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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1991

ENROLLED

SENATE BILL NO. 592

(By Senator Jones)

PASSED March 9, 1991

In Effect from Passage

ENROLLED
Senate Bill No. 592
(BY SENATOR JONES)

[Passed March 9, 1991; in effect from passage.]

AN ACT to amend and reenact sections eight-a, eight-b, eight-c, eight-e and eight-f, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections twenty-three-a, twenty-three-b, twenty-three-c, twenty-three-e and twenty-three-f, article twenty-four of said chapter, all relating to requiring certification by the West Virginia division of culture and history for historic preservation tax credit against personal income tax and corporation net income tax; removing fee authorization for the state tax department; providing for a credit carryforward and carryback; extending the grandfather clause in the sunset provision to applications for certification by the United States secretary of the interior filed prior to the sunset date; and extending the sunset date until the year one thousand nine hundred and ninety-four.

Be it enacted by the Legislature of West Virginia:

That sections eight-a, eight-b, eight-c, eight-e and eight-f, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections twenty-three-a, twenty-three-b, twenty-three-c, twenty-three-e and twenty-three-f, article twenty-four of said chapter be amended and reenacted, all to read as follows:

ARTICLE 21. PERSONAL INCOME TAX.**§11-21-8a. Credit for qualified rehabilitated buildings investment.**

1 A credit against the tax imposed by the provisions of
2 this article shall be allowed as follows:

3 *Certified historic structures.* — For certified historic
4 structures, the credit is equal to ten percent of
5 qualified rehabilitation expenditures as defined in
6 §47(c)(2), Title 26 of the United States Code, as
7 amended. This credit is available for both residential
8 and nonresidential buildings located in this state, that
9 are reviewed by the West Virginia division of culture
10 and history and designated by the national park
11 service, United States department of the interior as
12 “certified historic structures”, and further defined as
13 a “qualified rehabilitated building”, as defined under
14 §47(c)(1), Title 26, of the United States Code, as
15 amended.

§11-21-8b. Definitions.

1 (a) “Certified historic structure” means any building
2 located in this state that is listed individually in the
3 national register of historic places or located in a
4 registered historic district, reviewed by the West
5 Virginia division of culture and history, and certified
6 by the national park service as being of historic
7 significance to the district.

8 (b) “Certified rehabilitation” means any rehabilita-
9 tion of a certified historic building that is reviewed by
10 the West Virginia division of culture and history, and
11 certified by the national park service as being consis-
12 tent with the historic character of the property and,
13 where applicable, the district in which it is located.

14 (c) “Historic district” means any district that is
15 listed in the national register of historic places or
16 designated under a state or local statute which has
17 been certified as containing criteria which will sub-
18 stantially achieve the purpose of preserving and
19 rehabilitating buildings of significance to the district
20 and which is certified as substantially meeting all of

21 the requirements for listing of districts in the national
22 register of historic places.

23 (d) "Historic preservation certification application"
24 means the application forms published by the national
25 park service, United States department of the interior,
26 Parts 1, 2 and 3, form No. 10-168.

27 (e) "Secretary of the interior standards" means
28 standards and guidelines adopted and published by the
29 national park service, United States department of the
30 interior, for rehabilitation of historic properties.

31 (f) "State historic preservation officer" means the
32 state official designated by the governor pursuant to
33 provisions in the national historic preservation act of
34 1966, as amended and further defined in section six,
35 article one, chapter twenty-nine of this code.

§11-21-8c. Procedures.

1 Application and processing procedures for provisions
2 of this section shall be the same as any required under
3 provisions of Title 36 of the Code of Federal Regula-
4 tions, Part 67, and Title 26 of the Code of Federal
5 Regulations, Part 1. Successful completion of a historic
6 preservation certification application automatically
7 qualifies the applicant to be considered for tax credits
8 under this section.

9 Successful certification by the national park service
10 of a rehabilitation of a building that results in such
11 building being a "qualified rehabilitated building"
12 within the meaning of §47(c)(1), Title 26 of the United
13 States Code, and amendments thereto, automatically
14 qualifies the applicant for tax credits under this
15 section. The state historic preservation officer's role in
16 the application procedure shall be identical to that in
17 Title 36 of the Code of Federal Regulations, Part 67,
18 and Title 26 of the Code of Federal Regulations, Part
19 1.

§11-21-8e. Carryback, carryforward.

1 Any unused portion of the credit for qualified
2 rehabilitated buildings investment authorized by

3 section eight-a of this article which may not be taken
4 in the taxable year to which the credit applies shall
5 qualify for carryback and carryforward treatment
6 subject to the identical general provisions under §39,
7 Title 26 of the United States Code, as amended:
8 *Provided*, That the amount of such credit taken in a
9 taxable year shall in no event exceed the tax liability
10 due for the taxable year.

§11-21-8f. Termination of credit by law.

