

PUBLICATION

Alabama Extends Historic Preservation Tax Credit

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During the recent session, the Alabama Legislature passed House Bill 281, extending Alabama's historic preservation tax credit (the Credit) for an additional five years through 2027. The Credit began in 2013, has been previously extended, and was otherwise due to expire in 2022. The historic preservation Credit is responsible for significant revitalization, preservation, and rehabilitation of historic structures across Alabama.

What structures qualify?

The Credit applies to Alabama properties that are at least sixty years old (with certain limited exceptions) and are certified by the Alabama Historical Commission (the Commission) as being either (i) individually listed in the National Register of Historic Places, (ii) eligible for listing in the National Register of Historic Places, or (iii) certified by the Commission as contributing to the historic significance of a Registered Historic District.

However, beginning in 2023, the Credit will no longer apply to structures that are owner-occupied and used exclusively as a primary or secondary residence.

What tax incentive is available for qualifying structures?

The taxpayer can receive a refundable Alabama income tax credit of up to 25 percent of actual qualified rehabilitation expenditures undertaken by the taxpayer for the rehabilitation of a certified historic structure.

How much funding is available?

The law caps the aggregate amount of tax credits that may be certified by the Commission in any one year at \$20,000,000. In the event that the cap is met in any year, the Commission will notify all owners with outstanding applications, and those outstanding applications will remain in active status from the date of the original application and will be considered in the event additional Credits become available or when a new tax year's allocation of Credits becomes available.

Of the annual cap of \$20,000,000, \$8,000,000 is reserved for rehabilitation projects located in less populated Alabama counties, defined as counties with a population not greater than 175,000. Applicants from these less populous counties have until the close of the third quarter of the program year to submit applications before the funds reserved for projects in less populous counties can be allocated to projects in more populous counties.

What steps must the taxpayer take to obtain the Credit?

Owners undertaking substantial rehabilitation work – meaning work for which the expenditures exceed the greater of 50 percent of the owner's original purchase price or \$25,000 – must submit an application, application fee, and a rehabilitation plan to the Commission for review. The Commission will review the submissions and refer the project to the Historic Tax Credit Evaluation Committee (the Committee) for review. If the project is approved by the Committee, the Commission will notify the taxpayer and issue a tax credit certificate, which must be filed with the taxpayer's Alabama income tax return. After completion of the project, the taxpayer must also submit additional documentation to the Commission.

What factors does the Committee use in determining the allocation of Credits?

The Committee considers the following criteria when deciding whether to grant an application for the Credit:

- relative value of the proposed project to the particular community, including the maintenance of the historic fabric of the community;
- possible return on investment for the community in which the proposed project is located;
- geographic distribution of projects;
- likelihood of the project proceeding without the Credit; and
- strength of local support for the proposed project.

Please remember that advice and counsel regarding your particular legal issues, including the potential impact of the developments outlined above, are dependent on your specific facts and circumstances. For more information about how these issues may affect you, or related matters, contact [Daniel Moss](#), [Allen Blow](#), or your Baker Donelson attorney.