

**As Introduced**

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**H. B. No. 455**

**Representatives Ujvagi, Gardner**

**Cosponsors: Representatives Huffman, Hagan, R., McGregor, J., Yuko,  
Brown, Lundy, Szollosi, Barrett**

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**A B I L L**

To amend sections 149.311, 5725.151, 5733.47, and 1  
5747.76 and to enact section 5703.75 of the 2  
Revised Code to authorize a county that is issued 3  
a historic building rehabilitation tax credit 4  
certificate to assign the certificate to another 5  
person. 6

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 149.311, 5725.151, 5733.47, and 7  
5747.76 be amended and section 5703.75 of the Revised Code be 8  
enacted to read as follows: 9

**Sec. 149.311.** (A) As used in this section: 10

(1) "Historic building" means a building, including its 11  
structural components, that is located in this state and that is 12  
either individually listed on the national register of historic 13  
places under 16 U.S.C. 470a, located in a registered historic 14  
district, and certified by the state historic preservation officer 15  
as being of historic significance to the district, or is 16  
individually listed as a historic landmark designated by a local 17  
government certified under 16 U.S.C. 470a(c). 18

(2) "Qualified rehabilitation expenditures" means 19  
expenditures paid or incurred during the rehabilitation period, 20  
and before and after that period as determined under 26 U.S.C. 47, 21  
by an owner of a historic building to rehabilitate the building. 22  
"Qualified rehabilitation expenditures" includes architectural or 23  
engineering fees paid or incurred in connection with the 24  
rehabilitation, and expenses incurred in the preparation of 25  
nomination forms for listing on the national register of historic 26  
places. "Qualified rehabilitation expenditures" does not include 27  
any of the following: 28

(a) The cost of acquiring, expanding, or enlarging a historic 29  
building; 30

(b) Expenditures attributable to work done to facilities 31  
related to the building, such as parking lots, sidewalks, and 32  
landscaping; 33

(c) New building construction costs. 34

(3) "Owner" of a historic building means a person ~~holding,~~ 35  
including a board of county commissioners, that holds the fee 36  
simple interest in the building. 37

(4) "Certificate owner" means the owner of a historic 38  
building to which a rehabilitation tax credit certificate was 39  
issued under this section or an assignee of the certificate 40  
registered with the tax commissioner under section 5703.75 of the 41  
Revised Code. 42

(5) "Registered historic district" means a historic district 43  
listed in the national register of historic places under 16 U.S.C. 44  
470a, a historic district designated by a local government 45  
certified under 16 U.S.C. 470a(c), or a local historic district 46  
certified under 36 C.F.R. 67.8 and 67.9. 47

(6) "Rehabilitation" means the process of repairing or 48  
altering a historic building or buildings, making possible an 49

efficient use while preserving those portions and features of the building and its site and environment that are significant to its historic, architectural, and cultural values.

(7) "Rehabilitation period" means one of the following:

(a) If the rehabilitation initially was not planned to be completed in stages, a period chosen by the owner not to exceed twenty-four months during which rehabilitation occurs;

(b) If the rehabilitation initially was planned to be completed in stages, a period chosen by the owner not to exceed sixty months during which rehabilitation occurs.

(8) "State historic preservation officer" or "officer" means the state historic preservation officer appointed by the governor under 16 U.S.C. 470a.

(9) "Application period" means either of the following time periods during which an application for a rehabilitation tax credit certificate may be filed under this section:

(a) July 1, 2007, through June 30, 2008;

(b) July 1, 2008, through June 30, 2009.

(B) On or after July 1, 2007, but before July 1, 2009, the owner of a historic building may apply to the state historic preservation officer for a rehabilitation tax credit certificate for qualified rehabilitation expenditures paid or incurred after April 4, 2007, for rehabilitation of a historic building. The form and manner of filing such applications shall be prescribed by rule of the director of development, and applications expire at the end of each application period. Before July 1, 2007, the director, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules that establish all of the following:

