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HOUSE BILL NO. 2109

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend and reenact § 58.1-339.2 of the Code of Virginia, relating to historic rehabilitation tax credit; use for historic school buildings.

Patrons—Bourne, Carr, Krizek and Lopez

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 *rehabilitation* 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 *rehabilitation* 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, 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.

"Eligible rehabilitation expenses" means expenses incurred (i) in the material rehabilitation of a certified historic structure and added to the property's capital account or (ii) in school rehabilitation, regardless of whether the person who incurs such expenses owns the school or structure to be used as a school.

"Historic school building" means a structure that is (i) a certified historic structure or a structure that is at least 50 years old and (ii) is a public school or is to be used as a public school for students

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59 *in grades K through 12.*

60 "Material rehabilitation" means improvements or reconstruction consistent with "The Secretary of the
61 Interior's Standards for Rehabilitation," the cost of which amounts to at least fifty percent of the
62 assessed value of such building for local real estate tax purposes for the year prior to the initial
63 expenditure of any rehabilitation expenses, unless the building is an owner-occupied building, in which
64 case the cost shall amount to at least twenty-five percent of the assessed value of such building for local
65 real estate tax purposes for the year prior to the initial expenditure of any rehabilitation expenses.

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

67 *"School rehabilitation" means improvements to or reconstruction of a historic school building which*
68 *are consistent with the Secretary of the Interior's Standards for Rehabilitation. "School rehabilitation"*
69 *includes repairs or renovations to windows, doors, structural features, or other projects that are*
70 *consistent with such standards.*

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

76 F. Any gain or income under federal law from the allocation or application of a tax credit under this
77 section shall not be (i) taxable gain or income for purposes of the tax imposed pursuant to Article 2
78 (§ 58.1-320 et seq.), (ii) taxable gain or income for purposes of the tax imposed pursuant to Article 6
79 (§ 58.1-360 et seq.), or (iii) taxable gain or income for purposes of the tax imposed pursuant to Article
80 10 (§ 58.1-400 et seq.). However, nothing in this subsection shall be construed or interpreted as allowing
81 a subtraction or deduction for such gain or income under federal law if the gain or income is otherwise
82 excluded, deducted, or subtracted in computing the respective tax set forth under clauses (i) through (iii).

83 **2. That the provisions of this act shall apply only to school rehabilitation projects certified by the**
84 **Department of Historic Resources on and after January 1, 2023.**