

1 **COMMERCIAL HISTORIC BUILDING REHABILITATION -**
2 **CORPORATE FRANCHISE AND INCOME TAX AND**
3 **INDIVIDUAL INCOME TAX CREDITS**

4 2000 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Beverly Ann Evans**

7 AN ACT RELATING TO REVENUE AND TAXATION; PROVIDING DEFINITIONS;
8 EXPANDING THE CORPORATE FRANCHISE AND INCOME TAX AND INDIVIDUAL
9 INCOME TAX HISTORIC PRESERVATION CREDITS TO INCLUDE CREDITS FOR
10 COMMERCIAL CERTIFIED HISTORIC BUILDINGS AND COMMERCIAL QUALIFIED
11 HISTORIC BUILDINGS; DELETING THE RESIDENCY REQUIREMENT FOR THE
12 INDIVIDUAL INCOME TAX CREDIT; MAKING TECHNICAL CHANGES; AND
13 PROVIDING FOR RETROSPECTIVE OPERATION.

14 This act affects sections of Utah Code Annotated 1953 as follows:

15 AMENDS:

16 **59-7-609**, as enacted by Chapter 42, Laws of Utah 1995

17 **59-10-108.5**, as last amended by Chapter 25, Laws of Utah 1995

18 *Be it enacted by the Legislature of the state of Utah:*

19 Section 1. Section **59-7-609** is amended to read:

20 **59-7-609. Historic preservation credit.**

21 (1) As used in this section:

22 (a) "Certified historic building" means a building or structure that:

23 (i) (A) is listed on the National Register of Historic Places; or

24 (B) is listed on the National Register of Historic Places within a three-year period after a
25 taxpayer claims a credit under this section; or

26 (ii) is located in a National Register Historic District; and

27 (iii) the Division of State History has designated as being of significance to the National

28 Register Historic District.

29 (b) "Commercial certified historic building" means a commercial unit that is a certified
30 historic building.

31 (c) "Commercial qualified historic building" means a commercial unit that is a qualified
32 historic building.

33 (d) "Commercial unit" means a building or structure that is primarily used for the purpose
34 of conducting business.

35 (e) "Qualified historic building" means a building that is determined by the Division of
36 State History to meet the age and integrity requirements established by the National Register of
37 Historic Places.

38 (f) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to
39 the rehabilitation and restoration of the physical elements of a building, including:

40 (A) the historic decorative elements of the building;

41 (B) the upgrading of the structural, mechanical, electrical, or plumbing systems of the
42 building to applicable codes; or

43 (C) notwithstanding Subsection (1)(f)(ii)(E), an expenditure described in Subsection
44 (1)(f)(ii)(E)(II) or (III) if the outbuilding or secondary structure is a:

45 (I) certified historic building; or

46 (II) qualified historic building.

47 (ii) "Qualified rehabilitation expenditures" does not include:

48 (A) an expenditure related to the taxpayer's personal labor;

49 (B) an expenditure related to the cost of acquiring the property;

50 (C) an expenditure attributable to the enlargement of an existing building;

51 (D) if the rehabilitation work is not approved as provided in Subsection (2)(c), an
52 expenditure related to rehabilitation work on a:

53 (I) certified historic building; or

54 (II) qualified historic building;

55 (E) except as provided in Subsection (1)(f)(i)(C), an expenditure attributable to:

56 (I) landscaping or other site features;

57 (II) an outbuilding;

58 (III) a secondary structure; or

59 (IV) an expenditure similar to those described in Subsections (1)(f)(ii)(E)(I) through (III).

60 (g) "Residential" means a building that is:

61 (i) primarily used for residential purposes; and

62 (ii) (A) occupied by the owner of the building; or

63 (B) income producing.

64 ~~[(1)]~~ (2) (a) [For tax years beginning January 1, 1993, and thereafter, there is allowed to
65 a] ~~A~~ taxpayer subject to taxation under Section 59-7-104~~[, as a credit against the tax due,] may~~
66 claim the following nonrefundable credits as provided in this section:

67 (i) for taxable years beginning on or after January 1, 1993, an amount equal to 20% of the
68 total amount of the taxpayer's qualified rehabilitation expenditures~~[, costing more than] if the~~
69 taxpayer expends more than \$10,000~~[, incurred]~~ in connection with [any] a residential certified
70 historic building~~[. When qualifying expenditures of more than \$10,000 are incurred, the credit~~
71 allowed by this section shall apply to the full amount of expenditures.];

72 (ii) except as provided in Subsection (2)(b), for taxable years beginning on or after January
73 1, 2000, an amount equal to 20% of the total amount of the taxpayer's qualified rehabilitation
74 expenditures if the taxpayer expends more than \$10,000 in connection with a:

75 (A) commercial certified historic building; or

76 (B) commercial qualified historic building; or

77 (iii) a combination of the credits described in Subsections (2)(a)(i) and (ii).

