~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 5, 2020

**H. 3485**

Introduced by Reps. Jefferson, R. Williams, Cobb‑Hunter and Weeks

S. Printed 2/5/20--S.

Read the first time April 10, 2019.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (H. 3485) to amend Section 12‑6‑3535, Code of Laws of South Carolina, 1976, relating to an income tax credit for making qualified rehabilitation expenditures for a certified historic, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTION 1.B. and inserting:

/ B. Section 12‑6‑3535 of the 1976 Code is amended by adding appropriately lettered subsections to read:

“( )(1) A taxpayer claiming a credit pursuant to this section must pay a preliminary fee and a final fee to the Department of Archives and History for the State Historic Preservation Grant Fund based on the estimated qualified rehabilitation expenses or the actual rehabilitation expenses of the project, respectively, as set forth in items (2) and (3).

(2) The preliminary fee must be paid before review of an Historic Preservation Certification Application, Part 2, or a Certified Rehabilitation Application, S2. The fee schedule is as follows:

Projects less than $500,000 0% of estimated expenses

Projects at least $500,000 but less than 2,000,000 .1% of estimated expenses

Projects at least $2,000,000 but less than $4,000,000 .25% of estimated expenses

Projects $4,000,000 or greater .5% of estimated expenses.

(3) The final fee must be paid before review of an Historic Preservation Certification Application, Part 3, or a Certified Rehabilitation Application, S3, less any amount paid as a preliminary fee. The fee schedule is as follows:

Projects less than $500,000 0% of actual expenses

Projects at least $500,000 but less than $2,000,000 .25% of actual expenses

Projects at least $2,000,000 but less than $4,000,000 .5% of actual expenses

Projects $4,000,000 or greater 1.0% of actual expenses.

( ) The Department of Archives and History shall develop an application process for distribution of funds from the State Historic Preservation Grant Fund, to include eligibility criteria and grant requirements.” /

Amend the bill further, page 3, by striking lines 13-38 and inserting:

/ B. Contributions made to the Department of Archives and History as provided in this act may be designated on an income tax return for tax years beginning after 2019.

SECTION 3. Except as otherwise provided, this act takes effect upon approval by the Governor and applies to income tax years beginning after 2019. /

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Amended by the House of Representatives on April 9, 2019**

**State Expenditure**

The bill establishes the State Historic Preservation Grant Fund to be administered by DAH. Based upon information from DAH, they expect to process applications and distribute funds with existing staff. Therefore, the bill is not expected to impact state expenditures for the agency.

**State Revenue**

This bill imposes a fee for a taxpayer claiming a credit pursuant to Section 12-6-3535 for rehabilitation expenses of a historic structure. Taxpayers applying for these tax credits administered by DAH are required to pay a fee, which will be credited to the State Historic Preservation Grant Fund. The preliminary fee is one half of one percent of the estimated qualified rehabilitation expenses or the rehabilitation expenses to be paid before review of a Historic Preservation Certification Application Part 2 or a Certified Rehabilitation Application, S2. The final fee is one percent of the actual qualified rehabilitation expenses or the rehabilitation expenses to be paid before review of an Historic Preservation Certification Application Part 3 or a Certified Rehabilitation Application, S3, less any amount paid as a preliminary fee. All fees obtained will go to the new State Historic Preservation Grant Fund to be distributed as grants. DAH will develop an application process for distribution of funds from the State Historic Preservation Grant Fund to include eligibility criteria and grant requirements. The agency is not currently assessing a fee for taxpayers who apply for these credits and will not retain these fees for operations.

DAH provided data regarding projects that were approved from 2014 to 2018. Based upon the reported rehabilitation expenses, fees under this new requirement would have totaled approximately $987,000 per year on average. The bill takes effect upon approval by the Governor and applies to income tax years beginning after 2018. DAH has indicated that they do not expect to charge the fee to projects that have already entered the application process for tax credits. The fee will apply to new projects and would begin in FY 2019-20 as new applications are received. Therefore, this section of the bill would increase Other Funds by approximately $987,000 per year to be expended for grant projects when fully implemented.

