

Representative Timothy D. Hawkes proposes the following substitute bill:

HISTORIC REHABILITATION TAX CREDIT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derrin R. Owens

House Sponsor: Timothy D. Hawkes

LONG TITLE

General Description:

This bill modifies the tax credit related to expenditures for rehabilitating a historic building.

Highlighted Provisions:

This bill:

- ▶ allows a taxpayer to claim a tax credit for rehabilitation expenditures made for certain historic commercial buildings;
- ▶ provides that a person may assign all or a portion of a historic rehabilitation tax credit; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

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

59-10-1006, as renumbered and amended by Laws of Utah 2006, Chapter 223



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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 rehabilitation credit.

(1) (a) ~~[For tax years beginning January 1, 1993, and thereafter, there is allowed to a taxpayer subject]~~ Subject to Section 59-7-104, a taxpayer may claim as a credit against the tax due, an amount equal to 20% of qualified rehabilitation expenditures, costing more than \$10,000, incurred in connection with any residential or commercial certified historic building. When qualifying expenditures of more than \$10,000 are incurred, the credit allowed by this section shall apply to the full amount of expenditures.

(b) All rehabilitation work to which the credit may be applied shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can provide corrective comments to the taxpayer in order to preserve the historical qualities of the building.

(c) Subject to Subsection (1)(d):

(i) a taxpayer may assign all or a portion of a tax credit under this section;

(ii) a person to whom another person assigns all or a portion of a tax credit under this section may assign all or a portion of the tax credit to which the person is entitled; and

(iii) there is no limit on the number of transactions for the assignment of all or a portion of a tax credit under this section.

(d) A person who assigns all or a portion of a tax credit under this section shall provide written notice to the State Historic Preservation Office that includes:

(i) the amount of tax credit assigned;

(ii) the assignor's written certification or other proof that the assignor irrevocably elects not to claim the value of the tax credit assigned to another person;

(iii) the assignee's contact information; and

(iv) any other information the State Historic Preservation Office requests.

(e) The State Historic Preservation Office shall annually provide an electronic list to the commission that includes:

(i) (A) the name and identifying information for each taxpayer for whom the State Historic Preservation Office approves qualified rehabilitation expenditures; and

57 (B) each person to whom all or a portion of a tax credit is assigned under this section;
58 and

59 (ii) for each person described in Subsection (1)(e)(i), the amount of the person's
60 approved qualified rehabilitation expenditures or the value of the tax credit to which the person
61 is entitled.

62 ~~[(e)]~~ (f) Any amount of credit remaining may be carried forward to each of the five
63 taxable years following the qualified expenditures.

64 ~~[(d)]~~ (g) The commission, in consultation with the Division of State History, shall
65 promulgate rules to implement this section.

66 (2) As used in this section:

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

71 (b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable
72 to the rehabilitation and restoration of the physical elements of the building, including the
73 historic decorative elements, and the upgrading of the structural, mechanical, electrical, and
74 plumbing systems to applicable codes.

75 (ii) "Qualified rehabilitation expenditures" does not include expenditures related to:

76 (A) the taxpayer's personal labor;

77 (B) cost of acquisition of the property;

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

79 (D) rehabilitation of a certified historic building without the approval required in
80 Subsection (1)(b); or

81 (E) any expenditure attributable to landscaping and other site features, outbuildings,
82 garages, and related features.

83 (c) "Residential" means a building used for residential use, either owner occupied or
84 income producing.

85 Section 2. Section **59-10-1006** is amended to read:

86 **59-10-1006. Historic rehabilitation tax credit.**

87 (1) (a) ~~[For tax years beginning January 1, 1993, and thereafter, there is allowed to a]~~ A

88 claimant, estate, or trust, may claim as a nonrefundable tax credit against the income tax due,
89 an amount equal to 20% of qualified rehabilitation expenditures, costing more than \$10,000,
90 incurred in connection with any residential or commercial certified historic building. When
91 qualifying expenditures of more than \$10,000 are incurred, the tax credit allowed by this
92 section shall apply to the full amount of expenditures.

93 (b) All rehabilitation work to which the tax credit may be applied shall be approved by
94 the State Historic Preservation Office prior to completion of the rehabilitation project as
95 meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can
96 provide corrective comments to the claimant, estate, or trust in order to preserve the historical
97 qualities of the building.

98 (c) Subject to Subsection (1)(d):

99 (i) a claimant, estate, or trust may assign all or a portion of a tax credit under this
100 section;

101 (ii) a person to whom another person assigns all or a portion of a tax credit under this
102 section may assign all or a portion of the tax credit to which the person is entitled; and

103 (iii) there is no limit on the number of transactions for the assignment of all or a
104 portion of a tax credit under this section.

105 (d) A person who assigns all or a portion of a tax credit under this section shall provide
106 written notice to the State Historic Preservation Office that includes:

107 (i) the amount of tax credit assigned;

108 (ii) the assignor's written certification or other proof that the assignor irrevocably elects
109 not to claim the value of the tax credit assigned to another person;

110 (iii) the assignee's contact information; and

111 (iv) any other information the State Historic Preservation Office requests.

112 (e) The State Historic Preservation Office shall annually provide an electronic list to
113 the commission that includes:

114 (i) (A) the name and identifying information for each claimant, estate, or trust for
115 whom the State Historic Preservation Office approves qualified rehabilitation expenditures;

116 and

117 (B) each person to whom all or a portion of a tax credit is assigned under this section;

118 and

119 (ii) for each person described in Subsection (1)(e)(i), the amount of the person's
120 approved qualified rehabilitation expenditures or the value of the tax credit to which the person
121 is entitled.

122 [~~(f)~~] (f) Any amount of tax credit remaining may be carried forward to each of the five
123 taxable years following the qualified expenditures.

124 [~~(g)~~] (g) The commission, in consultation with the Division of State History, shall
125 promulgate rules to implement this section.

126 (2) As used in this section:

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

131 (b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable
132 to the rehabilitation and restoration of the physical elements of the building, including the
133 historic decorative elements, and the upgrading of the structural, mechanical, electrical, and
134 plumbing systems to applicable codes.

135 (ii) "Qualified rehabilitation expenditures" does not include expenditures related to:

136 (A) a claimant's, estate's, or trust's personal labor;

137 (B) cost of acquisition of the property;

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

139 (D) rehabilitation of a certified historic building without the approval required in
140 Subsection (1)(b); or

141 (E) any expenditure attributable to landscaping and other site features, outbuildings,
142 garages, and related features.

143 (c) "Residential" means a building used for residential use, either owner occupied or
144 income producing.

145 Section 3. **Retrospective operation.**

146 This bill has retrospective operation for a taxable year beginning on or after January 1,
147 2022.