78 (b) (i) Notwithstanding Subsection (2)(a)(ii), the maximum amount of credit that may be
79 claimed or carried forward during a six-year period is \$100,000 for all of the qualified
80 rehabilitation expenditures incurred in connection with:

81 (A) each commercial certified historic building; or

82 (B) each commercial qualified historic building.

83 (ii) A six-year period described in Subsection (2)(b)(i):

84 (A) begins on the first day of the first taxable year for which a taxpayer may claim a credit
85 under Subsection (2)(a)(ii); and

86 (B) ends six years after the date described in Subsection (2)(b)(ii)(A).

87 ~~[(b)]~~ (c) All rehabilitation work to which [the] a credit under this section may be applied
88 shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation
89 project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the [office

90 can] State Historic Preservation Office may provide corrective comments to the taxpayer in order
91 to preserve the historical qualities of the building.

92 ~~[(c) Any]~~ (d) If the amount of a tax credit [remaining] a taxpayer claims under this section
93 exceeds the taxpayer's tax liability for a taxable year, the taxpayer may [be carried] carry forward
94 [to each of the] the amount of the credit that exceeds the liability for a period that does not exceed
95 five [taxable] years following the day on which the taxpayer incurred the qualified rehabilitation
96 expenditures.

97 ~~[(d) The]~~ (e) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
98 Act, the commission, in consultation with the Division of State History, shall promulgate rules to
99 implement this section.

100 ~~[(2) As used in this section:]~~

101 ~~[(a) "Certified historic building" means a building that is listed on the National Register~~
102 ~~of Historic Places within three years of taking the credit under this section or that is located in a~~
103 ~~National Register Historic District and the building has been designated by the Division of State~~
104 ~~History as being of significance to the district.]~~

105 ~~[(b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to~~
106 ~~the rehabilitation and restoration of the physical elements of the building, including the historic~~
107 ~~decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing~~
108 ~~systems to applicable codes.]~~

109 ~~[(ii) "Qualified rehabilitation expenditures" does not include expenditures related to:]~~

110 ~~[(A) the taxpayer's personal labor;]~~

111 ~~[(B) cost of acquisition of the property;]~~

112 ~~[(C) any expenditure attributable to the enlargement of an existing building;]~~

113 ~~[(D) rehabilitation of a certified historic building without the approval required in~~

114 ~~Subsection (1)(b); or]~~

115 ~~[(E) any expenditure attributable to landscaping and other site features, outbuildings,~~
116 ~~garages, and related features.]~~

117 ~~[(c) "Residential" means a building used for residential use, either owner occupied or~~
118 ~~income producing.]~~

119 Section 2. Section **59-10-108.5** is amended to read:

120 **59-10-108.5. Historic preservation credit.**

- 121 (1) As used in this section:
- 122 (a) "Certified historic building" means a building or structure that:
- 123 (i) (A) is listed on the National Register of Historic Places; or
- 124 (B) is listed on the National Register of Historic Places within a three-year period after a
- 125 taxpayer claims a credit under this section; or
- 126 (ii) is located in a National Register Historic District; and
- 127 (iii) the Division of State History has designated as being of significance to the National
- 128 Register Historic District.
- 129 (b) "Commercial certified historic building" means a commercial unit that is a certified
- 130 historic building.
- 131 (c) "Commercial qualified historic building" means a commercial unit that is a qualified
- 132 historic building.
- 133 (d) "Commercial unit" means a building or structure that is primarily used for the purpose
- 134 of conducting business.
- 135 (e) "Qualified historic building" means a building that is determined by the Division of
- 136 State History to meet the age and integrity requirements established by the National Register of
- 137 Historic Places.
- 138 (f) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to
- 139 the rehabilitation and restoration of the physical elements of a building, including:
- 140 (A) the historic decorative elements of the building;
- 141 (B) the upgrading of the structural, mechanical, electrical, or plumbing systems of the
- 142 building to applicable codes; or
- 143 (C) notwithstanding Subsection (1)(f)(ii)(E), an expenditure described in Subsection
- 144 (1)(f)(ii)(E)(II) or (III) if the outbuilding or secondary structure is a:
- 145 (I) certified historic building; or
- 146 (II) qualified historic building.
- 147 (ii) "Qualified rehabilitation expenditures" does not include:
- 148 (A) an expenditure related to the taxpayer's personal labor;
- 149 (B) an expenditure related to the cost of acquiring the property;
- 150 (C) an expenditure attributable to the enlargement of an existing building;
- 151 (D) if the rehabilitation work is not approved as provided in Subsection (2)(c), an

152 expenditure related to rehabilitation work on a:

153 (I) certified historic building; or

154 (II) qualified historic building; or

155 (E) except as provided in Subsection (1)(f)(i)(C), an expenditure attributable to:

156 (I) landscaping or other site features;

157 (II) an outbuilding;

158 (III) a secondary structure; or

159 (IV) an expenditure similar to those described in Subsections (1)(f)(ii)(E)(I) through (III).

