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HOUSE BILL NO. 1363

Offered January 11, 2018

A BILL to amend and reenact § 58.1-339.2 of the Code of Virginia, relating to historic rehabilitation tax credit; expands availability of credit for projects rehabilitating schools.

Patron—Miyares

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-339.2 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-339.2. Historic rehabilitation tax credit.**

A. Effective for taxable years beginning on and after January 1, 1997, any individual, trust or estate, or corporation incurring eligible expenses in the rehabilitation of a certified historic structure shall be entitled to a credit against the tax imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; and Article 2 (§ 58.1-2620 et seq.) of Chapter 26, in accordance with the following schedule:

| Year | % of Eligible Expenses |
|---------------------|------------------------|
| 1997 | 10% |
| 1998 | 15% |
| 1999 | 20% |
| 2000 and thereafter | 25% |

If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount that exceeds the tax liability may be carried over for credit against the taxes of such taxpayer in the next ten taxable years or until the full credit is used, whichever occurs first. Credits granted to a partnership or electing small business corporation (S corporation) shall be passed through to the partners or shareholders, respectively. Credits granted to a partnership or electing small business corporation (S corporation) shall be allocated among all partners or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners or shareholders mutually agree as provided in an executed document, the form of which shall be prescribed by the Director of the Department of Historic Resources.

B. Effective for taxable years beginning on and after January 1, 2000, any individual, trust, estate, or corporation resident in Virginia that incurs eligible expenses in the rehabilitation of a certified historic structure in any other state that has in effect a reciprocal historic structure rehabilitation tax credit program and agreement for residents of that state who rehabilitate historic structures in Virginia shall be entitled to a credit to the same extent as provided in subsection A and other applicable provisions of law; however, no eligible party shall receive any credit authorized under this subsection prior to taxable years beginning on and after January 1, 2002.

C. 1. To claim the credit authorized under this section, the taxpayer shall apply to the Virginia Department of Historic Resources, which shall determine the amount of eligible rehabilitation expenses and issue a certificate thereof to the taxpayer. The taxpayer shall attach the certificate to the Virginia tax return on which the credit is claimed.

2. For taxable years beginning on and after January 1, 2017, but before January 1, 2019, the amount of the credit that may be claimed by each taxpayer, including amounts carried over from prior taxable years, shall not exceed \$5 million in any taxable year.

D. When used in this section:

"Certified historic structure" means a property listed individually on the Virginia Landmarks Register, or certified by the Director of the Virginia Department of Historic Resources as contributing to the historic significance of a historic district that is listed on the Virginia Landmarks Register or certified by the Director of the Virginia Department of Historic Resources as meeting the criteria for listing on the Virginia Landmarks Register. *Certified historic structure includes any public school in a school division in which at least half of the schools receive funding pursuant to Title I, Part A of the Elementary and Secondary Education Act of 1965, P.L. 89-10, as amended.*

"Eligible rehabilitation expenses" means, for all projects other than rehabilitation of a school or structure to be used as a school, expenses incurred in the material rehabilitation of a certified historic structure and added to the property's capital account. *For rehabilitation of a school or structure to be used as a school, "eligible rehabilitation expenses" means expenses incurred in the material rehabilitation of a certified historic structure regardless of whether the person who incurs such expenses*

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59 owns such structure.

60 "Material rehabilitation" means improvements or reconstruction consistent with "The Secretary of the
61 Interior's Standards for Rehabilitation;" (codified at 36 C.F.R. § 67.7), the cost of which amounts to (i)
62 generally, at least ~~five~~ 50 percent of the assessed value of such building for local real estate tax
63 purposes for the year prior to the initial expenditure of any rehabilitation expenses; ~~unless~~; (ii) if the
64 building is an owner-occupied building, in which case the cost shall amount to at least ~~twenty-five~~ 25
65 percent of the assessed value of such building for local real estate tax purposes for the year prior to the
66 initial expenditure of any rehabilitation expenses; or (iii) if the building is a school, at least 10 percent
67 of the assessed value of such building, as determined by the locality in which the school is located, for
68 the year prior to the initial expenditure of any rehabilitation expenses. Notwithstanding the provisions of
69 "The Secretary of the Interior's Standards for Rehabilitation," the Department of Historic Resources
70 shall consider a material rehabilitation to have met the requirement that a project be placed in a new
71 use that requires minimal change to the defining characteristics of the building and its site and
72 environment if the project is placed in use as a school.

73 "Owner-occupied building" means any building that is used as a personal residence by the owner.

74 E. The Director of the Department of Historic Resources shall establish by regulation the
75 requirements needed for this program, including the fees to defray necessary expenses thereof, and,
76 except as otherwise prohibited by this section, the extent to which the availability of the credit provided
77 by this section is coextensive with the availability of the federal tax credit for the rehabilitation of
78 certified historic resources.

79 F. Any gain or income under federal law from the allocation or application of a tax credit under this
80 section shall not be (i) taxable gain or income for purposes of the tax imposed pursuant to Article 2
81 (§ 58.1-320 et seq.), (ii) taxable gain or income for purposes of the tax imposed pursuant to Article 6
82 (§ 58.1-360 et seq.), or (iii) taxable gain or income for purposes of the tax imposed pursuant to Article
83 10 (§ 58.1-400 et seq.). However, nothing in this subsection shall be construed or interpreted as allowing
84 a subtraction or deduction for such gain or income under federal law if the gain or income is otherwise
85 excluded, deducted, or subtracted in computing the respective tax set forth under clauses (i) through (iii).

86 **2. That the provisions of this act shall apply only to historic rehabilitation projects certified by the**
87 **Department of Historic Resources on and after January 1, 2018.**