

1 **Senate Bill No. 436**

2 (By Senators Prezioso and Facemire)

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4 [Introduced March 5, 2013; referred to the Committee on
5 Government Organization; and then to the Committee on Finance.]

6 _____
7 **FISCAL**
8 **NOTE**

9
10 A BILL to amend and reenact §11-21-8g of the Code of West Virginia,
11 1931, as amended, relating to eliminating eligibility of
12 expenses for qualified rehabilitated building investment
13 credit for residential structures; and specifying effective
14 dates.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §11-21-8g of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 21. WEST VIRGINIA PERSONAL INCOME TAX.**

19 **§11-21-8g. Credit for qualified rehabilitated residential building**
20 **investment.**

21 (a) A credit against the tax imposed by the provisions of this
22 article is allowed for residential certified historic structures.
23 The credit is equal to twenty percent of eligible rehabilitation

1 expenses in the rehabilitation of a certified historic structure.
2 The credit is available for residential certified historic
3 structures located in this state that are reviewed by the West
4 Virginia Division of Culture and History and are determined to be
5 listed on the National Register of Historic Places either
6 individually or as a contributing building within a historical
7 district that is listed on the National Register of Historic
8 Places.

9 (b) (1) "Certified historic structure" means any building
10 located in this state that is determined to be listed individually
11 in the National Register of Historic Places or located in a
12 registered historic district, during the review by the West
13 Virginia Division of Culture and History.

14 (2) "Certified rehabilitation" means any rehabilitation of a
15 certified historic structure that is reviewed by the West Virginia
16 Division of Culture and History, and is determined by the Division
17 of Culture and History to be consistent with the historic character
18 of the property and, where applicable, the district in which it is
19 located.

20 (3) "Eligible rehabilitation expenses" means expenses incurred
21 in the material rehabilitation of a certified historic structure
22 and added to the property's basis for income tax purposes.

23 (4) "Historic district" means a group of buildings, structures

1 or sites that taken together make up a coherent whole with similar
2 historic or architectural meaning that is listed in the National
3 Register of Historic Places.

4 (5) "Historic preservation application" means application
5 forms published by the National Park Service, United States
6 Department of the Interior, Parts 1, 2 and 3, Form No. 1-168, or
7 its successor, or comparable application forms prepared by the
8 Division of Culture and History.

9 (6) "Material rehabilitation" means improvements, repairs,
10 alterations or additions consistent with the "Secretary of the
11 Interior's standards for rehabilitation," the actual cost of which
12 amounts to at least twenty percent of the assessed value of a
13 certified historic structure for ad valorem real estate tax
14 purposes for the year before such rehabilitation expenses were
15 incurred, exclusive of the assessed value of the land.

16 (7) "Residential certified historic structure" means any
17 certified historic structure that is:

18 (A) Classified as Class II property for levy purposes pursuant
19 to section five, article eight, chapter eleven of this code for the
20 year in which the rehabilitation expenses are incurred; or

21 (B) Not classified as Class II property for levy purposes for
22 the year in which the rehabilitation expenses are incurred but will
23 satisfy the requirements for classification as Class II for real

1 property assessment purposes pursuant to section five, article
2 eight, chapter eleven of this code as of July 1, of the year
3 following the year in which the rehabilitation expenses are
4 incurred.

5 (8) "Secretary of the Interior standards" means standards and
6 guidelines adopted and published by the National Park Service,
7 United States Department of the Interior, for rehabilitation of
8 historic properties.

9 (9) "State historic preservation officer" means the state
10 official designated by the Governor pursuant to provisions in the
11 National Historic Preservation Act of 1966, as amended and further
12 defined in section six, article one, chapter twenty-nine of this
13 code.

14 (c) (1) Application and processing procedures for provisions
15 of this section shall be the same as or substantially similar ~~as~~ to
16 any required under provisions of 36 C.F.R., Part 67, and to the
17 extent applicable, 26 C.F.R., Part 1. Obtaining historic
18 preservation certification by proper application automatically
19 qualifies the applicant to be considered for tax credits under this
20 section.

21 (2) The state historic preservation officer's role in the
22 application procedure ~~shall be~~ is identical, or substantially
23 similar, to that in 36 C.F.R., Part 67 and 26 C.F.R., Part 1, to

1 the extent applicable.

2 (d) All standards including the Secretary of the Interior
3 standards and provisions in 36 C.F.R., Part 67 and 26 C.F.R., Part
4 1 that apply to tax credits available from the United States
5 government apply to this section, except that the property eligible
6 for the tax credit under this section may not be income producing
7 property or property for which depreciation is allowed under 26
8 U.S.C. § 168.

9 (e) If the amount of the credit for qualified rehabilitated
10 residential building investment exceeds the taxpayer's tax
11 liability for the taxable year to which the credit applies, the
12 amount that exceeds the tax liability for the taxable year may be
13 carried over for credits against the income taxes of the taxpayer
14 in each of the ensuing five tax years or until the full credit is
15 used, whichever occurs first. In no event may the amount of the
16 credit taken in a taxable year exceed the tax liability due for the
17 taxable year.

18 (f) The Tax Commissioner shall require disclosure of
19 information regarding credits granted pursuant to this section in
20 accordance with the provisions of section five-s, article ten of
21 this chapter. The Commissioner of the West Virginia Division of
22 Culture and History may establish by rule the requirements to
23 implement the credit for qualified rehabilitated residential

1 building investment, including reasonable fees to defray the
2 necessary expenses of administration of the credit.

3 (g) The credit authorized by this section is available for tax
4 years beginning after December 31, 1999.

5 (h) No credit may be authorized under this section for any
6 expense incurred in the rehabilitation of a building that is
7 certified, pursuant to the review specified in subdivision (2),
8 subsection (b) of this section, on or after July 1, 2013.

9 (i) No credit may be authorized under this section for any
10 expense incurred on or after July 1, 2013.

NOTE: The purpose of this bill is to eliminate the residential rehabilitated building tax credit program.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.