the credit

1 of the commission and all such funds are to be appropriated to
2 the commission to defray the expenses incurred in carrying out
3 this article.

4 (h) The commission shall report to the Legislature
5 in the third year following passage of this article, and
6 annually thereafter, on the overall economic activity, usage,
7 and impact to the state from the substantial rehabilitation of
8 qualified structures for which tax credits have been allowed.
9 The information in the reports shall be consistent with the
10 information required by the Legislature pursuant to, and shall
11 be provided by the commission to the Legislature in accordance
12 with, Section 40-1-50, and rules adopted thereunder.
13 Information provided pursuant to this section is exempt from
14 the confidentiality provisions of Section 40-2A-10.

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16 On page 3, line 10, after "used" insert the
17 following:

18 on a continuous basis throughout the year
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20 On page 6, line 10, after "commission" insert the
21 following:

22 "excluding historic residential properties"