(1) Forms and procedures by which applicants may apply for

rehabilitation tax credit certificates;	80
(2) Criteria for reviewing, evaluating, and approving applications for certificates within the limitation on the number of applications that may be approved in an application period under division (D) of this section, criteria for assuring that the certificates issued encompass a mixture of high and low qualified rehabilitation expenditures, and criteria for issuing certificates under division (C)(3)(b) of this section;	81 82 83 84 85 86 87
(3) Eligibility requirements for obtaining a certificate under this section;	88 89
(4) The form of rehabilitation tax credit certificates, <u>each one of which shall bear a unique registration number</u> ;	90 91
(5) Reporting requirements and monitoring procedures;	92
(6) Any other rules necessary to implement and administer this section.	93 94
(C) The state historic preservation officer shall accept applications in the order in which they are filed. Within seven days after an application is filed, the officer shall forward it to the director of development who shall review the application and determine whether all of the following criteria are met:	95 96 97 98 99
(1) That the building that is the subject of the application is a historic building and the applicant is the owner of the building;	100 101 102
(2) That the rehabilitation will satisfy standards prescribed by the United States secretary of the interior under 16 U.S.C. 470, et seq., as amended, and 36 C.F.R. 67.7 or a successor to that section;	103 104 105 106
(3) That receiving a rehabilitation tax credit certificate under this section is a major factor in <u>the applicant's decision to do either of the following</u> :	107 108 109

(a) ~~The applicant's decision to rehabilitate~~ Rehabilitate the historic building; or

(b) ~~To increase~~ Increase the level of investment in such rehabilitation.

An applicant shall demonstrate to the satisfaction of the state historic preservation officer and director of development that the rehabilitation will satisfy the standards described in division (C)(2) of this section before the applicant begins the physical rehabilitation of the historic building.

~~If~~ (1) Except as provided in division (D)(2) of this section, if the director of development determines that the criteria in divisions (C)(1), (2), and (3) of this section are met, the director, in conjunction with the tax commissioner, shall conduct a cost and benefit analysis for the historic building that is the subject of an application filed under this section to determine whether rehabilitation of the historic building, including activities during the construction phase of the rehabilitation, will result in a net revenue gain in state and local taxes. The director shall not approve an application and issue a rehabilitation tax credit certificate to an applicant unless the cost and benefit analysis of the historic building determines that there will be a net revenue gain in state and local taxes once the building is used. ~~A~~

(2) The director shall not conduct a cost and benefit analysis for a historic building that is the subject of an application filed by a board of county commissioners under this section, but the board's application must meet the criteria in divisions (C)(1), (2), and (3) of this section.

(3) A rehabilitation tax credit certificate shall not be issued before rehabilitation of a historic building is completed. The director shall not approve more than one hundred applications

in an application period, and may not approve more than a total of 141  
five applications filed by boards of county commissioners in an 142  
application period. 143

(E) Issuance of a certificate represents a finding by the 144  
director of development of the matters described in divisions 145  
(C)(1), (2), and (3) of this section only; issuance of a 146  
certificate does not represent a verification or certification by 147  
the director of the amount of qualified rehabilitation 148  
expenditures for which a tax credit may be claimed under section 149  
5725.151, 5733.47, or 5747.76 of the Revised Code. The amount of 150  
qualified rehabilitation expenditures for which a tax credit may 151  
be claimed is subject to inspection and examination by the tax 152  
commissioner or employees of the commissioner under section 153  
5703.19 of the Revised Code and any other applicable law. Upon the 154  
issuance of a certificate, the director shall certify to the tax 155  
commissioner, in the form and manner requested by the tax 156  
commissioner, the name of the applicant, the amount of qualified 157  
rehabilitation expenditures shown on the certificate, the 158  
registration number of the certificate, and any other information 159  
required by the rules adopted under this section. 160

(F) A board of county commissioners to which a rehabilitation 161  
tax credit certificate is issued under this section may assign the 162  
certificate to any other person for such consideration as is 163  
mutually agreeable. Upon assignment, the assignee shall register 164  
with the tax commissioner as the certificate owner. A tax credit 165  
may not be claimed under section 5725.151, 5733.47, or 5747.76 of 166  
the Revised Code by a person who is not the certificate owner. A 167  
certificate owner may not assign a certificate after claiming a 168  
credit under any of those sections. 169

(G)(1) On or before the first day of December in 2007, 2008, 170  
and 2009, the director of development and tax commissioner jointly 171  
shall submit to the president of the senate and the speaker of the 172

house of representatives a report on the tax credit program 173  
established under this section and sections 5725.151, 5733.47, and 174  
5747.76 of the Revised Code. The report shall present an overview 175  
of the program and shall include information on the number of 176  
rehabilitation tax credit certificates issued under this section 177  
during an application period, an update on the status of each 178  
historic building for which an application was approved under this 179  
section, the dollar amount of the tax credits granted under 180  
sections 5725.151, 5733.47, and 5747.76 of the Revised Code, and 181  
any other information the director and commissioner consider 182  
relevant to the topics addressed in the report. 183

