

HISTORIC REHABILITATION TAX CREDIT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl R. Albrecht

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ expands eligibility for the tax credit to include 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 a special effective date.

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



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

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

30 **59-7-609. Historic preservation credit.**

31 (1) As used in this section:

32 (a) "Certified historic building" means a building that:

33 (i) is listed on the National Register of Historic Places within three years of taking the
34 credit under this section; or

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

36 (B) has been designated by the State Historic Preservation Office as being of
37 significance to the district.

38 (b) "Commercial" means a building used to conduct business.

39 (c) "Historic preservation credit" means the tax credit described in Subsection (2).

40 (d) "Qualified claimant" means:

41 (i) (A) a taxpayer that qualifies for a historic preservation credit; or

42 (B) a person that is assigned a historic preservation credit; and

43 (ii) has a written certification as provided in Subsection (3) or (4).

44 (e) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to
45 the rehabilitation and restoration of the physical elements of the building.

46 (ii) "Qualified rehabilitation expenditures" includes the historic decorative elements,
47 and the upgrading of the structural, mechanical, electrical, and plumbing systems.

48 (iii) "Qualified rehabilitation expenditures" does not include expenditures related to:

49 (A) the taxpayer's personal labor;

50 (B) cost of acquisition of the property;

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

52 (D) rehabilitation of a certified historic building without the approval required in
53 Subsection (3); or

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

56 (f) "Residential" means a building used for residential use, either owner occupied or
57 income producing.

58 ~~[(H)] (2) (a) [For tax years beginning January 1, 1993, and thereafter, there is allowed~~

59 to a taxpayer subject to Section ~~59-7-104~~, as a credit against the tax due,] A taxpayer may
60 claim a nonrefundable tax credit in an amount equal to 20% of qualified rehabilitation
61 expenditures, [costing] if the qualified rehabilitation expenditures:

62 (i) cost more than \$10,000[-]; and

63 (ii) are incurred in connection with any residential or commercial certified historic
64 building. [When qualifying expenditures of more than \$10,000 are incurred, the credit allowed
65 by this section shall apply to the full amount of expenditures.]

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

71 (b) (i) A qualified claimant may assign all or a portion of a historic preservation credit
72 to which the qualified claimant is entitled.

73 (ii) There is no limit on the number of transactions for the assignment of all or a
74 portion of a historic preservation credit.

75 (3) (a) The office shall issue a historic preservation credit certificate to a taxpayer if the
76 office:

77 (i) approves all rehabilitation work for which a taxpayer may claim a tax credit as
78 meeting the Secretary of the Interior's Standards for Rehabilitation before completion of the
79 rehabilitation project so that the office can provide corrective comments to the taxpayer to
80 preserve the historic qualities of the building;

81 (ii) determines that the rehabilitation project conforms with the approved rehabilitation
82 work; and

83 (iii) verifies the property is a residential or commercial certified historic building and
84 the amount of the taxpayer's qualified rehabilitation expenditures.

85 (b) The tax credit certificate shall list the amount of the historic preservation credit that
86 the taxpayer is eligible to claim.

87 (4) (a) To assign a historic preservation credit to another person, a qualified claimant
88 shall provide a written notice to the State Historic Preservation Office, in a form established by
89 the State Historic Preservation Office, that includes:

90 (i) the qualified claimant's written certificate and other proof that the qualified claimant
91 is assigning all or a portion of the historic preservation credit to which the qualified claimant is
92 entitled;

93 (ii) the amount of the historic preservation credit that the qualified claimant is
94 assigning; and

95 (iii) contact information for the person to whom the qualified claimant is assigning all
96 or a portion of the historic preservation tax credit.

97 (b) If the qualified claimant meets the requirements of Subsection (4)(a), the State
98 Historic Preservation Office shall issue an assigned historic preservation credit certificate to the
99 person identified by the qualified claimant for the amount specified in the qualified claimant's
100 written notice described in Subsection (4)(a).

101 (5) A person who is issued a historic preservation credit certificate in accordance with
102 Subsection (4) may claim the historic preservation credit as if:

103 (a) the person had met the requirements of this section to claim the historic
104 preservation credit, if the person files a return under this chapter; or

105 (b) the person had met the requirements of Section 59-10-1006 to claim the historic
106 preservation credit under Section 59-10-1006, if the person files a return under Chapter 10,
107 Individual Income Tax Act.

108 (6) (a) The office shall issue a historic preservation credit certificate to a qualified
109 claimant that assigns a historic preservation credit for any remaining amount of the historic
110 preservation credit that was not assigned; or

111 (b) if there is no credit remaining, the office shall remove the qualified claimant from
112 the list of qualified claimants sent to the commission according to Subsection (8).

113 ~~[(c)] (7) [Any amount of credit remaining may be carried forward to each of the five~~
114 ~~taxable years following the qualified expenditures.] A qualified claimant may carry forward the~~
115 ~~amount of the historic preservation credit that exceeds the qualified claimant's liability for five~~
116 ~~taxable years after the year in which the qualified claimant claims a tax credit under this~~
117 ~~section.~~

118 (8) The office shall provide the with commission an electronic report that includes for
119 each qualified claimant to which the office issued a historic preservation credit certificate under
120 this section for a taxable year:

- 121 (a) the name of the qualified claimant;
- 122 (b) the identifying information of the qualified claimant; and
- 123 (c) the amount of the historic preservation credit that the qualified claimant is eligible
- 124 to claim.

125 (9) A qualified claimant shall retain a certificate issued under this section as described
 126 in Section 59-1-1406.