Section 2 of the bill allows an individual income taxpayer to elect to contribute to the Department of Archives and History. Any funds received through this tax return election must be used to purchase or preserve collections with significant historical value to the State. Based upon Department of Revenue data for tax year 2015, a total of 14,677 taxpayers contributed a total of $189,966 to the existing sixteen income tax elections for an average of $11,880 per election. Based upon these figures, we estimate that this will increase other funds of DAH for purchasing or preserving collections by approximately $11,880 per year beginning in FY 2019-20.

Section 3 of this bill extends the placed in service date for rehabilitated abandoned buildings meeting specific requirements. If a taxpayer files a notice of intent to rehabilitate and has been rehabilitating an abandoned building continuously for the preceding year and is more than 60 percent complete, then the taxpayer must be allowed to extend the placed in service date until 90 days after completion of construction, provided construction continues diligently until that date. The taxpayer may not earn a tax credit until the applicable phase or portion of the building site is placed in service. Also, pursuant to Section 1 in Act 265 of 2018, the provisions of Chapter 67, Title 12 (Abandoned Buildings Revitalization Act) are repealed on December 31, 2021. Any carryforward credits shall continue to be allowed until the 5 or 8 year time period in Section 12- 67-140 is completed. This legislation was passed into law on May 16, 2019 and will not affect state general fund revenue, other funds revenue, or federal funds in FY2019-20 or any fiscal year thereafter.

**Introduced on January 9, 2019**

**State Expenditure**

The bill establishes the State Historic Preservation Grant Fund to be administered by DAH. Based upon information from DAH, they expect to process applications and distribute funds with existing staff. Therefore, the bill is not expected to impact state expenditures for the agency.

**State Revenue**

This bill imposes a fee for a taxpayer claiming a credit pursuant to Section 12-6-3535 for rehabilitation expenses of a historic structure. Taxpayers applying for these tax credits administered by DAH are required to pay a fee, which will be credited to the State Historic Preservation Grant Fund. The preliminary fee is one half of one percent of the estimated qualified rehabilitation expenses or the rehabilitation expenses to be paid before review of a Historic Preservation Certification Application Part 2 or a Certified Rehabilitation Application, S2. The final fee is one percent of the actual qualified rehabilitation expenses or the rehabilitation expenses to be paid before review of an Historic Preservation Certification Application Part 3 or a Certified Rehabilitation Application, S3, less any amount paid as a preliminary fee. All fees obtained will go to the new State Historic Preservation Grant Fund to be distributed as grants. DAH will develop an application process for distribution of funds from the State Historic Preservation Grant Fund to include eligibility criteria and grant requirements. The agency is not currently assessing a fee for taxpayers who apply for these credits and will not retain these fees for operations.

DAH provided data regarding projects that were approved from 2014 to 2018. Based upon the reported rehabilitation expenses, fees under this new requirement would have totaled approximately $987,000 per year on average. The bill takes effect upon approval by the Governor and applies to income tax years beginning after 2018. DAH has indicated that they do not expect to charge the fee to projects that have already entered the application process for tax credits. The fee will apply to new projects and would begin in FY 2019-20 as new applications are received. Therefore, this section of the bill would increase other funds by approximately $987,000 per year to be expended for grant projects when fully implemented.

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Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 12‑6‑3535, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO AN INCOME TAX CREDIT FOR MAKING QUALIFIED REHABILITATION EXPENDITURES FOR A CERTIFIED HISTORIC STRUCTURE, SO AS TO REMOVE A PROVISION ALLOWING THE DEPARTMENT OF ARCHIVES AND HISTORY TO ESTABLISH FEES, TO PROVIDE THAT A TAXPAYER CLAIMING THE CREDIT MUST PAY A FEE TO THE DEPARTMENT OF ARCHIVES AND HISTORY FOR THE STATE HISTORIC PRESERVATION GRANT FUND, AND TO PROVIDE THAT THE DEPARTMENT SHALL DEVELOP AN APPLICATION PROCESS; AND TO AMEND SECTION 12‑6‑5060, RELATING TO VOLUNTARY CONTRIBUTIONS MADE BY AN INDIVIDUAL BY MEANS OF THE INCOME TAX RETURN CHECK OFF, SO AS TO ADD THE DEPARTMENT OF ARCHIVES AND HISTORY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. A. Section 12‑6‑3535(E) of the 1976 Code is amended to read:

“(E) The South Carolina Department of Archives and History shall develop an application and may promulgate regulations~~, including the establishment of fees,~~ needed to administer the certification process. The Department of Revenue may promulgate regulations, including the establishment of fees, to administer the tax credit.”