(2) On or before December 1, 2010, the director of 184  
development and tax commissioner jointly shall submit to the 185  
president of the senate and the speaker of the house of 186  
representatives a comprehensive report that includes the 187  
information required by division ~~(F)~~(G)(1) of this section and a 188  
detailed analysis of the effectiveness of issuing tax credits for 189  
rehabilitating historic buildings. The report shall be prepared 190  
with the assistance of an economic research organization jointly 191  
chosen by the director and commissioner. 192

Sec. 5703.75. For the purpose of sections 5725.151, 5733.47, 193  
and 5747.76 of the Revised Code, the tax commissioner shall 194  
compile and maintain a register of rehabilitation tax credit 195  
certificates that are issued under section 149.311 of the Revised 196  
Code and assigned under that section to another person by a board 197  
of county commissioners. The register shall record, according to 198  
the registration number of each certificate so issued and 199  
assigned, the name of the board of county commissioners to which 200  
the certificate was issued, the name of the person to which the 201  
certificate was assigned, and the dollar amount of qualified 202  
rehabilitation expenditures shown on the certificate. 203

**Sec. 5725.151.** (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a refundable credit against the tax imposed by section 5707.03 and assessed under section 5725.15 of the Revised Code for a dealer in intangibles subject to that tax that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but in no case shall the credit exceed two million dollars if the certificate owner is an assignee of a board of county commissioners. The credit shall be claimed in the calendar year specified in the certificate.

(C) A dealer in intangibles claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the year in which the credit was claimed, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

(D) For the purpose of division (C) of section 5725.24 of the Revised Code, reductions in the amount of taxes collected on account of credits allowed under this section shall be applied to reduce the amount credited to the general revenue fund and shall not be applied to reduce the amount to be credited to the undivided local government funds of the counties in which such taxes originate.

**Sec. 5733.47.** (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a refundable credit against the tax



imposed under section 5733.06 of the Revised Code for a taxpayer 234  
that is a certificate owner of a rehabilitation tax credit 235  
certificate issued under section 149.311 of the Revised Code. The 236  
credit shall equal twenty-five per cent of the dollar amount 237  
indicated on the certificate, but in no case shall the credit 238  
exceed two million dollars if the certificate owner is an assignee 239  
of a board of county commissioners. The credit shall be claimed 240  
for the tax year specified in the certificate and in the order 241  
required under section 5733.98 of the Revised Code. For purposes 242  
of making tax payments under this chapter, taxes equal to the 243  
amount of the refundable credit shall be considered to be paid to 244  
the state on the first day of the tax year. 245

(C) A taxpayer claiming a credit under this section shall 246  
retain the rehabilitation tax credit certificate for four years 247  
following the end of the tax year to which the credit was applied, 248  
and shall make the certificate available for inspection by the tax 249  
commissioner upon the request of the tax commissioner during that 250  
period. 251

(D) If, pursuant to division (G) of section 5733.01 of the 252  
Revised Code, a taxpayer no longer pays a tax under this chapter, 253  
the taxpayer may nonetheless file an annual report under section 254  
5733.02 of the Revised Code and claim the refundable credit 255  
authorized by this section. Nothing in this division allows a 256  
taxpayer to claim the credit under this section more than once. 257

**Sec. 5747.76.** (A) As used in this section, "certificate 258  
owner" has the same meaning as in section 149.311 of the Revised 259  
Code. 260

(B) There is allowed a refundable credit against the tax 261  
imposed under section 5747.02 of the Revised Code for a taxpayer 262  
that is the certificate owner of a rehabilitation tax credit 263  
certificate issued under section 149.311 of the Revised Code. The 264

credit shall equal twenty-five per cent of the dollar amount 265  
indicated on the certificate, but in no case shall the credit 266  
exceed two million dollars if the certificate owner is an assignee 267  
of a board of county commissioners. The credit shall be claimed 268  
for the taxable year specified in the certificate and in the order 269  
required under section 5747.98 of the Revised Code. For purposes 270  
of making tax payments under this chapter, taxes equal to the 271  
amount of the refundable credit shall be considered to be paid to 272  
the state on the first day of the taxable year. 273

(C) Nothing in this section limits or disallows pass-through 274  
treatment of the credit if the certificate owner is a pass-through 275  
entity. 276

(D) A taxpayer claiming a credit under this section shall 277  
retain the rehabilitation tax credit certificate for four years 278  
following the end of the taxable year to which the credit was 279  
applied, and shall make the certificate available for inspection 280  
by the tax commissioner upon the request of the tax commissioner 281  
during that period. 282

**Section 2.** That existing sections 149.311, 5725.151, 5733.47, 283  
and 5747.76 of the Revised Code are hereby repealed. 284