1 The tax credit allowed by this section shall be
2 terminated on the thirty-first day of December, one
3 thousand nine hundred ninety-four, unless review of
4 the tax credit shall be undertaken pursuant to the
5 provisions of sections nine, ten and eleven, article ten,
6 chapter four of this code: *Provided*, That for those
7 rehabilitation projects for which a completed Part 2
8 (Description of Rehabilitation) of the historic preserva-
9 tion certification application was filed with the West
10 Virginia division of culture and history prior to that
11 date and subsequently approved in accordance with
12 section eight-c of this article, the credit shall continue
13 to be allowed pursuant to this article.

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24-23a. Credit for qualified rehabilitated buildings investment.

1 A credit against the tax imposed by the provisions of
2 this article shall be allowed as follows:

3 *Certified historic structures.* — For certified historic
4 structures, the credit is equal to ten percent of
5 qualified rehabilitation expenditures as defined in
6 §47(c)(2), Title 26 of the United States Code, as
7 amended. This credit is available for both residential
8 and nonresidential buildings located in this state that
9 are reviewed by the West Virginia division of culture
10 and history and designated by the national park
11 service, United States department of the interior as
12 “certified historic building”, and further defined as a
13 “qualified rehabilitated building”, as defined under
14 §47(c)(1), Title 26, of the United States Code, as

15 amended.

§11-24-23b. Definitions.

1 (a) "Certified historic structure" means any building
2 located in this state that is listed individually in the
3 national register of historic places or located in a
4 registered historic district, reviewed by the West
5 Virginia division of culture and history and certified
6 by the national park service as being of historic
7 significance to the district.

8 (b) "Certified rehabilitation" means any rehabilita-
9 tion of a certified historic structure that is reviewed by
10 the West Virginia division of culture and history, and
11 certified by the national park service as being consis-
12 tent with the historic character of the property and,
13 where applicable, the district in which it is located.

14 (c) "Historic district" means any district that is
15 listed in the national register of historic places or
16 designated under a state or local statute which has
17 been certified as containing criteria which will sub-
18 stantially achieve the purpose of preserving and
19 rehabilitating buildings of significance to the district
20 and which is certified as substantially meeting all of
21 the requirements for listing of districts in the national
22 register of historic places.

23 (d) "Historic preservation certification application"
24 means application forms published by the national
25 park service, United States department of the interior,
26 Parts 1, 2 and 3, form No. 10-168.

27 (e) "Secretary of the interior standards" means
28 standards and guidelines adopted and published by the
29 national park service, United States department of the
30 interior, for rehabilitation of historic properties.

31 (f) "State historic preservation officer" means the
32 state official designated by the governor pursuant to
33 provisions in the national historic preservation act of
34 1966, as amended and further defined in section six,
35 article one, chapter twenty-nine of this code.

§11-24-23c. Procedures.

1 Application and processing procedures for provisions

2 of this section shall be the same as any required under
3 provisions of Title 36 of the Code of Federal Regula-
4 tions, Part 67, and Title 26 of the Code of Federal
5 Regulations, Part 1. Successful completion of a historic
6 preservation certification application shall automati-
7 cally qualify the applicant to be considered for tax
8 credits under this section.

9 Successful certification by the national park service
10 of a rehabilitation of a building that results in such
11 building being a "qualified rehabilitated building"
12 within the meaning of §47(c)(1), Title 26 of the United
13 States Code, and amendments thereto, shall automati-
14 cally qualify the applicant for tax credits under this
15 section. The state historic preservation officer's role in
16 the application procedure shall be identical to that in
17 Title 36 of the Code of Federal Regulations, Part 67,
18 and Title 26 of the Code of Federal Regulations, Part
19 1.

§11-24-23e. Carryback, carryforward.

1 Any unused portion of the credit for qualified
2 rehabilitated buildings investment authorized by
3 section twenty-three-a of this article which may not be
4 taken in the taxable year to which the credit applies
5 shall qualify for carryback and carryforward treat-
6 ment subject to the identical general provisions under
7 §39, Title 26 of the United States Code, as amended:
8 *Provided*, That the amount of such credit taken in a
9 taxable year shall in no event exceed the tax liability
10 due for the taxable year.

§11-24-23f. Termination of credit by law.

1 The tax credit allowed by section twenty-three-a of
2 this article shall be terminated on the thirty-first day
3 of December, one thousand nine hundred ninety-four,
4 unless review of the tax credit shall be undertaken
5 pursuant to the provisions of sections nine, ten and
6 eleven, article ten, chapter four of this code: *Provided*,
7 That for those rehabilitation projects for which a
8 completed Part 2 (Description of Rehabilitation) of the
9 historic preservation certification application was filed
10 with the West Virginia division of culture and history

11 prior to that date and subsequently approved in
12 accordance with section twenty-three-c of this article,
13 the credit shall continue to be allowed pursuant to this
14 article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Homer Heck
Chairman Senate Committee

Ernest C. Maude
Chairman House Committee

Originated in the Senate.

In effect from passage.

Harrell P. Adams
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Keith Burdette
President of the Senate

Robert C. Cline
Speaker House of Delegates

The within ~~was approved~~ this the 1st day of April, 1991.

Gaston Caperton
Governor

PRESENTED TO THE

GOVERNOR

Date 3/18/91

Time 3:00 pm