Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Matt Haney, Chair
AB 1265 (Haney) – As Introduced February 21, 2025

SUBJECT: Income taxes: credits: rehabilitation of certified historic structures

SUMMARY: Extends the state historic tax credit (HTC) from January 1, 2027 to January 1, 2031 and revises the eligible expenditures. Specifically, **this bill**:

1) For taxable years beginning on or after January 1, 2027, provides that the HTC is equal to 30% of the qualified rehabilitation expenditures for a certified historic structure if the structure meets either of the following criteria:

    a) The rehabilitated structure includes improvements to preserve existing affordable housing for lower income households, as defined; or

    b) The structure is adaptively reused for housing with no less than 50% of the existing floor area used for housing.

2) Extends the $50 million cap on the tax credit from 2027 to 2031 for the uses in 1).

3) Extends the sunset date on the HTC from January 1, 2027 to January 1, 2031.

4) Extends, from January 1, 2027 to January 1, 2031, the requirement for the Legislative Office Building (LAO) to collaborate with the California Tax Credit Allocation Committee (CTCAC) to review the effectiveness of the tax credit program. The review shall include the following analysis:

    a) The demand for the tax credit;

    b) The amount of jobs created by the use of the tax credit;

    c) The types of projects receiving the tax credit; and

    d) The economic impact of the tax credit.

5) Includes a tax levy.

EXISTING LAW:

2) Allow a state tax credit, under both the Personal Income Tax and the Corporation Tax, for qualified costs paid or incurred by a taxpayer when rehabilitating a certified historic structure. Provides that the tax credit is available for taxable years 2021 through 2025, and would remain in effect even if Congress repealed the federal credit.

3) Provides that the credit is equal to 20% of the qualified rehabilitation expenditures with respect to a certified historic structure. The credit increases the applicable percentage to 25% in the case of a certified historic structure that meets one of the following criteria as defined in existing law:

a) The structure is located on federal, state, or local surplus property;

b) The rehabilitated structure includes affordable housing for lower-income households;

c) The structure is located in a designated census tract;

d) The structure is part of a military base reuse authority; or

e) The structure is a transit-oriented development that is a higher-density, mixed-use development within a walking distance of one-half mile of a transit station.

4) Defines a certified historic structure as a structure located in California that appears on the California Register of Historic Places.

5) Provides that the HTC is available for qualified rehabilitation expenditures related to a taxpayer's qualified principal residence if:

a) The expenses are determined to rehabilitate the historic character and improve the integrity of the residence;

b) The taxpayer has adjusted gross income of $200,000 or less and uses the structure as their principal residence; and

c) The credit amount is equal to more than $5,000 but do not exceed $25,000.

6) Requires the Office of Historic Preservation to adopt regulations to implement the HTC.

7) Requires the Office of Historic Preservation, in connection with CTCAC, to establish a written application, which requires the applicant to include a summary of the expected economic benefits of the project. The economic benefits shall include, but are also not limited to, all of the following:

a) The number of jobs created by the rehabilitation project, both during and after the rehabilitation of the structure;

b) The expected increase in state and local tax revenues derived from the rehabilitation project, including those from increased wages and property taxes;

c) Any additional incentives or contributions included in the rehabilitation project from federal, state, or local governments; and

d) Findings of a public benefit in the case of the rehabilitation of a qualified residence.

8) Requires the Office of Historic Preservation to establish a process to approve, or reject, all tax credit applications.

9) Requires CTCAC to allocate the credit on a first-come-first-served basis.

10) Caps the credit at an aggregate annual amount of $50 million, with any unallocated credits carried forward to subsequent years.

11) Requires CTCAC to set aside $10 million in tax credits each calendar year to allocate as follows:

    a) $8 million for taxpayers with qualified rehabilitation expenditures of less than $1 million for any certified historic building that is not a qualified residence. To the extent this amount is unused, the unused portion shall become available for taxpayers with larger projects; and

    b) $2 million for taxpayers with qualified rehabilitation expenditures for a certified historic structure that is a qualified residence. To the extent this amount is unused, the unused portion shall become available in subsequent years for taxpayers with certified historic structures that are qualified residences.