160 (g) "Residential" means a building that is:

161 (i) primarily used for residential purposes; and

162 (ii) (A) occupied by the owner of the building; or

163 (B) income producing.

164 ~~[(1)]~~ (2) (a) [For tax years beginning January 1, 1993, and thereafter, there is allowed to
165 resident individuals, as a credit against the income tax due] A taxpayer may claim the following
166 nonrefundable credits as provided in this section:

167 (i) for taxable years beginning on or after January 1, 1993, an amount equal to 20% of the
168 total amount of the taxpayer's qualified rehabilitation expenditures~~[, costing more than]~~ if a
169 taxpayer expends more than \$10,000~~[, incurred]~~ in connection with [any] a residential certified
170 historic building~~[. When qualifying expenditures of more than \$10,000 are incurred, the credit~~
171 allowed by this section shall apply to the full amount of expenditures.];

172 (ii) except as provided in Subsection (2)(b), for taxable years beginning on or after January
173 1, 2000, an amount equal to 20% of the total amount of the taxpayer's qualified rehabilitation
174 expenditures if the taxpayer expends more than \$10,000 in connection with a:

175 (A) commercial certified historic building; or

176 (B) commercial qualified historic building; or

177 (iii) a combination of the credits described in Subsections (2)(a)(i) and (ii).

178 (b) (i) Notwithstanding Subsection (2)(a)(ii), the maximum amount of credit that may be
179 claimed or carried forward during a six-year period is \$100,000 for all of the qualified
180 rehabilitation expenditures incurred in connection with:

181 (A) each commercial certified historic building; or

182 (B) each commercial qualified historic building.

183 (ii) A six-year period described in Subsection (2)(b)(i):
 184 (A) begins on the first day of the first taxable year for which a taxpayer may claim a credit
 185 under Subsection (2)(a)(ii); and

186 (B) ends six years after the date described in Subsection (2)(b)(ii)(A).

187 ~~[(b)]~~ (c) All rehabilitation work to which [the] a credit under this section may be applied
 188 shall be approved by the State Historic Preservation Office prior to completion of the
 189 rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that
 190 the [office can] State Historic Preservation Office may provide corrective comments to the
 191 taxpayer in order to preserve the historical qualities of the building.

192 ~~[(c) Any]~~ (d) If the amount of a tax credit [remaining] a taxpayer claims under this section
 193 exceeds the taxpayer's tax liability for a taxable year, the taxpayer may [be carried] carry forward
 194 [to each of the] the amount of the credit that exceeds the liability for a period that does not exceed
 195 five [taxable] years following the day on which the taxpayer incurred the qualified rehabilitation
 196 expenditures.

197 ~~[(d) The]~~ (e) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
 198 Act, the commission, in consultation with the Division of State History, shall promulgate rules to
 199 implement this section.

200 ~~[(2) As used in this section:]~~

201 ~~[(a) "Certified historic building" means a building that is listed on the National Register~~
 202 ~~of Historic Places within three years of taking the credit under this section or that is located in a~~
 203 ~~National Register Historic District and the building has been designated by the Division of State~~
 204 ~~History as being of significance to the district.]~~

205 ~~[(b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to~~
 206 ~~the rehabilitation and restoration of the physical elements of the building, including the historic~~
 207 ~~decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing~~
 208 ~~systems to applicable codes.]~~

209 ~~[(ii) "Qualified rehabilitation expenditures" does not include expenditures related to:]~~

210 ~~[(A) the taxpayer's personal labor;]~~

211 ~~[(B) cost of acquisition of the property;]~~

212 ~~[(C) any expenditure attributable to the enlargement of an existing building;]~~

213 ~~[(D) rehabilitation of a certified historic building without the approval required in~~

214 Subsection (1)(b); or]

215 [~~(E) any expenditure attributable to landscaping and other site features, outbuildings,~~
216 ~~garages, and related features.]~~

217 [~~(c) "Residential" means a building used for residential use, either owner occupied or~~
218 ~~income producing.]~~

219 Section 3. **Retrospective operation.**

220 This act has retrospective operation for taxable years beginning on or after January 1, 2000.

Legislative Review Note
as of 1-11-00 3:51 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel