

HISTORIC BUILDING REHABILITATION

TAX CREDITS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Chad E. Bennion

This act amends the Individual Income Tax Act and the Corporate Franchise and Income Taxes Act to expand the corporate franchise and income tax and individual income tax historic building rehabilitation tax credits to include credits for commercial certified historic buildings and commercial qualified historic buildings. The act deletes a requirement that a taxpayer reside in the state to be eligible for a tax credit. This act provides definitions and makes technical changes. The act has retrospective operation for taxable years beginning on or after January 1, 2002.

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

AMENDS:

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

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

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

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

59-7-609. Historic building rehabilitation tax credit.

(1) As used in this section:

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

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

(B) is listed on the National Register of Historic Places within a three-year period after a

taxpayer claims a credit under this section;

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

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

Register Historic District.



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

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

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

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

37 (f) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to
38 the rehabilitation of the physical elements of a building, as determined by the State Historic
39 Preservation Office, 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" do 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; or

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 certified historic building" means a certified historic 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 [Section 59-7-104, as a credit against the tax due, an amount] taxation~~

66 ~~under this chapter may claim the following nonrefundable tax credits against the taxes imposed~~

67 ~~by this chapter as provided in this section:~~

68 (i) for taxable years beginning on or after January 1, 1993, a tax credit equal to 20% of the

69 total amount of the taxpayer's qualified rehabilitation expenditures~~[- costing more than] if the~~

70 taxpayer expends more than \$10,000~~[- incurred]~~ in connection with [any] a residential certified

71 historic building~~[- When qualifying expenditures of more than \$10,000 are incurred, the credit~~

72 allowed by this section shall apply to the full amount of expenditures.];

73 (ii) except as provided in Subsection (2)(b), for taxable years beginning on or after January

74 1, 2002, a tax credit equal to 20% of the total amount of the taxpayer's qualified rehabilitation

75 expenditures if the taxpayer expends more than \$10,000 for all of the qualified rehabilitation

76 expenditures incurred in connection with each:

77 (A) commercial certified historic building; or

78 (B) commercial qualified historic building; or

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

80 (b) (i) Notwithstanding Subsection (2)(a)(ii), the maximum amount of tax credit that a

81 taxpayer may claim or carry forward during a six-year period is \$100,000 for all of the qualified

82 rehabilitation expenditures incurred in connection with each:

83 (A) commercial certified historic building; or

84 (B) commercial qualified historic building.

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

86 (A) begins on the first day of the first taxable year for which a taxpayer may claim a tax

87 credit under Subsection (2)(a)(ii); and

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

89 ~~[(b)] (c) All rehabilitation work to which [the] a tax credit under this section may be~~

90 applied shall be approved by the State Historic Preservation Office prior to completion of the
91 rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that
92 the ~~[office can]~~ State Historic Preservation Office may provide corrective comments to the
93 taxpayer in order to preserve the historical qualities of the building.

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

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

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

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

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

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

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

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

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

115 ~~[(D) rehabilitation of a certified historic building without the approval required in~~
116 ~~Subsection (1)(b); or]~~

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

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

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

122 **59-10-108.5. Historic building rehabilitation tax credit.**

123 (1) As used in this section:

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

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

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

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

129 (iii) the Division of State History has designated as being of significance to the National
130 Register Historic District.

131 (b) "Commercial certified historic building" means a commercial unit that is a certified
132 historic building.

133 (c) "Commercial qualified historic building" means a commercial unit that is a qualified
134 historic building.

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

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

140 (f) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to
141 the rehabilitation and restoration of the physical elements of a building, as determined by the State
142 Historic Preservation Office, including:

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

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

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

148 (I) certified historic building; or

149 (II) qualified historic building.

150 (ii) "Qualified rehabilitation expenditures" do not include:

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

- 152 (B) an expenditure related to the cost of acquiring the property;
 153 (C) an expenditure attributable to the enlargement of an existing building;
 154 (D) if the rehabilitation work is not approved as provided in Subsection (2)(c), an
 155 expenditure related to rehabilitation work on a:
 156 (I) certified historic building; or
 157 (II) qualified historic building; or
 158 (E) except as provided in Subsection (1)(f)(i)(C), an expenditure attributable to:
 159 (I) landscaping or other site features;
 160 (II) an outbuilding;
 161 (III) a secondary structure; or
 162 (IV) an expenditure similar to those described in Subsections (1)(f)(ii)(E)(I) through (III).
 163 (g) "Residential certified historic building" means a certified historic building that is:
 164 (i) primarily used for residential purposes; and
 165 (ii) (A) occupied by the owner of the building; or
 166 (B) income producing.
- 167 ~~[(1)(a)]~~ (2) For ~~[tax]~~ taxable years beginning on or after January 1, 1993, ~~[and thereafter]~~
 168 but beginning on or before December 31, 2001, there is allowed to resident individuals, as a tax
 169 credit against the income tax due, an amount equal to 20% of qualified rehabilitation expenditures,
 170 costing more than \$10,000, incurred in connection with [any] a residential certified historic
 171 building. When qualifying expenditures of more than \$10,000 are incurred, the tax credit allowed
 172 by this section shall apply to the full amount of expenditures.
- 173 (3) (a) For taxable years beginning on or after January 1, 2002, a taxpayer subject to
 174 taxation under this chapter may claim the following nonrefundable tax credits against the taxes
 175 imposed by this chapter as provided in this section:
 176 (i) an amount equal to 20% of the total amount of the taxpayer's qualified rehabilitation
 177 expenditures if a taxpayer expends more than \$10,000 in connection with a residential certified
 178 historic building;
 179 (ii) except as provided in Subsection (3)(b), a tax credit equal to 20% of the total amount
 180 of the taxpayer's qualified rehabilitation expenditures if the taxpayer expends more than \$10,000
 181 in connection with a:
 182 (A) commercial certified historic building; or

183 (B) commercial qualified historic building; or
184 (iii) a combination of the tax credits described in Subsections (3)(a)(i) and (ii).

185 (b) (i) Notwithstanding Subsection (3)(a)(ii), the maximum amount of tax credit that a
186 taxpayer may claim or carry forward during a six-year period is \$100,000 for all of the qualified
187 rehabilitation expenditures incurred in connection with each:

188 (A) commercial certified historic building; or

189 (B) commercial qualified historic building.

190 (ii) A six-year period described in Subsection (3)(b)(i):

191 (A) begins on the first day of the first taxable year for which a taxpayer may claim a tax
192 credit under Subsection (3)(a)(ii); and

193 (B) ends six years after the date described in Subsection (3)(b)(ii)(A).

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

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

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

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

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

212 ~~[(b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to~~
213 ~~the rehabilitation and restoration of the physical elements of the building, including the historic~~

214 ~~decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing~~
215 ~~systems to applicable codes.]~~

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

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

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

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

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

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

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

224 ~~[(e) "Residential" means a building used for residential use, either owner occupied or~~
225 ~~income producing.]~~

226 Section 3. **Retrospective operation.**

227 This act has retrospective operation for taxable years beginning on or after January 1, 2002.

Legislative Review Note

as of 1-24-02 5:34 PM

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

Office of Legislative Research and General Counsel