12) Allows the taxpayer to carry forward the tax credit for up to eight years or until the credit is exhausted.

13) Allows the credit to reduce the taxpayer's tax liability below the tentative minimum tax.

14) Requires the Office of Historic Preservation to establish in regulations the time period that a taxpayer who receives a tax credit must commence rehabilitation. If rehabilitation is not commenced within that time period, the tax credit shall be forfeited.

15) Allows CTCAC and the Office of Historic Preservation to adopt a reasonable fee to cover its expenses directly related to administering the program.

16) Requires CTCAC to provide the Franchise Tax Board (FTB) with an annual list of taxpayers that received a credit.

17) Requires the LAO to collaborate with CTCAC to review the effectiveness of the tax credit program. The review shall include the following analysis:

    a) The demand for the tax credit;

    b) The amount of jobs created by the use of the tax credit;

    c) The types of projects receiving the tax credit; and

    d) The economic impact of the tax credit.

18) Sets the total credit amount allowed at $0, unless otherwise specified in any bill providing for appropriations related to the Budget Act. (Revenue and Taxation Code Section 17053.91 and 23691)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "California's historic buildings are invaluable economic and cultural assets, yet many remain underutilized due to the high cost of rehabilitation. The California Historic Tax Credit is a proven tool that supports job creation, economic growth, and affordable housing—while preserving our state's unique character. AB

1265 ensures that this incentive remains available, providing certainty to investors and directing resources toward projects that contribute to our housing goals. By extending the credit and refining its focus, we can maximize its benefits and ensure that historic preservation is a catalyst for sustainable development across California."

***Federal Historic Tax Credit (HTC)*:** The Federal Historic Preservation Tax Incentives Program, created in 1976, is administered by the National Park Service in partnership with the OHP. The goal of the program is to promote community revitalization and encourage private investment through historic building rehabilitation. Over 42,293 projects to rehabilitate historic buildings have been undertaken since the first project using the historic tax incentives was completed in 1977.[1]

Housing has been the single most important use for rehabilitated historic buildings under the program. The Federal HTC in California (2001-2023) funded 235 projects, with total development costs of over $4.2 billion, and generated an estimated 58,644 jobs. Thirty-one percent of these projects created or maintained housing. When adding the number of housing units created or maintained as mixed-use projects, the percentage exceeds 40%.

To qualify for the HTC, a project must satisfy the requirements of Internal Revenue Code Section 47 and related regulations, as well as architectural standards regulated by the National Parks Service. Certification of Historic Significance is the first step in establishing eligibility for the HTC. A building must be individually listed in the national Register of Historic Places or be certified as contributing to a registered historic district in order to qualify for the 20% credit (the 10% tax credit for the rehabilitation of non-historic buildings placed in service before 1936 is no longer available). A developer must submit an application detailing the plans and specifications for the rehabilitation. The plans must satisfy the Secretary of Interior Standards for Rehabilitation. Once the project is completed, a request for certification of completion is submitted. If the request is granted, the rehabilitation is considered a "certified rehabilitation." A certification of a completed project is issued only when all work has been finished on the certified historic building. Generally, the HTC must be claimed in the tax year in which the rehabilitated building is placed in service.

SB 451 (Atkins), Chapter 703, Statutes of 2019 authorized a new tax credit, under both the personal income tax and corporation tax laws, for qualified costs paid or incurred by a taxpayer when rehabilitating a certified historic structure. The credit is equal to 20% of the qualified rehabilitation expenditures with respect to a certified historic structure, defined as a structure located in California that appears on the California Register of Historic Places. The credit increases the applicable percentage to 25% in the case of a certified historic structure that meets one of the following criteria as defined in existing law:

- The structure is located on federal, state, or local surplus property;
- The rehabilitated structure includes affordable housing for lower-income households;
- The structure is located in a designated census tract;
- The structure is part of a military base reuse authority; or

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[1] *Federal Tax Incentives for Rehabilitating Historic Buildings*, U.S. Department of the Interior, National Park Service, Statistical Report and Analysis for Fiscal Year 2016.