B. Section 12‑6‑3535 of the 1976 Code is amended by adding appropriately lettered subsections to read:

“( ) A taxpayer claiming a credit pursuant to this section must pay a fee to the Department of Archives and History for the State Historic Preservation Grant Fund. The preliminary fee is one half of one percent of the estimated qualified rehabilitation expenses or the rehabilitation expenses, to be paid before review of an Historic Preservation Certification Application, Part 2, or a Certified Rehabilitation Application, S2. The final fee is one percent of the actual qualified rehabilitation expenses or the rehabilitation expenses, to be paid before review of an Historic Preservation Certification Application, Part 3, or a Certified Rehabilitation Application, S3, less any amount paid as a preliminary fee.

( ) The Department of Archives and History shall develop an application process for distribution of funds from the State Historic Preservation Grant Fund, to include eligibility criteria and grant requirements.”

SECTION 2. A. Section 12‑6‑5060(A) of the 1976 Code is amended to read:

“(A) Each taxpayer required to file a state individual income tax return may contribute to the War Between the States Heritage Trust Fund established pursuant to Section 51‑18‑115, the Nongame Wildlife and Natural Areas Program Fund established pursuant to Section 50‑1‑280, the Children’s Trust Fund of South Carolina established pursuant to Section 63‑11‑910, the Eldercare Trust Fund of South Carolina established pursuant to Section 43‑21‑160, the First Steps to School Readiness Fund established pursuant to Section 63‑11‑1750, the South Carolina Military Family Relief Fund established pursuant to Article 3, Chapter 11, Title 25, the Donate Life South Carolina established pursuant to Section 44‑43‑1310, the Veterans’ Trust Fund of South Carolina established pursuant to Chapter 21, Title 25, the South Carolina Litter Control Enforcement Program (SCLCEP) and used by the Governor’s Task Force on Litter only for the SCLCEP Program, the South Carolina Law Enforcement Assistance Program (SCLEAP) and used as provided in Section 23‑3‑65, the South Carolina Department of Parks, Recreation and Tourism for use in the South Carolina State Park Service in the manner the General Assembly provides, the South Carolina Forestry Commission for use in the state forest system, the South Carolina Department of Natural Resources for use in its programs and operations, K‑12 public education for use in the manner the General Assembly provides by law, South Carolina Conservation Bank Trust Fund established pursuant to Section 48‑59‑60, the Financial Literacy Trust Fund established pursuant to Section 59‑29‑510, ~~or~~ the South Carolina Association of Habitat for Humanity Affiliates, or the Department of Archives and History and only used by the agency to purchase or preserve collections with significant historical value to the State by designating the contribution on the return. The contribution may be made by reducing the income tax refund or by remitting additional payment by the amount designated.”

B. Contributions made to the Department of Archives and History as provided in this act may be designated on an income tax return for tax years beginning after 2018.

SECTION 3. A. Notwithstanding Section 1 of Act 265 of 2018, and Section 1.B. of Act 57 of 2013, upon the repeal of Chapter 67, Title 12 of the 1976 Code, any carryforward credits shall continue to be allowed until the five or eight year time period in Section 12-67-140 is completed.

B. Chapter 67, Title 12 of the 1976 Code is amended by adding:

“Section 12-67-170. Notwithstanding any other provision of this chapter, if a taxpayer files a notice of intent to rehabilitate and has been rehabilitating an abandoned building continuously for the preceding year and is more than sixty percent complete, then the taxpayer must be allowed to extend the placed in service date until ninety days after completion of construction, provided construction continues diligently until that date. Nothing in this section may be construed to allow a taxpayer to earn a credit allowed by this chapter before the applicable phase or portion of the building site is placed in service.”

SECTION 4. Except as otherwise provided, this act takes effect upon approval by the Governor and applies to income tax years beginning after 2018.

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