127 ~~[(d)]~~ (10) The commission, in consultation with the ~~[Division of State History]~~ State
 128 Historic Preservation Office, shall [promulgate rules] make rules to implement this section.

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

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

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

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

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

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

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

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

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

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

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

149 **59-10-1006. Historic preservation tax credit.**

150 (1) As used in this section:

151 (a) "Certified historic building" means a building that:

152 (i) is listed on the National Register of Historic Places within three years of taking the
 153 credit under this section; or

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

155 (B) has been designated by the State Historic Preservation Office as being of
 156 significance to the district.

157 (b) "Commercial" means a building used to conduct business.

158 (c) "Historic preservation credit" means the tax credit described in Subsection (2).

159 (d) "Qualified claimant" means:

160 (i) (A) a claimant, estate, or trust that qualifies for a historic preservation credit; or

161 (B) a person that is assigned a historic preservation credit; and

162 (ii) has a written certification as provided in Subsection (3) or (4).

163 (e) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to
 164 the rehabilitation and restoration of the physical elements of the building, including the historic
 165 decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing
 166 systems to applicable codes.

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

168 (A) the taxpayer's personal labor;

169 (B) cost of acquisition of the property;

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

171 (D) rehabilitation of a certified historic building without the approval required in

172 Subsection (3); or

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

175 (f) "Residential" means a building used for residential use, either owner occupied or
 176 income producing.

177 ~~[(+)]~~ (2) (a) [For tax years beginning January 1, 1993, and thereafter, there is allowed
 178 to a claimant, estate, or trust,] A claimant, estate, or trust may claim as a nonrefundable tax
 179 credit [against the income tax due,] in an amount equal to 20% of qualified rehabilitation
 180 expenditures, [costing] if the qualified rehabilitation expenditures:

181 (i) cost more than \$10,000[-]; and

182 (ii) are incurred in connection with any residential or commercial certified historic

183 building. [~~When qualifying expenditures of more than \$10,000 are incurred, the tax credit~~
184 ~~allowed by this section shall apply to the full amount of expenditures.~~]

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

190 (b) (i) A qualified claimant may assign all or a portion of a historic preservation credit
191 to which the qualified claimant is entitled.

192 (ii) There is no limit on the number of transactions for the sale or assignment of all or a
193 portion of a historic preservation credit under this section.

194 (3) (a) The office shall issue a historic preservation credit certificate to a claimant,
195 estate, or trust if the office:

196 (i) approves all rehabilitation work for which a claimant, estate, or trust may claim a
197 tax credit as meeting the Secretary of the Interior's Standards for Rehabilitation before
198 completion of the rehabilitation project so that the office can provide corrective comments to
199 the taxpayer to preserve the historic qualities of the building;

200 (ii) determines that the rehabilitation project conforms with the approved rehabilitation
201 work; and

202 (iii) verifies the property is a residential or commercial certified historic building and
203 the amount of the taxpayer's qualified rehabilitation expenditures.

204 (4) (a) To assign a historic preservation credit to another person, a qualified claimant
205 shall provide written notice to the State Historic Preservation Office, in a form established by
206 the State Historic Preservation Office, that includes:

207 (i) the qualified claimant's written certificate and other proof that the qualified claimant
208 is assigning all or a portion of the historic preservation credit to which the qualified claimant is
209 entitled;

210 (ii) the amount of the historic preservation credit that the qualified claimant is
211 assigning; and

212 (iii) contact information for the person to whom the qualified claimant is assigning all
213 or a portion of the historic preservation credit.

214 (b) If the qualified claimant meets the requirements of Subsection (4)(a), the State
215 Historic Preservation Office shall issue an assigned historic preservation credit certificate to the
216 person identified by the qualified claimant for the amount specified in the written notice
217 described in Subsection (4)(a).

218 (5) A person who is issued a historic preservation credit certificate in accordance with
219 Subsection (4)(b) may claim the historic preservation credit as if:

220 (a) the person had met the requirements of this section to claim the historic
221 preservation credit, if the person files a return under this chapter; or

222 (b) the person had met the requirements of Section 59-7-609 to claim the historic
223 preservation credit under Section 59-7-609, if the person files a return under Chapter 7,
224 Corporate Franchise and Income Taxes, Chapter 8, Gross Receipts Tax on Certain
225 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9,
226 Taxation of Admitted Insurers.

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

229 (6) (a) The office shall issue a historic preservation credit certificate to a qualified
230 claimant that assigns a historic preservation credit for any remaining amount of the historic
231 preservation credit that was not assigned; or

232 (b) if there is no credit remaining, the office shall remove the qualified claimant from
233 the list of qualified claimants sent to the commission according to Subsection (8).

234 (7) A qualified claimant may carry forward the amount of the historic preservation
235 credit that exceeds the qualified claimant's liability for five taxable years after the year in which
236 the qualified claimant claims a tax credit under this section.

237 (8) The office shall provide the commission with an electronic report that includes for
238 each qualified claimant to which the office issued a historic preservation credit certificate under
239 this section for a taxable year:

240 (a) the name of the qualified claimant;

241 (b) the identifying information of the qualified claimant; and

242 (c) the amount of the historic preservation credit that the qualified claimant is eligible
243 to claim.

244 ~~[(d)]~~ (9) The commission, in consultation with the Division of State History, shall

245 promulgate rules to implement this section.

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

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

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

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

256 ~~[(A) a claimant's, estate's, or trust's personal labor;]~~

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

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

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

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

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

265 Section 3. **Effective date.**

266 This bill takes effect for a taxable year beginning on or after January 1, 2024.