- The structure is a transit-oriented development that is a higher-density, mixed-use development within a walking distance of one-half mile of a transit station.

The tax credit is also available for qualified rehabilitation expenditures related to a taxpayer's qualified principal residence, so long as the taxpayer has gross income of $200,000 or less and uses the structure as his or her principal residence, and the structure has a public benefit. For projects relating to a qualified principal residence, the credit amount must be equal to or more than $5,000, and less than $25,000.

SB 451 required CTCAC, in connection with the Office of Historic Preservation, to establish an application process, as well as to allocate and certify the tax credits using the following criteria:

- The number of jobs created by the rehabilitation project, both during and after the rehabilitation of the structure;
- The expected increase in state and local tax revenues derived from the rehabilitation project, including those from increased wages and property taxes;
- Any additional incentives or contributions included in the rehabilitation project from federal, state, or local governments; and
- Findings of a public benefit in the case of the rehabilitation of a qualified residence.

The credit amount is subject to a $50 million aggregate annual cap, with any unallocated credits carried forward to subsequent years. CTCAC must set aside $10 million in tax credits each calendar year for taxpayers with qualified expenditures of less than $1 million. To the extent this amount is unused, the unused portion shall become available for taxpayers with larger projects.

SB 451 allows the taxpayer to carry forward the tax credit for up to eight years or until the credit is exhausted, and disallows a business expense deduction for any expenses incurred for which the tax credit is used. The taxpayer must also reduce their basis of the property by the amount of the credit, and the credit can reduce the taxpayer's tax liability below the tentative minimum tax.

SB 451 provided CTCAC authority to recapture the tax credit if the taxpayer does not start the rehabilitation project within 18 months or if the taxpayer sells the property within five years. CTCAC may adopt a reasonable fee to cover its expenses directly related to administering the program. The bill also requires CTCAC to provide the FTB with an annual list of taxpayers that received a credit.

Results of the Historic Structures Credit: Although the tax credit was created in 2019, the Office of Historic Preservation did not promulgate regulations until the end of 2024 and applications were made available and due in January 2025. TCAC plans to make awards at their April 8, 2025 meeting. The proposed awards including: For the projects over $1 million threshold for commercial projects, $40 million was allocated, eight proposals were received and two projects were recommended for approval. For the under $1 million threshold for commercial projects, $8 million was allocated, four applications were received, and two are recommended for approval. For residential projects, $2 million as allocated, 13 applications received and 6 projects are recommended for approval.

This bill would reauthorize the tax credit for another 5 years and narrow the use of the funds to rehabilitating historic buildings to preserve existing affordable housing for lower income households or the structure is adaptively reused for housing where at least 50% of the existing

floor area is used for housing. This bill would also increase the amount of the credit from 20% to 30% of the qualified rehabilitation expenditures.

Because the tax credits were on a first come, first served basis, of the 35 qualified projects under the "commercial projects over $1 million" category that applied for the historic tax credit, only two were recommended for approval, and all funds were exhausted by those two projects. Applying a cap to the total amount of credits a project can receive would help to avoid this outcome in the future.

Arguments in support: None on file.

Arguments in opposition: None on file.

Committee Amendments: The committee may wish to consider amending the bill to require the rents to align with TCAC rents which are different than HSC Section 50079.5 since the tax credits are administered and monitored by TCAC.

> *The rehabilitated structure includes improvements to preserve existing affordable housing for lower income households, means an amount consistent with the rent* ***limits established by the California Tax Credit Allocation Committee.*** *~~defined by Section 50079.5 of the Health and Safety Code.~~*

***Related Legislation*:**

SB 451 (Atkins) Chapter of 703, Statutes of 2019: Authorized a new tax Historic Tax Credit, under both the personal income tax and corporation tax laws, for qualified costs paid or incurred by a taxpayer when rehabilitating a certified historic structure.

Double-referred: This bill was also referred to the Assembly Committee on Revenue and Taxation where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file

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